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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 63, No. 153
Monday, August 10, 1998

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Amdt No. 1882; Docket No. 29294]

RIN 212–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

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

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

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

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. with conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated

impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on July 24, 1998.

Richard O. Gordon,

Acting Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

* * * *Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
07/02/98	MI	Traverse City	Cherry Capital	8/4495	VOR or TACAN or GPS–A, Amdt 20...
07/02/98	ND	Wahpeton	Harry Stern	8/4492	NDB Rwy 33, Amdt 4...
07/02/98	ND	Wahpeton	Harry Stern	8/4494	GPS Rwy 33, Orig...
07/07/98	MN	Park Rapids	Park Rapids Muni	8/4654	ILS Rwy 31 Amdt 1...
					This Replaces TL 98–16
07/07/98	MN	St. Cloud	St. Cloud Regional	8/4642	GPS Rwy 23, Orig...
07/07/98	NE	Omaha	Millard	8/4682	GPS Rwy 12, Orig...
07/08/98	MD	Salisbury	Salisbury-Ocean City Wicomico Regional	8/4704	ILS Rwy 32 Amdt 5B
07/08/98	NE	North Platte	North Platte/Lee Bird Field	8/4699	ILS Rwy 30R, Amdt 5A...
07/08/98	NE	O'Neill	The O'Neill Muni-John L. Baker Field	8/4695	VOR or GPS Rwy 31, Amdt 1...
07/08/98	NE	O'Neill	The O'Neill Muni-John L. Baker Field	8/4697	VOR or GPS Rwy 13 Amdt 5...
07/10/98	FL	St. Petersburg	Albert Whitted	8/4766	VOR or GPS Rwy 18, Amdt 6A...
07/10/98	ID	Driggs	Teton Peaks/Driggs Muni	8/5100	GPS–A, Orig...
07/13/98	FL	Miami	Opa Locka	8/4829	ILS/DME Rwy 27R Orig...
07/13/98	FL	Naples	Naples Muni	8/4828	NDB Rwy 23, Amdt 8...
07/13/98	FL	Naples	Naples Muni	8/4832	VOR Rwy 23, Amdt 6...
07/13/98	FL	Naples	Naples Muni	8/4835	GPS Rwy 23, Orig...
07/13/98	TX	Dallas	Dallas-Love Field	8/4822	ILS Rwy 31R, Amdt 3...
07/13/98	TX	Dallas	Dallas-Love Field	8/4823	ILS Rwy 31L, Amdt 19A...
07/13/98	TX	Dallas	Dallas-Love Field	8/4824	ILS Rwy 13L, Amdt 29...
07/13/98	TX	Dallas	Dallas-Love Field	8/4825	ILS Rwy 13R, Amdt 3...
07/14/98	IL	Danville	Vermilion County	8/4879	ILS Rwy 21 Amdt 5...
07/14/98	IL	Danville	Vermilion County	8/4881	VOR/DME or GPS Rwy 3 Amdt 11...
07/14/98	NC	Albermarle	Stanly County	8/4887	NDB or GPS Rwy 22L, Orig–A...
07/14/98	NC	Albemarle	Stanly County	8/4888	GPS Rwy 4R, Orig–A...
07/14/98	NC	Albermarle	Stanly County	8/4890	LOC Rwy 22L, Orig–D...
07/14/98	OH	Columbus	Ohio State University	8/4866	NDB Rwy 27L, Amdt 6A...
07/14/98	OH	Columbus	Ohio State University	8/4868	VOR/DME RNAV Rwy 27L, Amdt 6...
07/14/98	OH	Columbus	Ohio State University	8/4870	NDB Rwy 9R, Amdt 2...
07/14/98	OH	Columbus	Ohio State University	8/4872	ILS Rwy 9R, Amdt 4...
07/15/98	CA	Livermore	Livermore Muni	8/4948	GPS Rwy 25R Orig...
07/15/98	IA	Burlington	Burlington Regional	8/4944	VOR or GPS Rwy 30, Amdt 11...
07/15/98	IA	Burlington	Burlington Regional	8/4946	NDB or GPS Rwy 36, Amdt 8A...
07/15/98	IL	Cahokia/St Louis	St Louis Downtown-Parks	8/4912	ILS Rwy 30L, Amdt 6...
07/15/98	IL	Cahokia/St Louis	St Louis Downtown-Parks	8/4913	NDB Rwy 30L, Orig...
07/15/98	IL	Danville	Vermilion County	8/4925	VOR or GPS Rwy 21, Amdt 13...
07/16/98	GA	Savannah	Savannah Intl	8/4982	ILS Rwy 9, Amdt 25C...
07/16/98	MA	Worcester	Worcester Regional	8/4979	ILS Rwy 29 Amdt 2A...
07/17/98	IA	Burlington	Burlington Regional	8/5000	VOR/DME or GPS Rwy 12, Amdt 4...
07/17/98	IA	Burlington	Burlington Regional	8/5015	ILS Rwy 36, Amdt 9B...
07/17/98	MI	Alpena	Alpena County Regional	8/5008	ILS Rwy 1 Amdt 8A...
07/17/98	MI	Alpena	Alpena County Regional	8/5009	NDB or GPS Rwy 1 Amdt 6A...
07/17/98	MI	Alpena	Alpena County Regional	8/5010	VOR or GPS Rwy 19 Amdt 14A...
07/17/98	MI	Alpena	Alpena County Regional	8/5011	VOR Rwy 1 Amdt 14A...
07/17/98	NC	Beaufort	Michael J. Smithfield	8/5019	NDB Rwy 14 Orig...
07/20/98	NY	New York	La Guardia	8/5106	ILS Rwy 4 Amdt 34A...
07/20/98	NY	New York	La Guardia	8/5107	VOR Rwy 4 Amdt 2...
07/20/98	NY	New York	La Guardia	8/5108	ILS Rwy 22 Amdt 18...
07/20/98	SD	Philip	Philip	8/5090	VOR or GPS–A, Amdt 11...

FDC date	State	City	Airport	FDC No.	SIAP
07/20/98	TX	Higgins	Higgins-Lipscomb County	8/5115	VOR/DME or GPS Rwy 18, Amdt 3...
07/21/98	MD	Baltimore	Martin State	8/5141	NDB or GPS Rwy 15 Amdt 7B...
07/21/98	MD	Baltimore	Martin State	8/5142	LOC Rwy 15 Orig–C...
07/21/98	MD	Baltimore	Martin State	8/5143	NDB or GPS Rwy 33 Amdt 7C...
07/21/98	OH	Cleveland	Cuyahoga County	8/5146	LOC BC Rwy 5, Amdt 10...
07/21/98	OH	Cleveland	Cuyahoga County	8/5147	ILS Rwy 23, Amdt 13...
07/21/98	OH	Cleveland	Cuyahoga County	8/5149	NDB or GPS Rwy 23, Amdt 8...
07/22/98	SD	Pine Ridge	Pine Ridge	8/5186	GPS Rwy 30, Orig...

[FR Doc. 98–21340 Filed 8–7–98; 8:45 am]
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Amdt No. 1883; Docket No. 29295]

RIN 212–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. the FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAP's mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

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

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

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAP's contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with a Global Positioning System (GPS) and or Flight Management System (FMS) equipment. In consideration of the above, the applicable SIAP's will be altered to include ''or GPS or FMS'' in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS or FMS procedure is developed, the procedure title will be altered to remove ''or GPS or FMS'' from these non-localizer, non-precision instrument approach procedure titles.)

The FAA has determined through extensive analysis that current SIAP's intended for use by Area Navigation (RNAV) equipped aircraft can be flown by aircraft utilizing various other types of navigational equipment. In consideration of the above, those SIAP's currently designated as ''RNAV'' will be redesignated as ''VOR/DME RNAV'' without otherwise reviewing or modifying the SIAP's.

Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are, impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on July 24, 1998.

Richard O. Gordon,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113–40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

§ 97.23, 97.27, 97.33, 97.35 Amended

2. Amend 97.23, 97.27, 97.33 and 97.35, as appropriate, by adding, revising, or removing the following SIAP's, effective at 0901 UTC on the dates specified:

* * * *Effective Upon Publication*

Murray, KY, Murray/Kyle-Oakley Field, NDB or GPS RWY 23, Orig CANCELLED
Murray, KY, Murray/Kyle-Oakley Field, NDB RWY 23, Orig Iola, KS, Iola/Allen County, NDB RWY 1, Amdt 1 CANCELLED
Iola, KS, Iola/Allen County, NDB RWY 1, Amdt 1
Scott City, KS, Scott City Muni, NDB or GPS RWY 35, Amdt 1 CANCELLED
Scott City, KS, Scott City Muni, NDB RWY 35, Amdt 1
Appleton, MN, Appleton Muni, NDB or GPS RWY 13, Orig-A CANCELLED
Appleton, MN, Appleton Muni, NDB RWY 13, Amdt 1
Bowman, ND, Bowman Muni, NDB or GPS RWY 29, Amdt 2A CANCELLED
Bowman, ND, Bowman Muni, NDB RWY 29, Amdt 3

[FR Doc. 98–21341 Filed 8–7–98; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 254

Guides for Private Vocational and Distance Education Schools

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (FTC or Commission) announces final amendments to its Guides for Private Vocational Schools to: add a provision addressing misrepresentations regarding the availability of employment after completion of training or the success of a school's graduates in obtaining employment; streamline the Guides by eliminating redundancies and provisions that do not offer guidance specific to vocational schools; and change the title of the Guides.

EFFECTIVE DATE: This rule is effective October 9, 1998.

ADDRESSES: Requests for copies of the amended Guides should be sent to the Consumer Response Center, Room 130, Federal Trade Commission, Sixth St. and Pennsylvania Ave., NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Joseph J. Koman, Jr., (202) 326–3014, Carol Jennings (202) 326–3010, or Walter Gross III, (202) 326–3319, Federal Trade Commission, Bureau of Consumer Protection, Sixth St. and Pennsylvania Ave., NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Vocational Schools Guides, adopted by the Commission in 1972, are intended to advise proprietary businesses offering vocational training courses, either on the school's premises or through correspondence or another long-distance method, how to avoid unfair or deceptive advertising and promotional claims when recruiting and enrolling students. The Guides address claims that are descriptive of the school, such as potentially deceptive trade or business names, and claims about accreditation, content of curricula, teachers' qualifications, teaching methods, affiliations with other private or public entities, and approval by other agencies or institutions. The Guides also address misleading representations regarding financial assistance and program costs, as well as enrollment qualification or limitations. Schools are cautioned to avoid using classified advertisements that appear to be ''help-wanted'' ads, misleading prospective students about opportunities for employment while undergoing training, and the deceptive use of diplomas or degrees. The Guides suggest certain affirmative disclosures prior to enrolling students and address miscellaneous sales and debt collection practices.

These Guides, like other industry guides issued by the Commission, are ''administrative interpretations of laws administered by the Commission for the guidance of the public in conducting its affairs in conformity with legal requirements.'' 16 CFR 1.5. Conduct inconsistent with the Guides may result in corrective action by the Commission under applicable statutory provisions.

As part of the Commission's systematic review of all of its rules and guides, the Commission published a request for comments concerning the Vocational Schools Guides on April 3, 1996 (61 FR 14685). The Commission sought information about the costs and benefits of the Guides and their regulatory and economic impact. In response to this notice, nine comments were filed by government agencies, consumers and consumer organizations, and industry members and trade associations.[1] These comments indicated general support for relating the Guides, although some industry members recommended repealing them.

On April 23, 1997, the Commission announced its decision to retain the Guides and sought supplemental comment on some proposed modifications (62 FR 19703). The Commission recognized that there is some overlap between its Guides and regulations of the Department of Education. Because the Department of Education administers student loan and grant money for vocational training, it plays the primary role in addressing abuses in this industry. There is a concurrent role for the Commission, however, in monitoring and addressing deceptive promotional practices.[2] State licensing agencies also regulate vocational training. Increasingly, however, vocational schools are owned by national or regional chains; thus, a federal enforcement presence remains important.

[1] Comments were filed by the New York Regional Office of the U.S. Department of Education Office of Postsecondary Education (two comments); New York State Beauty Schools Association, Inc.; National Consumer Law Center; Career College Association; Distance Education and Training Council; Colorado Aero Tech; American Association of Cosmetology Schools; and one individual consumer.

[2] For example, the Department of Education uses its investigative and enforcement resources primarily to address practices occurring after a student has signed up for training, rather than advertising and promotional practices that take place during recruitment of students.

In its second **Federal Register** notice, the Commission also sought comment on various proposed amendments to the Guides. In particular, the Commission proposed adding to the Guides a provision addressing misrepresentations about a school's placement success following training. While the 1972 Guides addressed claims about placement assistance and the availability of employment during training, they did not address false or deceptive claims about employment prospects after graduation or the success that a school's graduates have realized in obtaining employment related to the training. The Commission believes that such claims are important to prospective students of vocational training and are likely to become even more important in the future.

At the same time, in order to streamline the Guides, the Commission announced a preliminary decision to delete certain provisions that were not specific to vocational schools and merely duplicated other general provisions of law, as well as a section suggesting various affirmative disclosures prior to the signing of a contract.

II. Amendments to the Guides

The Committee received comments from 39 parties, representing eight government agencies and one association of state regulators, five industry trade associations, an accrediting commission for cosmetology schools, 21 vocational schools in eight states, one consumer organization, and one individual consumer.[3] The proposed addition to the Guides was generally supported by the government agencies and consumer representatives and generally opposed by the vocational schools and industry trade associations. Oppositions to the proposal seems to be based upon a misperception that this statement in the Guides would somehow increase burdens on schools already subject to regulations of the Department of Education and state agencies.[4] The amendment does not create new requirements, however. As explained in the Background section, above, the Guides merely clarify the Commission's interpretation of its existing laws.

Like other Guides adopted by the Commission, the Vocational Schools Guides provide businesses with information regarding the application of Section 5(a)(1) of the FTC Act, 15 U.S.C. 45(a)(1), to a particular industry or a specific type of marketing. Section 59a)(1) declares unlawful ''unfair or deceptive acts or practices in or affecting commerce.'' The Commission has set forth its interpretation of its Section 5 authority in its Deception Policy Statement,[5] its Policy Statement Regarding Advertising Substantiating Doctrine,[6] and its Unfairness Policy Statement.[7] The Commission will find an advertisement deceptive if it contains a representation or omission of fact that is likely to mislead consumers acting reasonably under the circumstances, and that representation or omission is material to the decision to purchase. In addition, objective claims about a product or service imply that they are supported by valid evidence. It is deceptive, therefore, to make a claim unless, at the time is made, the marketer possess and relies upon a reasonably basis substantiating the claim. The Commission will find an advertisement or practice unfair if it causes, or is likely to cause, substantial consumer injury that is not reasonably avoidable by consumers and is not outweigh countervailing benefits to consumers or competition.

Consumers considering enrolling in a vocational school are likely to rely upon claims with regard to employment prospects upon completion of training and the success of a schools' graduates in securing employment relevant to the training. Generally, the prospective student will not be in a position to verify the accuracy of the claim prior to enrollment and must rely upon the representations of the school. As stated in the comment of the National Consumer Law Center:

> The essence of a vocational school sales presentation is the availability of employment following graduation. Misrepresentations of these jobs prospects are certainly material is not only the student's decision to invest a sizable amount of money in the schooling, but also considerable amount of the student's time.[8]

For example, a claim that a school has a ''90% job placement'' rate could be highly persuasive to an individual seeking training. If in fact the placement success is significantly lower than 90%, the claim would also be deceptive. Similarly, a claim could be deceptive if significant information is omitted. For example, a claim that ''90% of graduates find jobs'' could be deceptive if only a small percentage of those who enroll in the program are able to complete it and graduate. The claim also could be deceptive if a significant number of graduates cannot obtain the kind of employment for which the purportedly were trained, but have to accept other lower level positions at a lower salary.

As noted in a number of industry comments, Department of Education regulations also address employment claims by vocational schools. For example, regulations setting out standards for participation in federal student financial assistance programs state that school that advertise job placement rates will make available to prospective students, at or before the time of enrollment:

(i) The most recent available data concerning employment statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements; and

(ii) Relevant State licensing requirements of the State in which the institution is located for any job for which an educational

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[3] The comments are listed here with the number assigned to the comment by the Office of the Secretary: (1) Career College Association; (2) Texas Higher Education Coordinating Board, Community and Technical Colleges Division; (3) Silicon Valley College; (4) Microcomputer Technology Institutes; (5) Alta Colleges, Inc.; (6) National Accrediting Commission of Cosmetology Arts & Sciences; (7) Mr. Clifton L. Stewart; (8) Eton Technical Institute; (9) Pittsburgh Beauty Academy; (10) Seattle Massage School; (11) Divers Institute of Technology; (12) Pittsburgh Beauty Academy of Charleroi; (13) International Air Academy; (14) Pittsburgh Beauty Academy of New Kensington; (15) Private Career School Association of New Jersey; (17) Apex Technical School; (18) Pennsylvania Association of Private School Administrators; (19) American Association of Cosmetology Schools; (20) Florida Association of Postsecondary Schools and Colleges (21) Gene Juarez Academy of Beauty; (22) and (26) National Association of State Administrators and Supervisors of Private Schools (also attaching comments by the Wisconsin Educational Approval Board, Florida Department of Education, Idaho Department of Education, Washington Workforce Training and Education Coordinating Board, Tennessee Higher Education Commission, and Georgia Nonpublic Postsecondary Education Commission); (23) The Chubb Institute (North Burnswick, N.J.); (24) and (25) The Chubb Institute (Parsippany, N.J.); (27) National Consumer Law Center; (28) Yorktowne Business Institute; (29) Laurel Business Institute; (30) Montgomery County (MD) Department of Housing and Community Affairs, Division of Consumer Affairs; (31) Central Pennsylvania School of Massage; (32) Corinthian Colleges, Inc.; (33) South Hills Business School; (34) Harris School of Business; and (35) Technical Career Institute. These comments, as well as the comments filed in response to the earlier notice, are on the public record and available for inspection during business hours at the Federal Trade Commission, Room 130, Sixth St. and Pennsylvania Ave., NW, Washington, DC 20580.

[4] Some comments apparently believed that if the proposed language were adopted, they would be required to report employment information to the Commission. The Guides do not impose any reporting requirements, however.

[5] Letter from the Commission to the Honorable John D. Dingell, Chairman, Committee on Energy and Commerce, U.S. House of Representatives (Oct. 14, 1983); reprinted in Cliffdale Associates, Inc., 103 F.T.C. 110, appendix (1984).

[6] 49 FR 30999 (1984); reprinted in Thompson Medical Co., 104 F.T.C. 648, appendix (1984).

[7] Letter from the Commission to Senators Wendell Ford and John Danforth (Dec. 17, 1980); reprinted in International Harvester Co., 104 F.T.C. 949, 1070 (1984).

[8] Comment 27 at page 1.

program offered by the institution is designed to prepare those prospective students.[9] In addition, the Department of Education ''may initiate a proceeding * * * against an otherwise eligible [for participation in the federal student financial assistance programs] institution for any substantial misrepresentation * * * regarding the nature of its educational program, its financial charges or the employability of its graduates.'' [10] Specific examples of such misrepresentations include (but are not limited to) ''false, erroneous of misleading statements—

(a) That the institution is connected with any organization or is an employment agency or other agency providing authorized training leading directly to employment;

(b) That the institution maintains a placement service for graduates or will otherwise secure or assist its graduates to obtain employment unless it provides the student with a clear and accurate description of the extent and nature of this service or assistance; or

(c) Concerning government job market statistics in relation to the potential placement of its graduates.'' [11]

Parts (a) and (b) above are also addressed by the FTC Guides, for example in §§ 254.2(b)(2), 254.4(a)(7), and 254.7(a). The Guides have not, however, until the revisions announced herein, specifically addressed deceptive claims regarding employability after graduation or the success a school's graduates have realized in obtaining employment relevant to the training. In addition, the proposed language has been modified to include misrepresentations about salaries that can be expect upon completion of the training. The addition to the Guides of § 254.4(d) merely complements Department of Education oversight of these schools, as it also provides industry-specific guidance with regard to the broad proscription of Section 5 of the FTC Act.

Sections 254.8, 254.9, and 254.10 have been removed from the Guides to streamline them, eliminate repetition, and eliminate general principles articulated elsewhere in the CFR. Many of the areas addressed in § 254.8 are already covered by the Commission's Guides Against Deceptive Pricing, 16 CFR 233, and Guide Concerning Use of the Word ''Free'' and Similar Representations, 16 CFR 251. In addition, section 254.7 of the Vocational Schools Guides, describing deceptive sales practices, has been revised to include a provision noting that prior to enrollment students should be informed of the total costs of the program and the school's refund policy for students who drop out before completion.

Section 254.9 addressed debt collection and credit practices. These have been largely superseded by other laws. Debt collection agencies attempting to collect on behalf of an industry member are covered by the Fair Debt Collection Practices Act, 15 U.S.C. 1692. Moreover, under the Commission's Rule on Preservation of Consumer Claims and Defenses (''Holder-in-Due-Course'' Rule), 16 CFR 433, the right of a consumer to assert seller misrepresentations in defending against a collection action is preserved even if the credit contract is assigned to a third party.

Section 254.10 set forth various affirmative disclosures that should be made prior to enrollment and signing of a contract. Most of the areas addressed by these disclosures are now covered elsewhere in the Guides. Section 254.7(c) advises disclosure of all requirements for successful completion of the program and the circumstances that would constitute grounds for terminating the student's enrollment prior to completion (formerly addressed by § 254.10(a)). Disclosure of total costs (formerly addressed in § 254.10(b)) is now covered by § 254.7(b). Misrepresentations regarding the school's facilities and equipment (formerly addressed by § 254.10(c)) is covered by § 254.4(a). Misrepresentations concerning placement assistance offered to graduates (formerly addressed by § 254.10(d)) is covered by § 254.4(a)(7).

Section 254.0 has been added to explain the scope and application of the Guides. Various editorial changes have been made to eliminate redundancies, consolidate provisions, and make the Guides clearer and easier to read. Finally, the title of the Guides has been changed to reflect the fact that ''distance education'' is now the term used for the sale of programs of study—whether offered by correspondence, computer, or some other means—where work is completed by the student at home (or some other location of his or her own choosing) rather than in a school facility.

List of Subjects in 16 CFR Part 254

Advertising, Trade practices.

For the reasons set forth above, the Commission amends 16 CFR Part 254 as follows:

1. The title of Part 254 is amended to read as follows:

PART 254—GUIDES FOR PRIVATE VOCATIONAL AND DISTANCE EDUCATION SCHOOLS

2. The authority citation for part 254 continues to read as follows:

Authority: 38 Stat. 717, as amended; 15 U.S.C. 41–58.

3. Section 254.0 is added to read as follows:

§ 254.0 Scope and application.

(a) The Guides in this part apply to persons, firms, corporations, or organizations engaged in the operation of privately owned schools that offer resident or distance courses, training, or instruction purporting to prepare or qualify individuals for employment in any occupation or trade, or in work requiring mechanical, technical, artistic, business, or clerical skills, or that is for the purpose of enabling a person to improve his appearance, social aptitude, personality, or other attributes. These Guides do not apply to resident primary or secondary schools or institutions of higher education offering at least a 2-year program of accredited college level studies generally acceptable for credit toward a bachelor's degree.

(b) These Guides represent administrative interpretations of laws administered by the Federal Trade Commission for the guidance of the public in conducting its affairs in conformity with legal requirements. These Guides specifically address the application of section 5 of the FTC Act (15 U.S.C. 45) to the advertising, promotion, marketing, and sale of courses or programs of instruction offered by private vocational or distance education schools. The Guides provide the basis for voluntary compliance with the law by members of the industry. Practices inconsistent with these Guides may result in corrective action by the Commission under section 5 if, after investigation, the Commission has reason to believe that the practices fall within the scope of conduct declared unlawful by the statute.

4. Section 254.1 is revised to read as follows:

§ 254.1 Definitions.

(a) *Accredited.* A school or course has been evaluated and found to meet established criteria by an accrediting agency or association recognized for such purposes by the U.S. Department of Education.

(b) *Approved.* A school or course has been recognized by a State or Federal agency as meeting educational standards or other related qualifications as prescribed by that agency for the school or course to which the term is

[9] 34 CFR 668.14(b)(10).

[10] 34 CFR 668.71(a).

[11] 34 CFR 668.74.

applied. The term is not and should not be used interchangeably with ''accredited.'' The term ''approved'' is not justified by the mere grant of a corporate charter to operate or license to do business as a school and should not be used unless the represented ''approval'' has been affirmatively required or authorized by State or Federal law.

(c) *Industry member.* Industry members are the persons, firms, corporations, or organizations covered by these Guides, as explained in § 254.0(a).

5. Section 254.2 is revised to read as follows:

§ 254.2 Deceptive trade or business names.

(a) It is deceptive for an industry member to use any trade or business name, label, insignia, or designation which misleads or deceives prospective students as to the nature of the school, its accreditation, programs of instruction, methods of teaching, or any other material fact.

(b) It is deceptive for an industry member to misrepresent, directly or indirectly, by the use of a trade or business name or in any other manner that:

(1) It is a part of or connected with a branch, bureau, or agency of the U.S. Government, or of any State, or civil service commission;

(2) It is an employment agency or an employment agent or authorized training facility for any industry or business or otherwise deceptively conceal the fact that it is a school.

(c) If an industry member conducts its instruction by correspondence, or other form of distance education, it is deceptive to fail to clearly and conspicuously disclose that fact in all promotional materials.

6. Section 254.3 is revised to read as follows:

§ 254.3 Misrepresentation of extent or nature of accreditation or approval.

(a) It is deceptive for an industry member to misrepresent, directly or indirectly, the extent or nature of any approval by a State agency or accreditation by an accrediting agency or association. For example, an industry member should not:

(1) Represent, without qualification, that its school is accredited unless all programs of instruction have been accredited by an accrediting agency recognized by the U.S. Department of Education. If an accredited school offers courses or programs of instruction that are not accredited, all advertisements or promotional materials pertaining to those courses or programs, and making reference to the accreditation of the school, should clearly and conspicuously disclose that those particular courses or programs are not accredited.

(2) Represent that its school or a course is approved, unless the nature, extent, and purpose of that approval are disclosed.

(3) Misrepresent that students successfully completing a course or program of instruction can transfer the credit to an accredited institution of higher education.

(b) It is deceptive for an industry member to misrepresent that a course of instruction has been approved by a particular industry, or that successful completion of the course qualifies the student for admission to a labor union or similar organization or for receiving a State or Federal license to perform certain functions.

(c) It is deceptive for an industry member to misrepresent that its courses are recommended by vocational counselors, high schools, colleges, educational organizations, employment agencies, or members of a particular industry, or that it has been the subject of unsolicited testimonials or endorsements from former students. It is deceptive for an industry member to use testimonials or endorsements that do not accurately reflect current practices of the school or current conditions or employment opportunities in the industry or occupation for which students are being trained.

Note to paragraph (c): The Commission's Guides Concerning Use of Endorsements and Testimonials in Advertising (part 255 of this chapter) provide further guidance in this area.

7. Section 254.4 is revised to read as follows:

§ 254.4 Misrepresentation of facilities, services, qualifications of staff, status, and employment prospects for students after training.

(a) It is deceptive for an industry member to misrepresent, directly or indirectly, in advertising, promotional materials, or in any other manner, the size, location, services, facilities, or equipment of its school or the number of educational qualifications of its faculty and other personnel. For example, an industry member should not:

(1) Misrepresent the qualifications, credentials, experience, or educational background of its instructors, sales representatives, or other employees.

(2) Misrepresent, through statements or pictures, the nature of efficacy of its courses, training devices, methods, or equipment.

(3) Misrepresent the availability of employment while the student is undergoing instruction or the role of the school in providing or arranging for such employment.

(4) Misrepresent the availability or nature of any financial assistance available to students. If the cost of training is financed in whole or in part by loans, students should be informed that loans must be repaid whether or not they are successful in completing the program and obtaining employment.

(5) Misrepresent the nature of any relationship between the school or its personnel and any government agency or that students of the school will receive preferred consideration for employment with any government agency.

(6) Misrepresent that certain individuals or classes of individuals are members of its faculty or advisory board; have prepared instructional materials; or are otherwise affiliated with the school.

(7) Misrepresent the nature and extent of any personal instruction, guidance, assistance, or other service, including placement assistance, it will provide students either during or after completion of a course.

(b) It is deceptive for an industry member to misrepresent that it is a nonprofit organization or to misrepresent affiliation or connection with any public institution or private religious or charitable organization.

(c) It is deceptive for an industry member to misrepresent that a course has been recently revised or instructional equipment is up-to-date, or misrepresent its ability to keep a program current and up-to-date.

(d) It is deceptive for an industry member, in promoting any course of training in its advertising, promotional materials, or in any other manner, to misrepresent, directly or by implication, whether through the use of text, images, endorsements, or by other means, the availability of employment after graduation from a course of training, the success that the member's graduates have realized in obtaining such employment, or the salary that the member's graduates will receive in such employment.

Note to paragraph (d): The Commission's Guides Concerning Use of Endorsements and Testimonials in Advertising (part 255 of this chapter) provide further guidance in this area.

8. Section 254.5 is revised to read as follows:

§ 254.5 Misrepresentations of enrollment qualifications or limitations.

(a) It is deceptive for an industry member to misrepresent the nature or extent of any prerequisites or qualifications for enrollment in a course or program of instruction.

(b) It is deceptive for an industry member to misrepresent that the lack of a high school education or prior training or experience is not an impediment to successful completion of a course or obtaining employment in the field for which the course provides training.

9. Section 254.6 is revised to read as follows:

§ 254.6 Deceptive use of diplomas, degrees, or certificates.

(a) It is deceptive for an industry member to issue a degree, diploma, certificate of completion, or any similar document, that misrepresents, directly or indirectly, the subject matter, substance, or content of the course of study or any other material fact concerning the course for which it was awarded or the accomplishments of the student to whom it was awarded.

(b) It is deceptive for an industry member to offer or confer an academic, professional, or occupational degree, if the award of such degree has not been authorized by the appropriate State educational agency or approved by a nationally recognized accrediting agency, unless it clearly and conspicuously discloses, in all advertising and promotional materials that contain a reference to such degree, that its award has not been authorized or approved by such an agency.

(c) It is deceptive for an industry member to offer or confer a high school diploma unless the program of instruction to which it pertains is substantially equivalent to that offered by a resident secondary school, and unless the student is informed, by a clear and conspicuous disclosure in writing prior to enrollment, that the industry member cannot guarantee or otherwise control the recognition that will be accorded the diploma by institutions of higher education, other schools, or prospective employers, and that such recognition is a matter solely within the discretion of those entities.

10. Section 254.7 is revised to read as follows:

§ 254.7 Deceptive sales practices.

(a) It is deceptive for an industry member to use advertisements or promotional materials that misrepresent, directly or by implication, that employment is being offered or that a talent hunt or contest is being conducted. For example, captions such as, ''Men/women wanted to train for * * *,'' ''Help Wanted,'' ''Employment,'' ''Business Opportunities,'' and words or terms of similar import, may falsely convey that employment is being offered and therefore should be avoided.

(b) It is deceptive for an industry member to fail to disclose to a prospective student, prior to enrollment, the total cost of the program and the school's refund policy if the student does not complete the program.

(c) It is deceptive for an industry member to fail to disclose to a prospective student, prior to enrollment, all requirements for successfully completing the course of program and the circumstances that would constitute grounds for terminating the student's enrollment prior to completion of the program.

11. Section 254.8 is removed.

12. Section 254.9 is removed.

13. Section 254.10 is removed.

By direction of the Commission, Commissioner Swindle dissenting.

Donald S. Clark,

Secretary.

DISSENTING STATEMENT OF COMMISSIONER ORSON SWINDLE in *Regulatory Reform-Vocational School Guides,* File No. P964220

The Commission today has issued revised Guides for Private Vocational and Distance Schools (''Guides'') to address certain claims that private vocational schools make to their students and prospective students. I have voted against the Guides for two reasons. One reason is that the Guides are not likely to promote voluntary compliance because they do not resolve any demonstrated uncertainly among private vocational schools over what claims are likely to be considered deceptive. The other reason is that any need for Commission action would be largely eliminated if other government regulations and private oversight schemes were more actively enforced.

The Commission has a number of weapons in its arsenal to prevent unfair or deceptive acts and practices, each designed to be used for a specific purpose. Guides are issued when the Commission believes that guidance as to legal requirements ''would be beneficial in the public interest and would serve to bring about more widespread and equitable observance of laws administered by the Commission.'' Commission Rule of Practice 1.6. The purpose of such guidance is to ''provide the basis for voluntary and simultaneous abandonment of unlawful practices by members of industry.'' Commission Rule of Practice 1.5.

The Commission has successfully used guides and policy statements to provide industry with standards that eliminate or substantially reduce uncertainty over what the Commission is likely to consider deceptive. *See, e.g.,* Guides for the Use of Environmental Marketing Claims, 16 C.F.R. Part 260; Federal Trade Commission Enforcement Policy Statement on Food Advertising (May 1994). However, there is no reason to believe here that private vocational schools are uncertain over what claims the Commission is likely to consider deceptive. Indeed, the public comments we received from schools did not reveal any such uncertainty that needs to be resolved by the Commission to promote voluntary compliance.[1]

Perhaps a better way of combatting misrepresentations would be for the government agencies and private bodies that directly regulate this industry to more vigorously enforce their own prohibitions. The Department of Education (''DOE'') can bar a private vocational school from receiving federal financial assistance if it makes misrepresentations in violation of DOE regulations. 34 C.F.R. Part 668. DOE's regulatory requirements provide a particularly powerful incentive for most private vocational schools not to make misrepresentations, given the critical importance to most of them of continuing to participate in federal financial assistance programs. State licensing boards and private accrediting bodies also can revoke the license or accreditation of a private vocational school that make misrepresentations.

Some private vocational schools may make misrepresentations notwithstanding these layers of regulation and oversight. When this occurs, DOE, state licensing boards, and private accreditation bodies should use their authority and their standards to address these misrepresentations in the first instance. Although Commission law enforcement action may also be needed to address such misrepresentations in discrete circumstances, I do not believe this possibility justifies our issuance of the Guides.

I dissent.

[FR Doc. 98–21296 Filed 8–7–98; 8:45am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

[SPATS No. OK–022–FOR]

Oklahoma Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving an amendment to the Oklahoma regulatory program (hereinafter referred to as the ''Oklahoma program'') under the

[1] The comments received from private vocational schools overwhelmingly complained that reissuing the Guides would be confusing, frustrating, and burdensome in light of existing regulatory and oversight schemes—not an auspicious beginning for fostering voluntary industry compliance.

Surface Mining Control and Reclamation Act of 1977 (SMCRA). Oklahoma proposed revisions to its regulations pertaining to normal husbandry practices and nonaugmentative reclamation activities. The amendment identifies seeding, planting, fertilizing, and other practices that may be performed without restarting the five-year period of operator responsibility for reclamation success.

EFFECTIVE DATE: August 10, 1998.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6548. Telephone: (918) 581–6430, extension 23. Internet: mwolfrom@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Oklahoma Program

On January 19, 1981, the Secretary of the Interior conditionally approved the Oklahoma program. Background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the January 19, 1981, **Federal Register** (46 FR 4902). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 936.15 and 936.16.

II. Submission of the Proposed Amendment

By letter dated July 3, 1997 (Administrative Record No. OK–978), Oklahoma submitted an amendment to its program pursuant to SMCRA. Oklahoma submitted the amendment at its own initiative. Oklahoma amended the Oklahoma Administrative Code (OAC) for surface mining operations at OAC 460:20–43–46(c)(4) and underground mining operations at OAC 460:20–45–46(c)(4) by adding normal husbandry practice and nonaugmentative reclamation activity criteria. The normal husbandry practice criteria relate to the levels of reseeding, fertilizing, liming, weed and pest control, mulching, irrigation, pruning, transplanting and replanting trees and shrubs, and repair of rills and gullies that may be performed without restarting the five-year period of operator responsibility for reclamation success. The nonaugmentative reclamation activity criteria relate to liming, fertilization, mulching, seeding or stocking of areas where temporary roads and sediment control structures are removed and of areas unavoidably disturbed because of third-party activities or interference.

OSM announced receipt of the proposed amendment in the August 8, 1997, **Federal Register** (62 FR 42715), and in the same document opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment period closed on September 8, 1997. Because no one requested a public hearing or meeting, none was held.

During its review of the amendment, OSM identified concerns in OAC 460:20–43–46(c)(4) and 460:20–45–46(c)(4) relating to the requirement that OSM approve normal husbandry practices used in the State; OAC 460:20–43–46(c)(4)(D) and 460:20–45–46(c)(4)(D) relating to a discrepancy between the proposed language and Appendix R of Oklahoma's Bond Release Guidelines for the repair of rills and gullies; and OAC 460:20–43–46(c)(4)(E) and 460:20–45–46(c)(4)(E) relating to the nonaugmentative reclamation activities proposed for temporary structures. OSM notified Oklahoma of these concerns by letters dated November 19, 1997, and March 23, 1998, and discussed the concerns with Oklahoma during telephone conferences held on February 10, 1998, and March 19, 1998 (Administrative Record Nos. OK–978.05, OK–978.10, OK–978.06, and OK–978.09, respectively).

By letters dated March 4, 1998, April 22, 1998, April 30, 1998, and May 12, 1998 (Administrative Record Nos. OK–978.08, OK–978.13, OK–978.14, and OK–978.11, respectively), Oklahoma responded to OSM's concerns by submitting additional explanatory information, technical guidelines, and revisions to its program amendment.

Based upon the additional explanatory information and revisions to the amendment submitted by Oklahoma, OSM reopened the public comment period in the May 28, 1998, **Federal Register** (63 FR 29174). The public comment period closed on June 12, 1998.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the amendment. Only substantive changes are discussed in detail. Revisions that are not discussed below concern nonsubstantive wording changes or revised cross-references and paragraph notations to reflect organizational changes. The revisions not specifically discussed are no less stringent than SMCRA and no less effective than the Federal regulations.

1. Normal Husbandry Practices and Nonaugmentative Reclamation Activities

Oklahoma proposed substantively identical revisions to its regulations at OAC 460:20–43–46(c)(4) for surface coal mining operations and OAC 460:20–45–46(c)(4) for underground mining operations. Accordingly, findings concerning the revisions are combined. Oklahoma proposes to reorganize OAC 460:20–43–46(c)(4) and 460:20–45–46(c)(4) and to add new regulatory language in order to clarify the management practices and activities that may be performed without restarting the five-year period of operator responsibility for reclamation success.

OAC 460:20–43–46(c)(4) and OAC 460:20–45–46(c)(4). These sections provide that the Department and the Office of Surface Mining have approved selective husbandry practices and nonaugmentative reclamation activities that, when accomplished in accordance with subsections (A) through (G), do not extend the period of responsibility for revegetation success and bond liability.

In its letter dated April 22, 1998, Oklahoma stated that it understands that any normal husbandry practice not included in its March 4, 1998, revised amendment will be submitted to OSM for approval in accordance with 30 CFR 732.17 (Administrative Record No. OK–978.13). These sections also provide that approved normal husbandry practices shall be expected to continue as part of the postmining land use and shall be considered normal husbandry practices within the region for unmined lands having uses similar to the approved postmining land use of the disturbed area. To determine whether husbandry and conservation practices used by surface and underground mining operations are normal husbandry practices, Oklahoma will judge management practices on mined lands against the recommended normal husbandry practices for unmined lands provided by the Oklahoma State University (OSU) and the United States Department of Agriculture, Natural Resources Conservation Service (NRCS). OSU establishes and publishes recommended fertility and management practices for row crops, hayland, and grazingland that are tailored for soil conditions, crop rotations, tillage and

application practices. OSU has extension offices throughout the State to provide more site specific recommendations, if needed. In order to support its proposed regulations relating to normal husbandry practices at OAC 460:20–43–46(c)(4) and 460:20–45–46(c)(4), Oklahoma submitted several guidelines published by the OSU and NRCS relating to agricultural and conservation management practices for unmined lands in the State of Oklahoma (Administrative Record Nos. OK–978.08 and OK–978.11). Oklahoma will review and assess whether site specific activities are outside the normal husbandry practice guidelines through its routine inspection process. Evaluations will be made using professional judgement that will incorporate the guidelines provided by the OSU and the NRCS.

The Federal regulations at 30 CFR 816.116(c)(4) for surface mining operations and 817.116(c)(4) for underground mining operations allow the regulatory authority to approve selective husbandry practices, excluding augmented seeding, fertilization, or irrigation, without extending the period of responsibility for revegetation success and bond liability, under specified conditions. The regulatory authority must obtain prior approval from OSM in accordance with 30 CFR 732.17 that the practices are normal husbandry practices that can be expected to continue as part of the postmining land use, or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices must be normal husbandry practices within the region for unmined lands having land uses similar to the approved postmining land use of the disturbed area.

The Director finds that Oklahoma's requirements at OAC 460:20–43–46(c)(4) and 460:20–45–46(c)(4) are no less effective than the requirements of the counterpart Federal regulations. The Director also finds that the guidelines published by OSU and the NRCS represent normal husbandry practices in the State and is approving their use by Oklahoma in determining whether the fertility and management practices used by surface and underground mining operations are normal husbandry practices.

OAC 460:20–43–46(c)(4)(A) and 460:20–45–46(c)(4)(A). These subsections specify the types of practices that will not be considered augmentative. Oklahoma will consider limited reseeding and associated fertilizing and liming as nonaugmentative if the area is small in relation to the permit area, watershed, or surface property boundary, whichever is smaller. The size of the area relative to the surrounding area and the ability of the reclaimed area to meet the postmining land use will also be considered. Removal and reclamation of temporary structures identified at subsection (E) would not be considered augmentation under specified circumstances. Repair of rills and gullies that are not in excess of the stipulations at subsection (D) would not be considered augmentation. Oklahoma will require any minor reseeded areas to be fully established and meet the requirements of OAC 460:20–43–46(a) and (b) or 460:20–45–46(a) and (b) at the time of bond release.

The normal husbandry practice guidelines submitted by Oklahoma and OSM's policy outlined in the May 29, 1996, **Federal Register** (61 FR 26792) support the types of practices that Oklahoma will not consider augmentative. This provision ensures that the vegetation of these areas will be subject to Oklahoma's counterparts to the Federal regulations at 30 CFR 816.116 and 817.116 relating to the attainment of revegetation success. Therefore, the Director finds that OAC 460:20–43–46(c)(4)(A) and 460:20–45–46(c)(4)(A) are no less effective than 30 CFR 816.116(c)(4) and 817.116(c)(4).

OAC 460:20–43–46(c)(4)(B) and 460:20–45–46(c)(4)(B). These subsections provide that approved agricultural practices published by the OSU Cooperative Extension Service, including fertilizing, liming, weed and pest control, and mulching, are not considered augmentation. Oklahoma submitted several documents in support of this provision for cropland. The documents included OSU guidelines for management of wheat, grain sorgham, alfalfa, and soybean crops; guidelines for fertilizing and liming; and guidelines for weed control. Specific fertilizing and liming application levels are based on soil testing and yield goals. OSU guidelines for weed control recommend a complete program involving good cultural practices, mechanical control, and herbicides. Specific recommendations were provided for application of herbicides for crops of soybeans, winter wheat, alfalfa, corn, cotton, grain sorgham, sugar, mungbeans, peanuts, small grains, south peas, and sunflowers.

OSM concluded in its review of the documentation submitted by Oklahoma in support of this revision that the agricultural practice guidelines published by OSU are representative of normal husbandry practices for unmined cropland in Oklahoma. Therefore, the Director finds that OAC 460:20–43–46(c)(4)(B) and 460:20–45–46(c)(4)(B) are no less effective than 30 CFR 816.116(c)(4) and 817.116(c)(4).

OAC 460:20–43–46(c)(4)(C) and 460:20–45–46(c)(4)(C). These subsections provide that on all lands with a postmining land use other than cropland, any areas reseeded or replanted as a part or result of a normal husbandry practice must be small in size and limited in extent of occurrence, or a part of a hay management plan. A hay management plan is an agricultural practice described by the OSU Cooperative Extension Service. The reestablished vegetation must be in place for a sufficient length of time to not adversely affect Oklahoma's ability to make a valid determination at the time of bond release as to whether the site has been properly reclaimed.

This provision will ensure that Oklahoma will require that any reseeding or replanting of pasture, grazingland, rangeland, or other noncropland land use areas are done in accordance with OSU or NRCS normal husbandry practice guidelines. Oklahoma will also consider the size and extent of the reseeded or replanted areas before determining whether the period of responsibility for revegetation success and bond liability must restart for noncropland land use areas. This provision will also ensure that the vegetation is fully established before the release of bond as required in OAC 460:20–43–46(c)(4)(A) and OAC 460:20–45–56(c)(4)(A) for all land uses. Therefore, the Director finds that OAC 460:20–43–46(c)(4)(C) and 460:20–45–46(c)(4)(C) are no less effective than 30 CFR 816.116(c)(4) and 817.116(c)(4).

OAC 460:20–43–46(c)(4)(D) and 460:20–45–46(c)(4)(D). These subsections specify that the repair of rills and gullies will not be considered an augmentation practice if the occurrences and treatment of such rills and gullies constitute a normal conservation practice in the region. In the coal mining region of Oklahoma, the normal range of precipitation during fall or spring seeding seasons may result in the formation of rills and gullies. The NRCS in Oklahoma has prepared guidelines for the treatment of such rills and gullies for the State. Oklahoma determined that the NRCS plan for repair of these rills and gullies constitutes the treatment practice which is the usual degree of management customarily performed to prevent exploitation, destruction, or neglect of the soil resource and to maintain the productivity of the land use for unmined lands in Oklahoma. After initial vegetation establishment,

Oklahoma defines the treatment of rills and gullies requiring permanent reseeding of more than 10 acres in a contiguous block or 10 percent of a permit area initially seeded during a single year to be an augmentative practice because of the potential for delayed seeding of large areas to reduce the probability of revegetation success. The rills and gullies should be contoured or smoothed if the site is large. The area must be seeded during the appropriate seeding season with approved perennial species followed by an application of mulch. If permanent seeding of the area must be delayed due to weather conditions, then appropriate temporary erosion control measures must be used. These subsections also specify the methods of treatment for repair of rills and gullies, including seeding, mulching, and erosion control measures. These methods are based on the NRCS guidelines for repair of rills and gullies entitled ''State Standard and Specifications for Critical Area Treatment'' and ''Critical Area Planting.''

OSM concluded in its review of the documentation submitted by Oklahoma, in support of this revision, that repair of rills and gullies is a normal conservation practice in Oklahoma and that the guidelines published by NRCS for repair of rills and gullies are representative of normal husbandry practices for unmined land in Oklahoma. Therefore, the Director finds that OAC 460:20–43–46(c)(4)(D) and 460:20–45–46(c)(4)(D) are no less effective than 30 CFR 816.116(c)(4) and 817.116(c)(4).

OAC 460:20–43–46(c)(4)(E) and 460:20–45–46(c)(4)(E). These subsections provide that liming, fertilizing, mulching, seeding or stocking following the reclamation of temporary roads, temporary sediment or hydraulic control structures, areas disturbed by the installation or removal of oil and gas wells or utility lines, and areas where the vegetation was disturbed by non-mine related vehicular traffic not under the control of the permittee will not be considered augmentation.

As discussed above, Oklahoma's regulations at OAC 460:20–43–46(c)(4)(A) and 460:20-45–46(c)(4)(A) also apply to these areas. The provisions at subsections (A) that any minor reseeded areas be fully established and meet the requirements of OAC 460:20–43-46(a) and (b) or 460:20–45–46(a) and (b) at the time of bond release will ensure that the vegetation of these areas will be subject to Oklahoma's counterparts to the Federal regulations at 30 CFR 816.116 and 817.116 related to the attainment of revegetation success. It will also discourage the removal of ponds, roads, or diversions toward the end of the liability period for the surrounding area because these areas would not qualify for final bond release until vegetative cover is fully established and meets Oklahoma's revegetation standards.

Oklahoma's reference to temporary roads in its regulation is interpreted by OSM to mean those roads necessary for maintenance of sediment ponds, diversions, and reclamation areas. Ancillary roads used for maintenance do not include haul roads or other primary roads which should have been removed upon completion of mining. In its letter dated April 22, 1998, Oklahoma stated that in accordance with the Department's approved Bond Release Guidelines, haul roads must be removed prior to Phase I release.

Although Oklahoma's amendment is primarily concerned with defining normal husbandry practices, the term ''nonaugmentative reclamation activities'' is used with reference to the removal and reclamation of structures used in support of reclamation and the repair and reclamation of areas disturbed by the installation or removal of oil and gas wells or utility lines and areas where the vegetation was disturbed by non-mine related vehicular traffic not under the control of the permittee. OSM interprets this to mean Oklahoma does not consider reclamation of these areas as a normal husbandry practice. OSM agrees that reclamation of these areas, while being nonaugmentative, is not a normal husbandry practice.

OSM's policy concerning the term of liability for reclamation of roads and temporary sediment control structures. As outlined in the May 29, 1996, **Federal Register** (61 FR 26792), OSM has adopted the policy published for comment in the September 15, 1993, **Federal Register** (58 FR 48333). Section 515(b)(20) of SMCRA provides that the revegetation responsibility period shall commence ''after the last year of augmented seeding, fertilizing, irrigation, or other work'' needed to assure revegetation success. In the absence of any indication of Congressional intent in the legislative history, OSM interprets this requirement as applying to the increment or permit area as a whole, not individually to those lands within the permit area upon which revegetation is delayed solely because of their use in support of the reclamation effort on the planted area. As implied in the preamble discussion of 30 CFR 816.46(b)(5), which prohibits the removal of ponds or other siltation structures until two years after the last augmented seeding, planting of the sites from which such structures are removed need not itself be considered an augmented seeding necessitating an extended or separate liability period (48 FR 44038–44039, September 26, 1983).

The purpose of the revegetation responsibility period is to ensure that the mined area has been reclaimed to a condition capable of supporting the desired permanent vegetation. Achievement of this purpose will not be adversely affected by this interpretation of section 515(b)(20) of SMCRA because the lands involved are relatively small in size and either widely dispersed or narrowly linear in distribution and the delay in establishing revegetation on these sites is due not to reclamation deficiencies or the facilitation of mining, but rather to the regulatory requirement that ponds and diversions be retained and maintained to control runoff from the planted area until the revegetation is sufficiently established to render such structures unnecessary for the protection of water quality.

In addition, the areas affected likely would be no larger than those which could be reseeded (without restarting the revegetation period) in the course of performing normal husbandry practices, as that term is defined in 30 CFR 816.116(c)(4) and explained in the preamble to that rule (53 FR 34636, 34641; September 7, 1988; 52 FR 28012, 28016; July 27, 1987). Areas this small would have a negligible impact on any evaluation of the permit area as a whole. Most importantly, this interpretation is unlikely to adversely affect the regulatory authority's ability to make a statistically valid determination as to whether a diverse, effective permanent vegetative cover has been successfully established in accordance with the appropriate revegetation success standards. From a practical standpoint, it is usually difficult to identify precisely where such areas are located in the field once revegetation is established in accordance with the approved reclamation plan.

Based on the above discussion, the Director finds that Oklahoma's provisions for removal and reclamation of temporary roads and sediment control structures are consistent with and no less effective than the Federal regulations at 30 CFR 816.46(b)(5) and (6), 817.46(b)(5) and (6), 816.150(f)(6), 817.150(f)(6), and sections 515(b)(19) and (20) of SMCRA, as clarified by OSM in the September 15, 1993, **Federal Register** (58 FR 48333).

If the areas limed, fertilized, mulched, seeded or stocked following reclamation

of land disturbed by installation or removal of oil and gas wells or utility lines and following reclamation of land where the vegetation was disturbed by non-mine related vehicular traffic not under the control of the permittee are no larger than those which would be reseeded or stocked in the course of performing normal husbandry practices, then these activities too would not be considered augmentation under sections 515(b)(19) and (20) of SMCRA. Oil and gas well installations are common occurrences in the State of Oklahoma and usually affect only a small area of land. As discussed above, areas this small would have a negligible impact on any evaluation of the permit area as a whole. Most importantly, this interpretation is unlikely to adversely affect the regulatory authority's ability to make a statistically valid determination as to whether a diverse, effective permanent vegetative cover has been successfully established in accordance with the appropriate revegetation success standards. Oklahoma's regulations at OAC 460:20–43–46(c)(4)(A) and 460:20–45–46(c)(4)(A) require that any minor reseeded areas be fully established and meet the requirements of OAC 460:20–43–46(a) and (b) or 460:20–45–46(a) and (b) at the time of bond release. These provisions ensure that the vegetation of these areas will be subject to Oklahoma's counterparts to the Federal regulations at 30 CFR 816.116 and 817.116 relating to the attainment of revegetation success. Therefore, the Director is also approving liming, fertilizing, mulching, seeding or stocking following reclamation of these disturbed areas as nonaugmentative activities that will not restart the five-year period of operator responsibility for reclamation success.

OAC 460:20–43–46(c)(4)(F) and 460:20–45–46(c)(4)(F). These subsections specify that irrigation, reliming, and refertilization of revegetated areas; reseeding cropland; and renovating pastureland by overseeding with legumes after Phase II bond release shall be considered normal husbandry practices if the amount and frequency of these practices do not exceed normal husbandry practices used on unmined land within the region.

Documentation was submitted by Oklahoma to support these activities as normal husbandry practices on cropland and pastureland within the State. Therefore, the Director finds that Oklahoma's proposal is no less effective than the Federal requirements at 30 CFR 816.116(c)(4) and 817.116(c)(4), and is approving subsections (F).

OAC 460:20–43–46(c)(4)(G) and 460:20–45–46(c)(4)(G). At subsections (G), Oklahoma provides that other normal husbandry practices that may be conducted on postmining land uses of fish and wildlife habitat, recreation, and forestry without restarting the liability period are disease, pest, and vermin control; pruning; and transplanting and replanting trees and shrubs in accordance with OAC 460:20–43–46(b)(3) and 460:20–45–46(b)(3).

The Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4) allow the regulatory authority to approve normal husbandry practices, including such practices as disease, pest, and vermin control; and any pruning, reseeding, and transplanting specifically necessitated by such actions. The documentation submitted by Oklahoma shows that these types of activities are normal husbandry practices within the State for unmined lands. Therefore, the Director is approving the provisions at subsections (G).

2. Oklahoma Bond Release Guidelines

Oklahoma revised Appendices A and R of its bond release guidelines to reflect the changes made to OAC 460:20–43–46(c)(4) and 460:20–45–46(c)(4).

Appendix A, Definitions

The definition for ''augmentation'' was revised to reference Oklahoma's new guidelines for repair of rills and gullies at OAC 460:20–43–46(c)(4) and 460:20–45–46(c)(4). The definition for ''initial establishment of permanent vegetative cover'' was deleted because it is no longer applicable to Oklahoma's revised revegetation requirements.

The Director finds that the proposed revisions are consistent with the changes being approved for Oklahoma's regulations at OAC 460:20–43–46(c)(4) and 460:20–45-46(c)(4).

Appendix R, Guidelines for the Repair of Rills and Gullies in Oklahoma

Oklahoma is deleting Appendix R from its Bond Release Guidelines because the provisions for repair of rills and gullies were added to its program at OAC 460:20–43–46(c)(4)(D) for surface mining operations and 460:20–45–46(c)(4)(D) for underground mining operations in this rulemaking.

The Director finds that this deletion will not make Oklahoma's program less effective than the Federal regulations at 30 CFR 816.116(c)(4) or 817.116(c)(4).

IV. Summary and Disposition of Comments

Public Comments

OSM solicited public comments on the proposed amendment, but none were received.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Oklahoma program. No comments were received.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Oklahoma proposed to make in this amendment pertain to air or water quality standards. Therefore, OSM did not request the EPA's concurrence.

Pursuant to 30 CFR 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from the EPA (Administrative Record No. OK–978.01). EPA did not respond to OSM's request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM is required to solicit comments on proposed amendments which may have an effect on historic properties from the SHPO and ACHP. OSM solicited comments on the proposed amendment from the SHPO and ACHP (Administrative Record No. OK–978.01). Neither the SHPO nor ACHP responded to OSM's request.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Oklahoma on July 3, 1997, and as revised on March 4 and April 22, 1998.

The Director approves the regulations and bond release guidelines as proposed by Oklahoma with the provision that they be fully promulgated in identical form to the regulations and bond release guidelines submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR Part 936, codifying decisions concerning the Oklahoma program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

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

List of Subjects in 30 CFR Part 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 28, 1998.

Brent Wahlquist,

Regional Director, Mid-Contient Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR Part 936 is amended as set forth below:

PART 936—OKLAHOMA

1. The authority citation for Part 936 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 936.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 936.15 Approval of Oklahoma regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * * *
July 3, 1997	8–10–98	OAC 460:20–43–46(c)(4) (A) through (G); 460:20–45–46(c)(4) (A) through (G); Oklahoma Bond Release Guidelines—Appendices A and R.

[FR Doc. 98–21292 Filed 8–7–98; 8:45 am]
BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–98–002]

RIN 2115–AE46

Special Local Regulations for Marine Events; Delaware River, Philadelphia, PA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending permanent special local regulations established for marine events held annually in the Delaware River adjacent to Penns Landing, Philadelphia, Pennsylvania, by increasing the regulated area and by identifying specific events for which the regulated area will be in effect. This action is intended to update the regulation in order to enhance the safety of life and property during the events.

DATES: This final rule is effective on September 9, 1998.

FOR FURTHER INFORMATION CONTACT: S.L. Phillips, Project Manager, Operations Division, Auxiliary Section, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory History

On February 27, 1998, the Coast Guard published a notice of proposed rulemaking entitled Special Local Regulations for Marine Events; Delaware River, Philadelphia, Pennsylvania, in the **Federal Register** (63 FR 9977). The Coast Guard received no comments on the proposed rulemaking. No public hearing was requested, and none was held.

Background and Purpose

33 CFR 100.509 established special local regulations for marine events held annually in Delaware River adjacent to Penns Landing, Philadelphia, Pennsylvania. The purpose of these regulations is to control vessel traffic during marine events to enhance the

safety of participants, spectators, and transiting vessels. In the past, these regulations were implemented at various times for various events throughout the year by publishing a notice in the **Federal Register**. The Coast Guard is concerned that the lengthy process cycle time required to implement the regulated area in this manner may unnecessarily burden event sponsors. Incorporating a table that identifies the specific events during which the regulated area will be in effect will streamline the marine event process and significantly reduce process cycle time.

The majority of marine events for which the regulations will be in effect involve a parade of boats, consisting of approximately 40 to 50 vessels ranging in length from 20′ to 200′. The Coast Guard is concerned that the current size of the regulated area may not be adequate to ensure the safety of these events, because the size and number of participating vessels continues to expand. The Coast Guard is also concerned that vessel operators have had difficulty in determining the position of the existing southern boundary of the regulated area due to the lack of easily identifiable landmarks. The Walt Whitman Bridge is easily identifiable and in close proximity to the current southern boundary.

The Coast Guard is amending the special local regulations previously established for this event area by increasing the size of the regulated area to include those waters of the Delaware River between the Benjamin Franklin Bridge and the Walt Whitman Bridge, and by incorporating a table that identifies specific events during which the regulated area will be in effect. Since the Coast Guard Patrol Commander may stop any event to assist transit of vessels through the regulated area, normal marine traffic should not be severely disrupted.

Discussion of Comments and Changes

The Coast Guard received no comments on the proposed rulemaking.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–602), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this rule to be minimal, the Coast Guard certifies under Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601–602) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule contains no collection of information requirement under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(h) of COMDTINST M16475.1C, this rule is categorically excluded from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade are excluded under that authority.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

PART 100—[AMENDED]

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

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Section 100.509 is amended by revising paragraphs (a)(1), (b)(2) introductory text, and (c) and adding Table 1 to read as follows:

§ 100.509 Delaware River, Philadelphia, Pennsylvania.

(a) * * *

(1) *Regulated Area:* The waters of the Delaware River from shore to shore, bounded to the south by the Walt Whitman Bridge and bounded to the north by the Benjamin Franklin Bridge.

* * * * *

(b) * * *

(2) The operator of any vessel in this area shall:

* * * * *

(c) *Effective Period:* This section is effective annually for the duration of each marine event listed in Table 1, or as otherwise specified in the Coast Guard Local Notice to Mariners and a **Federal Register** notice. The Coast Guard Patrol Commander will announce by Broadcast Notice to Mariners the specific time periods during which the regulations will be enforced.

Table 1 of § 100.509

Welcome America Celebration

Sponsor: Welcome America!
Date: On or about July 4

Columbus Day Celebration

Sponsor: Roberts Event Group
Date: On or bout Columbus Day

New Year's Eve Celebration

Sponsor: City of Philadelphia
Date: December 31

Dated: July 14, 1998.

Robert T. Rufe, Jr.,

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

[FR Doc. 98–21339 Filed 8–7–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 148, 268, and 271

[FRL–6139–6]

RIN 2050–AD79

Organobromine Production Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Listing of CERCLA Hazardous Substances, Reportable Quantities; Final Rule; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction of effective date and technical amendments.

SUMMARY: This rulemaking corrects errors found in three previous regulations which have imposed land disposal treatment standard deadlines for wastes generated by the organobromine industry. These corrections are being made to assure that the land disposal restrictions treatment standards for two organobromine production wastes (designated by EPA Hazardous Waste Codes K140 and U408) and one Universal Treatment Standard Table entry (2,4,6-Tribromophenol), become effective on November 4, 1998. These corrections are being made so that the treatment standards for the above wastes and waste constituent become effective when the rule listing them as hazardous waste becomes effective. Corrections are being made to the following three regulations: the May 4, 1998, regulations listing two organobromine production wastes as hazardous (63 FR 24596); the May 26, 1998 Phase IV final rule (63 FR 28556); and, the technical amendment to the May 4, 1998 rule that was published on June 29, 1998 (63 FR 35147).

EFFECTIVE DATES:

1. *The May 4, 1998 rule.* Effective August 10, 1998, the amendments to the table of treatment standards for hazardous wastes in § 268.40 on pages 24625 and 24626 in amendment 10, and the amendment to the universal treatment standards table in § 268.48 on page 24626 in amendment 11, are withdrawn.

2. *The May 26 rule.* The first sentence following the **EFFECTIVE DATES** caption is corrected to read as follows: ''This final rule is effective August 24, 1998, except for the entries for EPA Hazardous waste numbers K140 and U408 in the table of treatment standards for hazardous wastes in § 268.40, and the entry for 2,4,6-Tribromophenol in the universal treatment standards table in § 268.48, which are effective November 4, 1998.''

3. *The June 29, 1998 rule.* The sentence following the **EFFECTIVE DATE** caption on page 35147 is corrected to read: ''This rule is effective November 4, 1998.''

Effective August 10, 1998, the amendments to the table of treatment standards for hazardous wastes in § 268.40 on page 35149 in amendment 5 are withdrawn.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline at (800) 424–9346 (toll free) or (703) 920–9810 in the Washington, DC metropolitan area. For information on this notice contact Rhonda Minnick (5302W), Office of Solid Waste, 401 M Street, SW, Washington, DC 20460, (703) 308–8771.

SUPPLEMENTARY INFORMATION: The May 4, 1998 final rule amended the § 268.40 Table of Treatment Standards (page 24625, amendment 10) to add EPA Hazardous Waste numbers K140 and U408, and the § 268.48 Universal Treatment Standards table (page 24626, amendment 11). The Table of Treatment Standards entry for K140 contained an error, which was corrected in the June 29, 1998 technical amendment (page 35149, amendment 5) (however, the effective date for this amendment was incorrect). Both the amendments made in the May 4 rule and the June 29 rule are being withdrawn in this document. This is necessary because the Treatment Standard Table entries for K140 and U408 and the Universal Treatment Standards table entry for 2,4,6,-Tribromophenol also appeared in the May 26, 1998 final rule in comprehensive tables that includes all the LDR treatment standards. This document, however, clarifies that the treatment standards and universal treatment standard constituent for these two organobromine production wastes as they appear in the May 26 final rule are effective November 4, 1998. This corresponds to the date that the rule listing them as hazardous wastes becomes effective.

In the June 29, 1998, technical amendment, an inadvertent error was made in the effective date. The incorrect effective date set out in the technical amendment was June 29, 1998, while the effective date for the final rule that it amended was November 4, 1998. The effective date for the technical amendment should be the same as that for the final rule, November 4, 1998. This document corrects this error.

I. Rationale for Immediate Effective Date

Today's rule does not create any new regulatory requirements; rather it clarifies requirements by correcting a number of errors in the May 4, 1998, May 26, 1998, and the June 29, 1998 rules. For these reasons, EPA finds that good cause exists under section 3010(b)(3) of RCRA, 42 U.S.C. 9903(b)(3), to provide for an immediate effective date for some of this rule. See generally 61 FR at 15662. For the same reasons, EPA finds that there is good cause under 5 U.S.C. 553(b)(3) to promulgate today's corrections in final form and that there is good cause under 5 U.S.C. 553(b)(3) to waive the requirement that regulations be published at least 30 days before they become effective.

II. Analysis Under Executive Order 12866, the Unfunded Mandates Reform Act of 1995, the Regulatory Flexibility Act, the Paperwork Reduction Act, National Technology Transfer and Advancement Act of 1995, and Executive Order 13045

Under Executive Order 12866, this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose annual costs of $100 million or more, will not significantly or uniquely affect small governments, and is not a significant federal intergovernmental mandate. The Agency thus has no obligations under sections 202, 203, 204 and 205 of the Unfunded Mandates Reform Act. Moreover, since this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to sections 603 or 604 of the Regulatory Flexibility Act, and it does not affect requirements under the Paperwork Reduction Act. Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. No. 104–113, § 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. Neither this technical correction action nor the final rules involve technical standards. Therefore, EPA did not consider the use of any voluntary standards in this rulemaking. This final rule is not subject to E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because this action is not an economically significant rule, and it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

III. Submission to Congress and the General Accounting Office

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. Section 808 allows the issuing agency to make a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of August 10, 1998 for parts of this action. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 148

Environmental Protection, Administrative practice and procedure, Hazardous waste, Reporting and recordkeeping requirements, Water supply.

40 CFR Part 268

Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 271

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

Dated: August 3, 1998.

Timothy Fields, Jr.,

Acting Assistant Administrator.

For the reasons set forth in the preamble:

1. The effective dates for the rules published on May 26, 1998 and June 29, 1998 are corrected as set forth in the **EFFECTIVE DATES** section of this correction.

2. Amendment 10 to § 268.40 and amendment 11 to § 268.48 on pages 24625 and 24626 in the rule published May 4, 1998, and amendment 5 on page 35149 in the rule published June 29, 1998 are withdrawn.

[FR Doc. 98–21207 Filed 8–7–98; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–98–4268]

RIN 2127–AG84

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This document amends the Federal motor vehicle safety standard on lighting to permit asymmetrical headlamp beams on motorcycle headlighting systems. This amendment will allow upper and lower beams to be emitted by separate dedicated headlamps on either side of a motorcycle's vertical centerline or by separate off center light sources within a single headlamp that is located on the vertical centerline. This action completes action upon the grant of a rulemaking petition from Kawasaki Motors Corp. U.S.A. and represents a further step towards harmonization of Standard No. 108 with the lighting standards of other nations.

DATES: The amendment is effective September 24, 1998. Any petition for reconsideration of the amendment must be filed on or before this effective date.

ADDRESSES: Petitions for reconsideration should refer to the docket number and notice number, and must be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. (Docket hours are from 10:00 a.m. to 5:00 p.m.).

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Safety Performance Standards, NHTSA (Phone: 202–366–5276).

SUPPLEMENTARY INFORMATION: Table IV of Motor Vehicle Safety Standard No. 108 specifies the location of headlighting systems on motorcycles. If a motorcycle has a single headlamp, the headlamp must be located on the vehicle's vertical centerline. If two headlamps are provided, they must be symmetrically located around the vertical centerline. Under Standard No. 108, a center-mounted headlamp must provide upper and lower beams with a single light source, and each headlamp in a two-headlamp motorcycle headlighting system must provide both an upper and a lower beam with a single light source. In interpretation letters in 1994 and 1995, NHTSA advised Kawasaki Motors Corp. U.S.A. (Kawasaki) that a single-lamp headlighting system in which an upper beam or lower beam is provided by a single light source that is not on the vertical centerline is not permitted by Standard No. 108.

Kawasaki has developed a projector beam headlighting system which it wishes to offer on motorcycles that it sells in the United States. The system incorporates light sources that are not on the vertical centerline and that will typically be illuminated singly. The consequence is that the motorcycle will have a single-off center light source. Under the Kawasaki system, separate headlamps provide the upper and lower beam respectively, or separate light sources in a single headlamp, which lie on either side of the vertical centerline even if the headlamp itself is centered on it. Accordingly, Kawasaki petitioned the agency for rulemaking to amend Standard No. 108 in a manner that would allow its asymmetrical headlighting system.

The agency granted the petition and published a notice of proposed rulemaking (NPRM) on this subject on September 9, 1997 (Docket No. 97–45; 62 FR 47414).

As NHTSA explained in the NPRM, at the time that the motorcycle headlight requirements in Standard No. 108 were originally issued, the predominant concern was that the headlighting system clearly identify a motorcycle as such when the vehicle was being operated at night. Thus, the location of a single headlamp on the vertical centerline was required to aid motorists in distinguishing an approaching motorcycle from an approaching passenger car whose left headlamp was inoperative. To assist oncoming drivers in detecting the nature of an approaching vehicle, Standard No. 108 also requires passenger cars and light trucks to have parking lamps, and requires the parking lamps to be illuminated when the headlamps are on. Motorcycles are not required to have parking lamps. Thus, their appearance at night will differ in this respect from that of a four-wheeled motor vehicle. Kawasaki assured the agency that, in markets where projector beam headlamps are common, there has been no increase in crashes because of misjudgment of a motorcycle's presence.

This assurance allowed the agency to contemplate the advisability of allowing a single beam to be projected somewhere other than on the vertical centerline. Kawasaki brought the agency's attention to the Official Journal of the European Communities, Council Directive 93/92/EEC, dated 29 October

1993. This Directive allows separate upper and lower beam headlamps, but specifies that their ''reference centers must be symmetrical in relation to the median longitudinal plane of the vehicle'', and that the distance between the edges of the illuminating surfaces of the two headlamps must not exceed 200 mm., i.e., approximately 8 inches. Adoption of this maximum separation distance should ensure that asymmetrical beams remain relatively close to the vertical centerline of the vehicle and do not mislead oncoming drivers. It will also ensure that NHTSA's amendment of Standard No. 108 will be consistent with regulations of other nations concerning the same lighting specification.

The agency therefore proposed that Standard No. 108 be amended in a manner that would allow Kawasaki to use the projector beam headlighting system. Two comments were received on the NPRM, from Stanley Electric Co. Ltd. (Stanley) and Koito Manufacturing Co. Ltd. (Koito). Both commenters supported the NPRM.

Koito commented that the installation of the headlighting system proposed is already allowed in Japan, and that a final rule would harmonize U.S. requirements not only with the regulations of Europe (93/93/EEC) but also those of Japan. Stanley, too, supported the NPRM as in the interests of harmonization. Koito noted that proposed S7.9.6.2 (a) and (c) allow both vertical and horizontal arrangements, while S7.9.6.2(b) allows only a horizontal arrangement. Koito asked for a clarification. In response to this comment, the agency has revised S7.9.6.2(b) so that it, as adopted, allows both vertical and horizontal arrangements.

Stanley's further comments were in the nature of a request for interpretation as to the allowability under the proposal of four different types of dual-headlamp installations on motorcycles. In some of these systems, the upper beam headlamp could be located above the lower beam. The final rule clarifies NHTSA's intent in such a way that Stanley will be able to answer its questions. Standard No. 108 for many years has required that lower beam headlamps on all other types of motor vehicles be located above upper beam headlamps when they are mounted vertically (S7.4(b)) because the higher mounting height give longer seeing distance to the lower beam, providing a safety advantage to drivers. With respect to motorcycles, Standard No. 108 requires only that, if two headlamps are used, they shall be disposed symmetrically about the vertical centerline. On review, NHTSA believes that the same principle should apply to motorcycle headlamps as well, and is adopting language similar to S7.4(b) prohibiting the upper beam to be higher than the lower beam. This action ensures that the existing requirement will be retained, and clarifies Table IV which, as proposed, was silent as to relative locations of the upper and lower beam, specifying only that, if two headlamps were providing a single beam, they be symmetrically disposed about the vertical centerline.

Although traditionally motorcycle headlighting requirements have been contained in Tables III and IV, paragraph S7.9 *Motorcycles* has been added to Standard No. 108, as proposed, to contain and set apart all motorcycle lighting performance requirements for ease of reference. This purpose will be enhanced by specifying headlighting location requirements as well. Accordingly, NHTSA proposed that a new paragraph S7.9.6 be added which will contain the previous location requirements specified in Table IV as modified by the proposed changes to accommodate Kawasaki's request, and as discussed above. A two-headlamp system in which each headlamp provides an upper and lower beam will be mounted symmetrically disposed about the vertical centerline or on the vertical centerline. The new paragraph will permit a two-headlamp system in which one headlamp provides an upper beam and the other a lower beam and which will have to be ''located on the vertical centerline with the upper beam no higher than the lower beam, or horizontally disposed about the vertical centerline and mounted at the same height.'' Similarly, the light sources in a single headlamp providing different beams will have to be horizontally disposed and mounted at the same height, or vertically disposed, with the lower beam light source above the upper beam light source. Table IV is amended to delete the material which would be covered by S7.9.6.2 relating to mounting of headlamps, and a reference to S7.9 substituted.

Effective Date

Since the final rule will not impose any additional burden and is intended to afford an alternative to existing requirements, it is hereby found that an effective date earlier than 180 days after issuance of the final rule is in the public interest. The final rule is effective 45 days after its publication in the **Federal Register**.

Rulemaking Analyses

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking action has not been reviewed under Executive Order 12866. It has been determined that the rulemaking action is not significant under Department of Transportation regulatory policies and procedures. The effect of the rulemaking action is to allow a motorcycle manufacturer a wider choice of headlighting systems with which to equip its vehicles. The rule does not impose any additional burden upon any person. Impacts of the rule are so minimal as not to warrant preparation of a full regulatory evaluation.

Regulatory Flexibility Act

The agency has also considered the effects of this rulemaking action in relation to the Regulatory Flexibility Act (5 U.S.C. Sec. 601 et seq.). I certify that this rulemaking action would not have a significant economic effect upon a substantial number of small entities.

The following is NHTSA's statement providing the factual basis for the certification (5 U.S.C. Sec. 605(b)). The final rule affects manufacturers of motor vehicles. According to the size standards of the Small Business Association (at 13 CFR Part 121.601), the size standard for manufacturers of ''Motor Vehicles and Passenger Car Bodies'' (SIC Code 3711) is 1,000 employees or fewer. This final rule will have no significant economic impact of a small business in this industry because it imposes no new requirements and affords flexibility to a manufacturer of motor vehicles in installing headlamp systems on its products.

Further, small organizations and governmental jurisdictions will not be significantly affected since the price of new motorcycles will not be impacted. As noted above, the rule affords an option to existing requirements, so that there are no mandatory cost impacts to this rule. Accordingly, no Regulatory Flexibility Analysis has been prepared.

Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 on ''Federalism.'' It has been determined that the rulemaking action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for purposes of the National Environmental Policy Act. The

rulemaking action will not have a significant effect upon the environment as it does not affect the present method of manufacturing motorcycle headlamps.

Civil Justice Reform

This rule will not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Under 49 U.S.C. 30163, a procedure is set forth for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority section continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

§ 571.108 [Amended]

2. Section 571.108 is amended by adding new paragraph S7.9.6 and by revising the subheading of Table IV, and the entry for Headlamps in Table IV to read as set forth below:

S7.9.6 A headlamp system shall be installed on a motorcycle in accordance with the requirements of this paragraph.

S7.9.6.1 The headlamp system shall be located on the front of the motorcycle.

S7.9.6.2 (a) If the system consists of a single headlamp, it shall be mounted on the vertical centerline of the motorcycle. If the headlamp contains more than one light source, each light source shall be mounted on the vertical centerline with the upper beam no higher than the lower beam, or horizontally disposed about the vertical centerline and mounted at the same height. If the light sources are horizontally disposed about the vertical centerline, the distance between the closest edges of the effective projected luminous lens area in front of the light sources shall not be greater than 200 mm (8 in.).

(b) If the system consists of two headlamps, each of which provides both an upper and lower beam, the headlamps shall be mounted either at the same height and symmetrically disposed about the vertical centerline or mounted on the vertical centerline. If the headlamps are horizontally disposed about the vertical centerline, the distance between the closest edges of their effective projected luminous lens areas shall not be greater than 200 mm (8 in.).

(c) If the system consists of two headlamps, one of which provides an upper beam and one of which provides the lower beam, the headlamps shall be located on the vertical centerline with the upper beam no higher than the lower beam, or horizontally disposed about the vertical centerline and mounted at the same height. If the headlamps are horizontally disposed about the vertical centerline, the distance between the closest edges of their effective projected luminous lens areas shall not be greater than 200 mm (8 in.).

* * * * *

TABLE IV—LOCATION OF REQUIRED EQUIPMENT

[All Passenger Cars and Motorcycles, and Multipurpose Passenger Vehicles, Trucks, Trailers, and Buses of Less than 80 (2032) Inches (MM) Overall Width]

Item	Location on—		
	Passenger cars, multipurpose passenger vehicles, trucks, trailers, and buses	Motorcycles	Height above road surface measured from center of item on vehicle at curb weight
Headlamps	On the front, each headlamp providing the lower beam, at the same height, 1 on each side of the vertical centerline, each headlamp providing the upper beam, at the same height, 1 on each side of the vertical centerline, as far apart as practicable. See also S7.	See S7.9	Not less than 22 inches (55.9 cm) nor more than 54 inches (137.2 cm).

* * * * *

Issued on: August 4, 1998.

Ricardo Martinez,

Administrator.

[FR Doc. 98–21285 Filed 8–7–98; 8:45 am]

BILLING CODE 4910–59–P

OFFICE OF PERSONNEL MANAGEMENT

48 CFR Part 1609

RIN 3206–AI27

Prohibition of ''Gag Clauses'' in the Federal Employees Health Benefits Program

AGENCY: Office of Personnel Management.

ACTION: Final rule making.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final regulation amending the Federal Employees Health Benefits Acquisition Regulations (FEHBAR) to prohibit health benefit carriers participating in the Federal Employees Health Benefits (FEHB) Program from entering into contracts or employment agreements with health care providers, provider groups, or health care workers that would include provisions or financial incentives that have the effect of limiting or restricting communication of

medically necessary services to FEHB enrollees.

DATES: This regulation is effective on September 9, 1998.

ADDRESSES: Comments should be directed to Abby L. Block, Chief, Insurance Policy and Information Division, OPM, Room 3425, 1900 E Street, NW., Washington, DC 20415–0001.

FOR FURTHER INFORMATION CONTACT: Michael W. Kaszynski, (202) 606–0004. You may submit comments and data by sending electronic mail (E-mail) to: *MWKASZYN@OPM.Gov*.

SUPPLEMENTARY INFORMATION: On February 20, 1998, the President signed an Executive Memorandum directing the Office of Personnel Management (OPM) to take the necessary steps to bring the FEHB Program into contractual compliance with the Consumer (Patient) Bill of Rights and Responsibilities by no later than year end 1999. The Memorandum specifically directed OPM to propose regulations within 90 days to prohibit practices that restrict physician-patient communications about medically necessary treatment options. OPM's regulation prohibits FEHB participating carriers from placing provisions or financial incentives in contracts with health care providers, provider groups, or health care workers that would limit providers' or health care workers' ability to discuss medically necessary treatment options with Federal enrollees. We are aware that a proposal to enact a ''gag clause'' regulation raises three broad areas of concern regarding: (1) Potential impairment of a health plan's ability to review utilization against appropriate treatment protocols or perform quality assurance functions, (2) potential conflict with providers' or health plan sponsoring organizations' ethical, moral, or religious beliefs, and (3) impact on providers' or workers' ability to discuss non-covered or high cost treatment options. This regulation is not intended to limit a health plan's ability to perform utilization review or perform quality assurance functions, nor is it intended to cause providers, health care workers, or health plan sponsoring organizations to discuss treatment options that they would not ordinarily discuss in their customary course of practice because such options are inconsistent with their professional judgment or ethical, moral or religious beliefs.

The regulation will ensure that providers and health care workers are not inhibited from communicating fully and openly with patients regarding medically necessary treatment options regardless of cost or whether the benefits are covered by their health plan. Simply stated, the amended regulation is intended to remove any contractual impediment to a candid and open physician-patient relationship.

On May 21, 1998, OPM published a proposed regulation in the Federal Register (63 FR 27902). OPM received comments from three private citizens, two FEHB carriers, two medical specialty provider associations, one religious health association, one national organization for women and families, and two trade associations representing health maintenance organizations (HMOs), preferred provider organizations (PPOs), and fee-for-service (FFS) plans. We appreciate the observations and suggestions and have taken them into consideration in developing this final rule. The majority of the comments favored the proposed regulation. We were surprised, however, given our explicit statement of intent, at a few of the reactions that assumed that OPM would interpret the regulation in ways that would clearly be detrimental to the FEHB Program and the people it covers. A number of issues are addressed below.

Seven commenters expressed their support or endorsement of the proposed regulation. One commenter indicated support for the rule because it assured that physicians and other providers participating in the FEHB Program will not be contractually enjoined from providing information on all medically appropriate treatment options. The commenter stated that a health plan's contractual requirements, such as coverage and cost, should not be an impediment to a candid discussion between a physician and patient concerning available, medically appropriate treatment options. One commenter applauded OPM for its work on improving patient care under the FEHB Program. One commenter indicated that he fully supports OPM's efforts to prohibit contractual clauses or incentives that prevent open communication between physicians and patients because he believes that such restrictions violate the most basic of rights in a free society.

One commenter pointed out that, based on his experience in the health care industry, the problem is that HMOs reward physicians for not delivering care or intimidate physicians from providing care that would cost the HMO money. This commenter recommended that sanctions be incorporated into the regulation to prevent health plans from utilizing prohibited contractual clauses. No change has been made to the rule since existing regulations provide OPM with the authority to impose appropriate sanctions for violations, including withdrawal of approval of the carrier to participate in the FEHB Program.

One commenter recommended that the regulation give adequate notice to FEHB carriers of the types of contract clauses that are prohibited. This commenter expressed support for ''gag clause'' prohibitions that prohibit practices, including contract clauses, that restrict patient-provider communications, but stated that there is no compelling reason for prohibiting provider incentive plans in the FEHB Program since enrollees have the remedy of the disputed claims process or can change health plans annually if they find that their plan is limiting their access to medically necessary services. OPM believes that free and open communication between a provider or health care worker and a patient should be a basic right of all FEHB enrollees and should not be a matter left solely to the disputed claims process or be a variable matter for consideration in the enrollment decision making process. Therefore, all carriers under the FEHB Program will be held accountable to the same standard. The regulation has been revised to more specifically indicate the types of contract clauses that are prohibited.

Three commenters expressed a concern that the regulation is broader in scope than required by the Patient Bill of Rights or the President's Executive Memorandum of February 20, 1998, and could be interpreted to prohibit capitation thereby limiting certain carriers' abilities to develop managed care arrangements. Specifically, one commenter thought that the regulation should not address ''incentive plans.'' Another commenter indicated that the regulation could have unintended consequences which could have a significant economic impact if it were interpreted to bar all incentive programs, capitation and withhold agreements in particular, from the FEHB Program. This commenter recommended that OPM allow the use of incentive plans but to adopt substantially the same rules in effect for Medicare to assure that such plans are reasonable. The intent of the OPM regulation is not to bar all incentive plans, capitation, or withhold agreements from inclusion in provider contracts. The intent of the regulation is to ensure that providers and health care workers are not inhibited in any way from communicating fully and openly with patients regarding medically necessary treatment options. OPM did not incorporate the same rules that

Medicare uses in regulating incentive plans since we are not trying to broadly regulate incentive plans, only those specific financial incentives that create an inducement to prevent full and open communication between providers and patients. OPM does not believe it is necessary to replicate the complexity of the Medicare regulation in the FEHB Program in order to meet the goals of the Patient Bill of Rights.

One commenter expressed support for the principle that providers and workers have the ability to communicate fully and openly with patients regarding medically necessary treatment options regardless of cost or plan coverage. However, the commenter cautioned OPM not to interpret the rule to extend beyond communications to regulate broadly compensation arrangements between plans and providers. The commenter also suggested that we include a reference in the preamble that the proposed regulation is not intended to limit the ability of a health plan to operate its quality assurance program. While we believe that the proposed regulation made clear that OPM did not intend to regulate broadly compensation arrangements between plans and providers, we have reiterated that the provision only applies to open communication. The preamble has been revised to specify that the intent of the regulation is not to limit the ability of a health plan to operate its quality assurance program.

One commenter asked that we specify in the regulation that nothing in the regulation should be construed to cause providers or carriers to violate their ethical, moral or religious beliefs. The regulation has been modified accordingly.

One commenter indicated that if OPM believes that an exception for ethical or moral beliefs is necessary, the exception should be available to individuals only and not to health plans or insurance carriers. We have modified the regulation so that the exception for ethical, moral, or religious beliefs applies only to providers, health care workers, or health plan sponsoring organizations.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect health insurance carriers under the Federal Employees Health Benefits Program. Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 48 CFR Part 1609

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professionals, Hostages, Iraq, Kuwait, Lebanon, Reporting and record keeping requirements, Retirement.

Office of Personnel Management.

Janice R. Lachance,

Director.

For the reasons set forth in the preamble OPM is amending 48 CFR Part 1609 as follows:

PART 1609—[AMENDED]

Subpart 1609.70—Minimum Standards for Health Benefits Carriers

1. The authority citation for 48 CFR Part 1609 continues to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

2. In § 1609.7001 new paragraph (c)(7) is added to read as follows:

§ 1609.7001 Minimum Standards for Health Benefits Carriers

* * * * *

(c) * * *

(7) Entering into contracts or employment agreements with providers, provider groups, or health care workers that include provisions or financial incentives that directly or indirectly create an inducement to limit or restrict communication about medically necessary services to any individual covered under the FEHB Program. Financial incentives are defined as bonuses, withholds, commissions, profit sharing or other similar adjustments to basic compensation (e.g., service fee, capitation, salary) which have the effect of limiting or reducing communication about appropriate medically necessary services. Providers, health care workers, or health plan sponsoring organizations are not required to discuss treatment options that they would not ordinarily discuss in their customary course of practice because such options are inconsistent with their professional judgment or ethical, moral or religious beliefs.

[FR Doc. 98–21498 Filed 8–6–98; 2:53 pm]

BILLING CODE 6325–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 564 and 571

[Docket No. NHTSA 98–4274]

RIN 2127–AH32

Replaceable Light Source Information; Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Technical amendment; final rule.

SUMMARY: This document amends part 564 and Federal Motor Vehicle Safety Standard No. 108 in part 571 to remove the references to Docket No. 93–11 and add new Docket No. NHTSA 98–3397, which has been established to receive manufacturers' information on replaceable light sources. This action reflects an internal change to NHTSA's docket management system.

DATES: The final rule is effective August 10, 1998.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA (202–366–5263).

SUPPLEMENTARY INFORMATION: Pursuant to 49 CFR Part 564, *Replaceable Light Source Information*, manufacturers of replaceable light sources used in motor vehicle headlighting systems are required to submit to NHTSA certain dimensional, electrical specification and marking/designation information. Heretofore, section 564.5(a) has required this information to be submitted to the Associate Administrator, Safety Performance Standards, NHTSA, attention: Docket No. 93–11. There are also cross references to Docket No. 93–11 in Federal Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices and Associated Equipment* (49 CFR 571.108).

NHTSA has rearranged its docket system to accord with the electronic system adopted by the Department of Transportation. A new docket has been established to receive the information on replaceable light sources previously submitted to Docket No. 93–11. The number of this new docket is Docket NHTSA 98–3397. It is therefore necessary to amend Part 564 and Standard No. 108 to reflect the change in docket numbers. Henceforth, submittals should be addressed ''attention: Docket No. NHTSA 98–3397, Part 564—Replaceable Light Source Information.''

Material previously submitted to Docket No. 93–11 will be transferred to Docket NHTSA 98–3397, effective around August 15, 1998.

Effective Date

Since the amendment concerns internal NHTSA procedures and imposes no burden upon any person, notice and public comment thereon are not required by the Administrative Procedure Act. For the same reasons, regulatory analyses are not required, and the amendment may be made effective immediately upon its publication in the **Federal Register**.

List of Subjects in 49 CFR Parts 564 and 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR parts 564 and 571 are amended as follows:

PART 564—REPLACEABLE LIGHT SOURCE INFORMATION

1. The authority citation for part 564 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30166; delegation of authority at 49 CFR 1.50.

2. Section 564.5(a) is amended by removing ''Attention: Replaceable Light Source Information Docket No. 93–11 (unless the agency has already filed such information in Docket No. 93–11'' and adding ''Attention: Part 564—Replaceable Light Source Information (unless the agency has already filed such information in Docket No. NHTSA 98–3397)''.

3. Section 564.5 is amended by removing ''Docket No. 93–11'' and adding ''Docket No. NHTSA 98–3397'' in paragraphs (c), (d) introductory text, and (d)(4).

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.108 is amended by removing ''Docket No. 93–11'' and adding ''Docket No. NHTSA 98–3397'' in paragraphs S7.7(b) and S7.7(d)(1).

Issued on: August 4, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–21298 Filed 8–7–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

[Docket No. 950407093–8201–04; I.D. 063098A]

Endangered and Threatened Species; Threatened Status for the Oregon Coast Evolutionarily Significant Unit of Coho Salmon

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

ACTION: Final rule.

SUMMARY: In 1995, NMFS completed a comprehensive status review of west coast coho salmon (*Oncorhynchus kisutch*) that resulted in proposed listings for three Evolutionarily Significant Units (ESUs), including an Oregon Coast ESU of coho salmon inhabiting coastal streams between Cape Blanco and the Columbia River. After reviewing additional information, including biological data on the species' status and an assessment of protective efforts, NMFS concluded that this ESU did not warrant listing. However, the Oregon District Court recently overturned the decision and remanded the rule back to the agency. The District Court concluded that the ESA does not allow NMFS to consider the biological effects of future or voluntary conservation measures when making a listing determination. In light of the Court's order, the agency now concludes that the Oregon Coast coho salmon ESU warrants listing as a threatened species.

NMFS will issue any protective regulations deemed necessary under section 4(d) of the Endangered Species Act (ESA) for this ESU in a separate rulemaking. Even though NMFS is not issuing protective regulations for this ESU at this time, Federal agencies are required under section 7 of the ESA to consult with NMFS if any activity they authorize, fund, or carry out may affect listed Oregon Coast coho salmon.

In the Oregon Coast ESU, only naturally spawned populations of coho salmon are listed. NMFS has examined the relationship between hatchery and natural populations of coho salmon in this ESU and determined that none of the hatchery populations are currently essential for recovery and, therefore, the hatchery populations are not listed.

DATES: Effective October 9, 1998.

ADDRESSES: Garth Griffin, NMFS, Northwest Region, Protected Species Program, 525 NE. Oregon St., Suite 500, Portland, OR 97232–2737; Kellie Carter, NMFS, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Rob Jones at (503) 230–5429 or Garth Griffin at (503) 231–2005.

SUPPLEMENTARY INFORMATION:

Previous Federal Actions

The history of petitions received regarding coho salmon is summarized in the proposed rule published on July 25, 1995 (60 FR 38011). The most comprehensive petition was submitted by the Pacific Rivers Council and by 22 co-petitioners on October 20, 1993. In response to that petition, NMFS assessed the best available scientific and commercial data, including technical information from Pacific Salmon Biological and Technical Committees (PSBTCs) in Washington, Oregon, and California. The PSBTCs consisted of scientists from Federal, state, and local resource agencies, Indian tribes, universities, industries, professional societies, and public interest groups with technical expertise relevant to coho salmon. NMFS also established a Biological Review Team (BRT), composed of staff from its Northwest Fisheries Science Center and Southwest Regional Office, which conducted a coastwide status review for coho salmon (Weitkamp et al., 1995).

Based on the results of the BRT report, and after considering other information and existing conservation measures, NMFS published a proposed listing determination (60 FR 38011, July 25, 1995) that identified six ESUs of coho salmon, ranging from southern British Columbia to central California. The Olympic Peninsula ESU was found not to warrant listing, and the Oregon Coast ESU, Southern Oregon/Northern California Coasts ESU, and Central California Coast ESU were proposed for listing as threatened species. The Puget Sound/Strait of Georgia ESU and the lower Columbia River/southwest Washington Coast ESU were identified as candidates for listing. NMFS is in the process of completing status reviews for the latter two ESUs; results and findings for both will be announced in an upcoming **Federal Register** document.

On October 31, 1996, NMFS published a final rule listing the Central California Coast ESU as a threatened species (61 FR 56138). Concurrently, NMFS announced that a 6-month extension was warranted for the Oregon Coast and Southern Oregon/Northern California Coasts ESUs (61 FR 56211), pursuant to section 4(b)(6)(B)(i) of the ESA, due to the fact that there was

substantial disagreement regarding the sufficiency and accuracy of the available data relevant to the listing determination.

On May 6, 1997, NMFS issued a final rule listing the Southern Oregon/ Northern California coasts coho salmon ESU as a threatened species (62 FR 24588). In that document, NMFS withdrew its proposed rule to list the Oregon Coast coho salmon ESU as a threatened species, based in part on conservation measures contained in the Oregon Coastal Salmon Restoration Initiative (OCSRI). The OCSRI is a comprehensive conservation plan directed specifically at coho salmon stocks on the coast of Oregon (OCSRI, 1997a). This plan was later expanded to include conservation measures for coastal steelhead stocks (OCSRI, 1997b) and renamed the ''Oregon Plan for Salmon and Watersheds'' (OPSW). For a detailed description of the OPSW, refer to the May 6, 1997, listing determination for Southern Oregon/ Northern California coho salmon (62 FR 24588).

Conservation benefits accruing from the Oregon Plan and the subsequent Memorandum of Agreement (MOA) between NMFS and the State of Oregon, April 23, 1997, which further defined Oregon's commitment to salmon conservation, formed a major basis for NMFS' original determination to withdraw the listing proposal for the Oregon Coast coho salmon ESU. In particular, NMFS scientists expressed the view that implementation of OPSW harvest and hatchery reforms may substantially reduce the short-term risk of extinction faced by the Oregon Coast ESU. They also viewed habitat protection and restoration as key to ensuring the long-term survival of the ESU. While NMFS determined that the OPSW contains many programs that will improve habitat conditions for coho salmon, many of these measures needed strengthening to ensure the creation and maintenance of high quality habitat over the long term. Thus, in declining to list the Oregon Coast ESU in May 1997, NMFS relied on the harvest, hatchery and habitat programs in the OPSW, as well as commitments to strengthen habitat measures made in the MOA.

On June 1, 1998, the Federal District Court for the District of Oregon issued an opinion finding NMFS' May 6, 1997, determination regarding the Oregon Coast coho salmon ESU arbitrary and capricious, *Oregon Natural Resources Council et. al* v. *Daley*, CV–97–1155–ST (D. Or. June 1, 1998). The Court vacated NMFS' determination and remanded the case to NMFS for further consideration. In vacating NMFS' decision to withdraw its proposed rule to list the Oregon Coast coho salmon ESU, the Oregon District Court held that the ESA does not allow NMFS to consider the biological effects of future or voluntary conservation measures and that NMFS could give no weight to such measures in its listing determination. NMFS believes this legal interpretation of the ESA is incorrect and is appealing that decision. The District Court and the Ninth Circuit Court of Appeals declined to stay the District Court's order requiring NMFS to make a new decision by August 3, 1998, during the pendency of NMFS' appeal. Therefore, NMFS is issuing the new rule in accordance with the Court's order.

This determination is based solely on information and data contained in the agency's west coast coho salmon administrative record as it existed on May 6, 1997. Although NMFS has received a substantial amount of new information regarding the status of the ESU and efforts being made to protect it, NMFS could not fully integrate that information into the current determination. In order to do so, NMFS would have to reconvene the BRT, the members of which are now fully occupied in finishing NMFS' comprehensive status review of Pacific salmonids. However, NMFS will continue to review the status of the ESU and propose changes as needed.

Species Life History and Status

Biological information for Oregon Coast coho salmon can be found in species status assessments by NMFS (Weitkamp et al., 1995; NMFS, 1997a) and by Oregon Department of Fish and Wildlife (Nickelson et al., 1992; OCSRI 1997a), and in species life history summaries by Laufle et al., 1986; Emmett et al., 1991; and Sandercock, 1991, and by **Federal Register** documents (60 FR 38011, July 25, 1995; 62 FR 24588, May 6, 1997).

Summary of Comments Regarding the Oregon Coast ESU

NMFS held six public hearings in California, Oregon, and Washington to solicit comments on the proposed listing determination for west coast coho salmon. Sixty-three individuals presented testimony at the hearings. During the 90-day public comment period, NMFS received 174 written comments on the proposed rule from state, Federal, and local government agencies, Indian tribes, non-governmental organizations, the scientific community, and other individuals. In accordance with agency policy (59 FR 34270, July 1, 1994), NMFS also requested a scientific peer review of the proposed rule and received responses from two of the seven reviewers. A summary of major public comments pertaining to the Oregon Coast coho salmon ESU (including issues raised by peer reviewers) is presented in NMFS' May 6, 1997, **Federal Register** document (62 FR 24588).

Summary of Factors Affecting Coho Salmon

Section 4(a)(1) of the ESA and NMFS listing regulations (50 CFR part 424) set forth procedures for listing species. The Secretary of Commerce (Secretary) must determine, through the regulatory process, if a species is endangered or threatened based upon any one or a combination of the following factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or human-made factors affecting its continued existence.

The factors threatening naturally reproducing coho salmon throughout its range are numerous and varied. For coho salmon populations in Oregon, the present depressed condition is the result of several longstanding, human-induced factors (e.g., habitat degradation, water diversions, harvest, and artificial propagation) that serve to exacerbate the adverse effects of natural environmental variability from such factors as drought, floods, and poor ocean conditions.

As noted earlier, NMFS received numerous comments regarding the relative importance of various factors contributing to the decline of coho salmon. A summary of various risk factors and their role in the decline of the Oregon Coast coho salmon ESU is presented in NMFS' May 6, 1997, **Federal Register** document (62 FR 24588), as well as in several documents contained in the agency's west coast coho salmon administrative record (NMFS, 1996, 1997a, and 1997b; OCSRI, 1997a).

Determination

In keeping with the June 1, 1998, order of the Oregon District Court, NMFS has re-assessed the scientific and commercial information available at the time of the May 1997 decision. The BRT report (NMFS, 1997a) concluded that, although the species was not at significant short-term risk of extinction, ''...assuming present conditions continue into the future (and that proposed harvest and hatchery reforms are not implemented), ...this ESU was

likely to become endangered in the foreseeable future.'' Among the BRT's concerns were that this ESU's current abundance was substantially less than it was historically, and both recruitment and recruits-per-spawner declined over a significant portion of the ESU's range. In addition, habitat degradation and inadequate regulatory mechanisms posed continued threats to this species' survival.

While NMFS reaffirms its conclusion that the species is not at significant short-term risk of extinction, i.e, is not endangered, the agency now must find that the species is likely to become endangered in the foreseeable future. This decision is driven by the District Court's order, which precludes NMFS from considering any non-Federal efforts that will take place in the future or are voluntary in nature. Although NMFS still believes these measures should be considered in the listing determination and is appealing the Court's decision, the current determination cannot and does not rely on the application in the future of the harvest and hatchery measures contained in the Oregon Plan, nor the habitat improvement programs being undertaken under the Oregon Plan, nor the commitments made by Oregon in the MOA for improvement of applicable habitat measures. Many of these measures address the reforms considered necessary or important by NMFS. However, in light of the Court's order on factors NMFS may not and should not consider, NMFS must now determine that the Oregon Coast coho salmon ESU warrants listing as a threatened species under the ESA.

As described in agency status reviews (Weitkamp et al., 1995; NMFS, 1997a) and the proposed listing determination for west coast coho salmon (60 FR 38011, July 25, 1995), NMFS defines the Oregon Coast coho salmon ESU to include all native, naturally spawned populations of coho salmon (and their progeny) that are part of the biological ESU and reside below long-term, naturally impassible barriers in streams between the Columbia River and Cape Blanco (Oregon). NMFS has evaluated the status of thirteen hatchery stocks of coho salmon presently reared and released within the range of this ESU (NMFS, 1997a, 1998). Four of these hatchery stocks either are not considered part of the ESU (Fall Creek, Siletz River, and Trask River) or are of uncertain relationship to the ESU (North Fork Nehalem River).

In contrast, NMFS has concluded that fish from nine Oregon hatchery populations (Coos River, Coquille River, Cow Creek, North Umpqua River, Smith River, Tahkenitch/Siltcoos, Alsea River and tributaries, Salmon River, and Fishhawk Creek) are part of this ESU. None of these nine hatchery stocks are presently deemed ''essential'' for the ESU's recovery (58 FR 17573, April 5, 1993). Hence, these hatchery fish are not being listed at this time. However, NMFS recognizes that some of the hatchery populations may play an important role in recovery efforts. The determination that a hatchery stock is not ''essential'' for recovery does not preclude it from playing a role in recovery. Any hatchery population that is part of the ESU is available for use in recovery if needed. In this context, an ''essential'' hatchery population is one that is vital for full incorporation into recovery efforts (for example, if the associated natural population(s) were extinct or at high risk of extinction). Under such circumstances, NMFS would consider taking the administrative action of listing existing hatchery fish.

NMFS' ''Interim Policy on Artificial Propagation of Pacific Salmon Under the Endangered Species Act'' (58 FR 17573, April 5, 1993) provides guidance on the treatment of hatchery stocks in the event of a listing. Under this policy, ''progeny of fish from the listed species that are propagated artificially are considered part of the listed species and are protected under the ESA.'' (58 FR 17573). In the case of four hatchery populations (Coos River, Coquille River, Cow Creek, and Smith River) that are considered part of the Oregon Coast ESU, the protective regulations that NMFS will issue shortly may except certain take of naturally spawned listed fish for use as broodstock as part of an overall conservation program. According to the interim policy, the progeny of these hatchery-wild or wild-wild crosses would also be listed unless the agency determines otherwise. NMFS has determined in these four cases, however, not to consider hatchery-reared progeny of intentional hatchery-wild or wild-wild crosses as listed (NMFS 1998). Coho salmon populations in the Coos, Coquille, and Umpqua River basins are relatively abundant, the take of naturally spawned fish for broodstock purposes will be specifically limited, and NMFS has concluded that none of these four hatchery populations are currently essential for recovery (NMFS, 1998). In addition, NMFS believes it is desirable to incorporate wild fish into these hatchery populations to ensure that their genetic and life history characteristics do not diverge significantly from the natural populations. NMFS, therefore, concludes that it is not inconsistent with NMFS' interim policy, nor with the policy and purposes of the ESA, to consider these progeny part of the ESU but not listed. NMFS may consider taking similar action for other coho salmon hatchery populations in the Oregon Coast ESU, but only after determining that such action would be beneficial or would not compromise the health of naturally spawned populations.

Critical Habitat

Section 4(a)(3)(A) of the ESA requires that, to the extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. Section 4(b)(6)(C)(ii) provides that, where critical habitat is not determinable at the time of final listing, NMFS may extend the period for designating critical habitat by no more than 1 additional year. NMFS finds at this time critical habitat is not determinable for this ESU since required biological data have not yet been collected and analyzed. NMFS, therefore, extends the deadline for designating critical habitat for 1 year until such data can be collected and analyzed.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the ESA include recognition, recovery actions, Federal agency consultation requirements, and prohibitions on taking. Recognition through listing promotes public awareness and conservation actions by Federal, state, and local agencies, private organizations, and individuals. With respect to the Oregon Coast coho salmon ESU, Federal and state efforts are underway (and will continue under the listing) that are expected to slow or reverse the decline of coho salmon in this ESU.

A. Federal Conservation Efforts

Federal efforts include significant protections under the Northwest Forest Plan's Aquatic Conservation Strategy (Forest Ecosystem Management Assessment Team, 1993), the South Slough National Estuarine Research Reserve located in Coos Bay, an upcoming consultation on the North Umpqua Hydroelectric Projects in the Umpqua River basin, and continued road retirement and obliteration on Federal forest lands. In addition, the Natural Resources Conservation Service (NRCS) is currently engaged with NMFS in discussions about updating their Field Office Technical Guides (FOTGs) to better assist landowners in Oregon

desiring to implement voluntary conservation measures protective of, or benefitting, salmonids. A subset of the FOTGs are the guidance that local field offices follow when engaging in actions that may affect anadromous fish or their habitats.

NMFS and U.S. Fish and Wildlife Service are also engaged in an ongoing effort to assist in the development of multiple species Habitat Conservation Plans (HCPs) for state and privately owned lands in Oregon. While section 7 of the ESA addresses species protection associated with Federal actions and lands, Habitat Conservation Planning under section 10 of the ESA addresses species protection on non-Federal lands. HCPs are particularly important since about 65 percent of the habitat in the range of the Oregon coast ESU is in non-Federal ownership. The intent of the HCP process is to reduce conflicts between listed species and economic development activities and to provide a framework that would encourage ''creative partnerships'' between the public and private sectors and state, municipal, and Federal agencies in the interests of endangered and threatened species and habitat conservation.

Section 4(d) of the ESA directs the Secretary to promulgate regulations ''to provide for the conservation of [threatened] species,'' which may include extending any or all of the prohibitions of section 9 of the ESA to threatened species. Section 9(a)(1)(G) also prohibits violations of protective regulations for threatened species promulgated under section 4(d) of the ESA. NMFS will issue any protective regulations deemed necessary under section 4(d) of the ESA for this ESU in a separate rulemaking. Even though NMFS is not issuing protective regulations for this ESU at this time, Federal agencies are required under section 7 to consult with NMFS if any activity they authorize, fund, or carry out may affect listed Oregon Coast coho salmon. The effective date for this requirement is October 9, 1998.

For listed species, section 7(a)(2) of the ESA requires Federal agencies to ensure that activities they authorize, fund, or conduct are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with NMFS.

Examples of Federal actions most likely to be affected by listing this ESU include U.S. Army Corps of Engineers (COE) section 404 permitting activities under the Clean Water Act; COE section 10 permitting activities under the River and Harbors Act; Federal Energy Regulatory Commission licensing and relicensing for non-Federal development and operation of hydropower; U.S. Environmental Protection Agency promulgation of water quality standards; and activities funded, authorized, or carried out by U.S. Department of Agriculture agencies including, but not limited to, the NRCS. These actions will likely be subject to ESA section 7 consultation requirements, which may result in conditions designed to achieve the intended purpose of the project and avoid or reduce impacts to coho salmon and its habitat within the range of the listed ESU.

There are likely to be Federal actions ongoing in the range of the Oregon Coast ESU at the time that this listing becomes effective. Therefore, within available staffing and funding constraints, NMFS will review all ongoing actions that may affect the listed species with the Federal agencies and will complete formal or informal consultations (where requested or necessary) for such actions as appropriate, pursuant to ESA section 7(a)(2).

Sections 10(a)(1)(A) and 10(a)(1)(B) of the ESA provide NMFS with authority to grant exceptions to the ESA's ''taking'' prohibitions (see regulations at 50 CFR 222.22 through 222.24). Section 10(a)(1)(A) scientific research and enhancement permits may be issued to entities (Federal and non-Federal) conducting research that involves direct take of listed species.

NMFS has issued section 10(a)(1)(A) research or enhancement permits for other listed species (e.g., Snake River chinook salmon, Sacramento River winter-run chinook salmon) for a number of activities, including trapping and tagging to determine population distribution and abundance, and collection of adult fish for artificial propagation programs. NMFS is aware of several sampling efforts for coho salmon in the Oregon Coast ESU, including efforts by Federal and state fisheries agencies, and private landowners. These and other research efforts could provide critical information regarding coho salmon distribution and population abundance.

Section 10(a)(1)(B) incidental take permits may be issued to non-Federal entities to authorize take of listed species incidental to otherwise lawful activities. The types of activities potentially requiring a section 10(a)(1)(B) incidental take permit include the operation and funding of hatcheries and release of artificially propagated fish by the state, state or university research not receiving Federal authorization or funding, the implementation of state fishing regulations, and timber harvest activities on non-Federal lands.

B. Non-Federal Conservation Efforts

As noted previously, conservation benefits accruing from the Oregon Plan and the subsequent MOA formed a major basis for NMFS' original determination to withdraw the listing proposal for the Oregon Coast coho salmon ESU. NMFS will continue to support the OPSW and work with state and non-Federal entities to develop and implement any additional measures needed to protect salmon within this ESU. Because a substantial portion of land in this ESU is in state or private ownership (approximately 65 percent), conservation measures on these lands will be key to this effort.

References

The complete citations for the references used in this document can be obtained by contacting NMFS (see **ADDRESSES**).

Classification

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus*, 675 F. 2d 825 (6th Cir., 1981), NMFS has categorically excluded all ESA listing actions from the environmental assessment requirements of the National Environmental Policy Act (48 FR 4413, February 6, 1984).

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of the species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act are not applicable to the listing process. In addition, this final rule is exempt from review under E.O. 12866.

List of Subjects in 50 CFR Part 227

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

Dated: August 3, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 227 is amended as follows:

PART 227—THREATENED FISH AND WILDLIFE

1. The authority citation of part 227 continues to read as follows:

Authority: 16 U.S.C. 1531–1543; subpart B, § 227.12 also issued under 16 U.S.C. 1361 *et seq.*

2. In § 227.4, paragraph (o) is added to read as follows:

§ 227.4 Enumeration of threatened species.

* * * * *

(o) Oregon Coast coho salmon (*Oncorhynchus kisutch*). Includes all naturally spawned populations of coho salmon in streams south of the Columbia River and north of Cape Blanco in Curry County, OR.

[FR Doc. 98–21255 Filed 8–7–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 980716182–8182–01; I.D. 062298C]

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Technical Amendment

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

ACTION: Final rule; technical amendment.

SUMMARY: NMFS issues a technical amendment to clarify regulations implementing Amendment 5, Framework Adjustments 20, 24, and 25 to the Northeast Multispecies Fishery Management Plan (FMP), and the final rule that consolidated several CFR parts. The purpose of this technical amendment is to comply with the intent of these actions by correcting unintended errors made in the minimum fish size, gillnet tagging, cod hail line, and raised footrope regulations, among other measures.

DATES: Effective August 10, 1998.

FOR FURTHER INFORMATION CONTACT: Susan A. Murphy, Fishery Policy Analyst, 978–281–9252.

SUPPLEMENTARY INFORMATION: The regulations implementing Amendment 5 (59 FR 9872, March 1, 1994) established an exception to the multispecies minimum fish size requirement by allowing persons aboard vessels issued limited access permits and fishing under a day-at-sea (DAS) to possess fillets that measure less than the minimum size. Because the intent of this measure was specific to vessels with multispecies limited access permits, this rule corrects § 648.83(b)(1) by changing the words ''limited access permit'' to ''multispecies limited access permit.''

The interim final rule implementing Framework Adjustment 20 (62 FR 15381, April 1, 1997) established a gillnet gear restriction that requires vessel owners electing to fish under the annual Day gillnet designation to tag their gillnet gear. When implemented, the interim final rule correctly stated that all roundfish gillnets must have two tags per net, and all flatfish gillnets must have one tag per net. However, under the final rule implementing Framework 20 (62 FR 49144, September 19, 1997), roundfish nets were incorrectly identified as groundfish nets. This technical amendment corrects § 648.82(k)(1)(ii) by changing the word ''groundfish'' to ''roundfish.''

The regulation implementing Framework Adjustment 24 (63 FR 11591, March 10, 1998) requires vessels subject to the cod landing limit to come into port and report to NMFS within 14 DAS of starting a trip and vessels that exceed the landing limit to remain in port and not call-out of the DAS program until sufficient DAS has elapsed to account for and justify the amount of cod harvested. For vessels that do not exceed their allowable limit of cod, the regulations clearly state that they must enter port and call-out of the DAS program at least once every 14 DAS. However, for vessels that exceed the limit, the regulation is less clear and states only that these vessels must enter port at least once every 14 DAS and report their hail weight of cod prior to offloading. This technical amendment clarifies and corrects § 648.10(f)(3)(ii) by including language which specifies that, after reporting their hailed weight of cod via the cod hail line, vessels that exceed the allowable limit of cod must remain in port and not call out of the DAS program until after sufficient DAS has elapsed to account for and justify the amount of cod on board. Once vessels have satisfied this required time in port, the next fishing trip may not begin until such time that these vessels have called-out of the multispecies DAS program. Also, in § 648.10(f)(3)(ii), the reference to § 648.86(b)(3) is corrected to read § 648.86(b)(4).

This rule makes several corrections to the regulations implementing Framework Adjustment 25 (63 FR 15326, March 31, 1998). Section 648.80(a)(8)(iv) outlines the raised footrope requirement that may pertain to a vessel fishing in areas known as Small Mesh Area 1 and 2. This rule corrects inadvertent errors in the language describing this gear modification by changing § 648.80(a)(8)(iv)(C) to read that ''the footrope must be at least 20 feet (6.1 m) longer than the length of the headrope'' rather than ''no more than 20 feet (6.1 m) longer.'' Also, § 648.80(a)(8)(iv)(D) is changed to clarify how the sweep and footrope are connected to ensure that the footrope remains off the bottom when towed. The corresponding prohibition, § 648.14(a)(112), is also clarified to reflect that vessels may employ either a raised footrope or an excluder device in their trawl gear when fishing in Small Mesh Area 1 and 2, depending on the species of fish targeted. In addition, in § 648.86(b)(1)(ii), the reference to (b)(1)(3) is corrected to read (b)(3); and in § 648.86(b)(1)(ii)(A), the reference to (b)(3) is corrected to read (b)(4), and the example that is used in this cite is corrected to be more explicit.

Finally, to address an error made in the final rule that consolidated six CFR parts governing the marine fisheries of the Northeast region (61 FR 34966, July 3, 1996), this rule corrects § 648.14(c)(2)(ii) by changing the reference § 648.10(a) to read § 648.10(b).

Classification

Because this rule corrects and clarifies only an existing set of regulations for which full prior notice and opportunity for comment were provided, the Assistant Administrator, under 5 U.S.C. 553(b)(B), finds for good cause finds that it is unnecessary to provide such procedures for this rule. Also, because this rule corrects and clarifies only existing provisions and imposes no new requirements on anyone subject to these regulations, under 5 U.S.C. 553(d)(3), it is not subject to a 30-day delay in effective date.

This rule is exempt from review under E.O. 12866.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 3, 1998.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

2. In § 648.10, paragraph (f)(3)(ii) is revised to read as follows:

§ 648.10 DAS notification requirements.

* * * * *

(f) * * *

(3) * * *

(ii) A vessel subject to the cod landing limit restriction specified in § 648.86(b)(1)(i) that exceeds or is expected to exceed the allowable limit of cod based on the duration of the trip must enter port no later than 14 DAS after starting a multispecies DAS trip and must report, upon entering port and before offloading, its hailed weight of cod under the separate call-in system as specified in § 648.86(b)(1)(ii)(B). Such vessel must remain in port, unless for transiting purposes as allowed in § 648.86(b)(4), until sufficient time has elapsed to account for and justify the amount of cod on board in accordance with § 648.86(b)(1)(ii), and may not begin its next fishing trip until such time that the vessel has called-out of the multispecies DAS program to end its trip.

3. In § 648.14, paragraphs (a)(112) and (c)(2)(ii) are revised to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(112) Fish for, harvest, possess, or land in or from the EEZ, when fishing with trawl gear, any of the exempted species specified in § 648.80(a)(8)(i), unless such species were fished for or harvested by a vessel meeting the requirements specified in § 648.80 (a)(3)(ii) or (a)(8)(iv).

* * * * *

(c) * * *

(2) * * *

(ii) Fail to comply with the notification, replacement, or any other requirements regarding VTS usage as specified in § 648.10(b).

* * * * *

4. In § 648.80, paragraphs (a)(8)(iv)(C) and (D) are revised to read as follows:

§ 648.80 Regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(a) * * *

(8) * * *

(iv) * * *

(C) The footrope must be at least 20 feet (6.1 m) longer than the length of the headrope; and

(D) The sweep must be rigged so it is behind and below the footrope, and the footrope is off the bottom. This is accomplished by having the sweep longer than the footrope and having long dropper chains attaching the sweep to the footrope at regular intervals. The forward end of the sweep and footrope must be connected to the bottom leg at the same point. This attachment, in conjunction with the headrope flotation, keeps the footrope off the bottom. The sweep and its rigging must be made entirely of 5/16 inch (0.8 cm) diameter bare chain. No wrapping or cookies are allowed on the chain. The total length of the sweep must be at least 7 feet (2.1 m) longer than the total length of the footrope, or 3.5 feet (1.1 m) longer on each side. Drop chains must connect the footrope to the sweep chain, and the length of each drop chain must be at least 42 inches (106.7 cm). One drop chain must be hung from the center of the footrope to the center of the sweep, and one drop chain must be hung from each corner (the quarter or the junction of the bottom wing to the belly at the footrope). The attachment points of each drop chain on the sweep and the footrope must be the same distance from the center drop chain attachments. Drop chains must be hung at 8 foot (2.4 m) intervals from the corners toward the wing ends. The distance of the drop chain that is nearest the wing end to the end of the footrope may differ from net to net. However, the sweep must be at least 3.5 feet (1.1 m) longer than the footrope between the drop chain closest to the wing ends and the end of the sweep that attaches to the wing end.

* * * * *

5. In § 648.82, paragraph (k)(1)(ii) is revised to read as follows:

§ 648.82 Effort-control program for limited access vessels.

* * * * *

(k) * * *

(1) * * *

(ii) Tagging requirements. Beginning June 1, 1997, when under a NE multispecies DAS, all roundfish gillnets fished, hauled, possessed, or deployed must have two tags per net, with one tag secured to each bridle of every net within a string of nets and all flatfish gillnets fished, hauled, possessed, or deployed must have one tag per net, with one tag secured to every other bridle of every net within a string of nets. Tags must be obtained as described in § 648.4(c)(2)(iii), and vessels must have on board written confirmation issued by the Regional Administrator, indicating that the vessel is a Day gillnet vessel. The vessel operator must produce all net tags upon request by an authorized officer.

* * * * *

6. In § 648.83, paragraph (b)(1) is revised to read as follows:

§ 648.83 Minimum fish sizes.

* * * * *

(b) * * *

(1) Each person aboard a vessel issued a multispecies limited access permit and fishing under the DAS program may possess up to 25 lb (11.3 kg) of fillets that measure less than the minimum size if such fillets are from legal-sized fish and are not offered or intended for sale, trade, or barter.

* * * * *

7. In § 648.86, paragraphs (b)(1)(ii) introductory text and (b)(1)(ii)(A) are revised to read as follows:

§ 648.86 Possession restrictions.

* * * * *

(b) * * *

(1) * * *

(ii) A vessel subject to the cod landing limit restrictions described in paragraphs (b)(1)(i) and (b)(3) of this section, and subject to the cod landing limit call-in provision specified at § 648.10(f)(3)(ii), may come into port with and offload cod in excess of the landing limit as determined by the number of DAS elapsed since the vessel called into the DAS program, provided that:

(A) The vessel operator does not call-out of the DAS program as described under § 648.10(c)(3) and does not depart from a dock or mooring in port to engage in fishing, unless transiting as allowed in paragraph (b)(4) of this section, until sufficient time has elapsed to account for and justify the amount of cod harvested at the time of offloading regardless of whether all of the cod on board is offloaded (e.g., a vessel subject to the landing limit restriction, described in paragraph (b)(1)(i) of this section, that has called-in to the multispecies DAS program at 3 p.m. on Monday and that fishes and comes back into port at 4 p.m. on Wednesday of that same week with 2,800 lb (1,270.1 kg) of cod to offloads some or all of its catch, cannot call-out of the DAS program or leave port until 3:01 p.m. the next day, Thursday (i.e., 3 days plus one minute)); and

* * * * *

[FR Doc. 98–21253 Filed 8–7–98; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 153
Monday, August 10, 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

Animal and Plant Health Inspection Service

9 CFR Parts 93, 94, and 130

[Docket No. 98–070–2]

Closure of Harry S Truman Animal Import Center

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to close the Harry S Truman Animal Import Center (HSTAIC) and to amend the animal import regulations to remove all provisions related to HSTAIC. The facility, which is used for high risk imports, such as ruminants from countries where foot-and-mouth disease exists, is chronically under used and has never generated enough revenue to be self-sufficient. Closing HSTAIC would eliminate a drain on government resources, which does not appear to be justified by demand.

DATES: Consideration will be given only to comments received on or before October 9, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 98–070–2, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 98–070–2. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–3276; or e-mail: gcolgrove@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Harry S Truman Animal Import Center (HSTAIC) is an offshore, maximum biosecurity animal import facility owned and operated by the Animal and Plant Health Inspection Service (APHIS), an agency of the United States Department of Agriculture. It is the only facility of its kind in the United States.

HSTAIC was dedicated in 1979. Authorized by statute in 1970 (The Act of May 6, 1970, 7 U.S.C. 135–135b), HSTAIC was designed to be used as a quarantine facility for ruminants and swine from countries where high-risk diseases, such as foot-and-mouth disease (FMD) or rinderpest, hog cholera, African swine fever, and swine vesicular disease, exist. Animals are consigned to the facility upon arrival in the United States, and then tested and monitored for a period of time to ensure their freedom from disease. The full cost of operating HSTAIC was to be paid for by the importers using the facility.

At the time HSTAIC opened, demand for breeding stock, particularly cattle, from high disease-risk countries was projected to grow. It was anticipated that HSTAIC would be fully utilized—with at least three importations per year—and costs would be fully covered.

These assumptions turned out to be wrong. From the time it opened, HSTAIC has never been fully used. Only animals from countries where FMD or rinderpest exists have been imported through the facility, and on average, there has been only one importation per year. Since 1979, a total of 633 cattle, 574 swine, 460 goats and sheep, and 4,596 camelids have been imported through HSTAIC. The last importation of cattle through HSTAIC occurred in 1985. Since 1995, the only animals imported through HSTAIC have been camelids.

As a result of chronic under use, HSTAIC has never generated enough revenue to be self-sufficient. During periods when importers are not using HSTAIC, APHIS must keep the facility staffed, provide electric and telephone service, and cover other minimal operational and maintenance costs. These costs ranged from $98,000 in FY 1995 to $385,000 in FY 1997, averaging $219,000 per year. We tried in the early 1990s to curtail losses by amending our HSTAIC regulations. We eliminated the ''tier system,'' which gave preference to certain types of animals. We also instituted a requirement that applicants deposit $32,000 with their application. We draw on the winning applicant's deposit to cover the cost of preparing and maintaining HSTAIC in readiness for that applicant's animals. Together, these changes encouraged more importations through HSTAIC and shifted some of the cost of preparing the facility to receive animals from APHIS to the winning importer. In turn, this encouraged importers to carry through and use the facility. However, these changes did not eliminate APHIS' losses, but only reduced them. Since 1991, we have lost $1.6 million keeping HSTAIC open for importers.

We do not anticipate any increase in demand to use HSTAIC. Instead, we expect demand to continue falling. There has never been any demand to use HSTAIC for animals from regions other than those where FMD or rinderpest exists. In 1970, only 10 countries or territories were recognized as free from FMD and rinderpest. As of January 1998, 51 countries had been recognized as free of these two diseases. In addition, we recently amended our animal import regulations to recognize regions, not only countries, as free of disease. Over time, more and more regions, or geographical areas, will be able to acquire status as FMD and rinderpest free. As a result, importers can import animals from a growing number of sources without needing to use HSTAIC.

In addition, since HSTAIC opened, international trade in live animals for breeding purposes has fallen. Instead, germplasm—embryos and semen—is imported for breeding. Using germplasm is less expensive and more reliable. Germplasm can be imported even from high-risk countries without using HSTAIC.

We have considered keeping HSTAIC open. Currently, importers who use the facility must pay APHIS approximately $1 million per importation to cover the cost of operating the facility during the time the animals are in quarantine. This figure can only increase. HSTAIC needs urgent and substantial repairs to keep it operational and in compliance with environmental and other requirements.

We have already spent $1 million to repair and modify an incinerator, test emissions, and replace stack pipes in order to meet environmental standards set by the U.S. Environmental Protection Agency (EPA) and the Florida Department of Environmental Protection (FDEP). Even with these repairs, we cannot operate the HSTAIC incinerators at full capacity: if we did so, we would be in violation of EPA and FDEP standards. Such limited incinerator capacity means we cannot quickly dispose of diseased animals, should that need arise.

We estimate that HSTAIC urgently needs approximately $4.5 million worth of additional repairs and upgrades for which APHIS does not have an appropriation. Having this work done would significantly increase the already substantial fees for use of HSTAIC if the cost of the repairs and upgrades were to be recovered from users. The required work includes repairing and upgrading the facility's waste water treatment facility; replacing a generator, an incinerator, the roof, and underground fuel storage tanks; and upgrading the fire suppression/alarm, heating, ventilation, and air conditioning systems. Our highest priority is replacing the wastewater treatment facility, at an estimated cost of $1.2 million. If we do not do this work soon, APHIS may face significant fines from EPA and FDEP.

Recently, HSTAIC has been used mainly by persons importing llamas and alpacas into the United States. These animals are currently imported mainly for animal exhibits and as pets. At some time in the future, enough llamas and alpacas will have been imported into the United States that animals bred in this country will satisfy demand, and importations will drop.

At this time, the only way importers can import animals directly into the United States from regions where high-risk diseases exist is through HSTAIC. Closing HSTAIC would stop these importations entirely. We are therefore looking into other possible means by which these animals can be safely imported into the United States. If it appears that high-risk animals could be imported into the United States by some other route or under other conditions without presenting an undue disease risk, we will publish a proposal in the **Federal Register**.

On July 13, 1998, we published a notice in the **Federal Register** (63 FR 37483, Docket No. 98–070–1) announcing that we do not plan to hold a lottery in December, 1998 for exclusive use of HSTAIC in calendar year 1999. (Under § 93.430(a) of the regulations, APHIS enters into a cooperative-service agreement with only one importer for each importation through HSTAIC. We refer to this as ''exclusive use''.) In the same notice we also announced that we will not enter into any cooperative-service agreements with importers for use of the facility unless it is certain the animals will enter HSTAIC on or before December 31, 1998. This will ensure that no animals are in the facility beyond March 31, 1999, and allow us to close the facility by the end of FY 1999, should we decide to do so as a result of this rulemaking.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and therefore, has not been reviewed by the Office of Management and Budget.

If this proposed rule is adopted, we will close HSTAIC and amend the animal import regulations by removing all provisions related to HSTAIC.

HSTAIC is a maximum-security APHIS animal import center that provides quarantine services for animals which would otherwise be excluded because they are being imported directly from countries where high-risk diseases such as foot-and-mouth disease (FMD), rinderpest, African swine fever, hog cholera, and swine vesicular disease are found. HSTAIC was designed to be a self-supporting facility, to as a great degree as possible, with costs defrayed by charges to the importers of the animals who use the facility. However, this has not been the case. Instead, the facility has been under used and has never generated enough revenue to be self-sufficient.

Vital repairs and maintenance of the facility and its equipment has been accomplished by diverting the Agency's scarce resources, as APHIS has no funds allocated for this purpose. However, these costly short term repairs and maintenance have not been adequate to upgrade the facility. Regulations concerning the use of the facility were revised in the early 1990's so that any user of HSTAIC for a single animal importation would be responsible for paying all related costs, except capital expenses, incurred in qualifying and quarantining the imported animals at HSTAIC, but the deficit has persisted. At inception a strong demand was projected for breeding stock in order to import strains of livestock that had specific traits needed for improving U.S. domestic breeds, particularly cattle from high disease-risk countries. However, after the first six imports, this has not occurred. The facility has not had the optimal three imports in any year and money for capital expenditures has not been appropriated. Therefore, we are proposing to close the facility and remove from the CFR the current regulations concerning HSTAIC. Under the terms of this proposal, the Center would not accept animals for quarantine after December 31, 1998, and APHIS would enter into an agreement with a prospective importer for final exclusive use of the facility only if it was certain that the animals could enter the Center on or before that date.

Since HSTAIC was dedicated in 1979 there have been 21 ruminant and swine importations (including Alpaca imports from Peru which are still in quarantine and to be released on September 1998). The first imports (cattle from Brazil) were released in July 1980. A total of 6,713 animals have been quarantined and released during this period, including cattle (633), swine (574), sheep and goats (460) and camelids (5,046). Several countries in Latin America (Bolivia, Brazil, Chile and Peru), Europe (France, Germany), Asia (China), and Africa (South Africa) were the sources of the imports. Of these, Chile, France and Germany are now recognized as FMD free. Certain regions in South Africa are also in the process of being recognized as free. The first six imports were cattle (3 from Brazil and 3 from Europe). Camelids have accounted for 11 imports (5 from Bolivia, 1 from Chile/Brazil and 5 from Peru). There have been three imports of swine (1 from China, 1 from France and 1 from Germany), and one import of sheep and goats (from South Africa). Eight out of the nine most recent imports have been camelids.

The above total, 21 imports in nearly 20 years, has fallen short of the anticipated three shipments of animals per year. Based on three months of isolation at the center for each group and one month between shipments for cleaning and disinfecting, with full use, there should have been 57 imports handled through HSTAIC. Furthermore, the size of individual imports has been smaller than the capacity of the facility, and thus importers have failed to take advantage of economies of scale, which would have reduced the per animal cost of using the facility, as costs per animal are lower as numbers increase. The capacity of the facility is about 400, plus sentinel animals (This designation is for cattle. For smaller animals, such as sheep and goats, even larger numbers can be accommodated). Only 6,713 animals were actually imported and

quarantined during the entire 21 years. The potential number should have been more than 22,800 animals.

The quarantine process is costly regardless of numbers, and is paid entirely by the importers. The average fee for the last 10 imports has been $1,920 (or $16 per day) per head. Each selected applicant has exclusive rights to use HSTAIC for the importation during the quarantine period and is responsible for paying all costs, excluding capital expenditure, incurred in qualifying and quarantining the specified animals through HSTAIC. A partial list of costs includes: expense for sentinel animals, laboratory tests, medical treatment, official travel by APHIS personnel, courier services to transport test samples to the Foreign Agricultural Disease Diagnostic Laboratory (FADDL), salaries of HSTAIC personnel, all supplies needed for animal care, maintenance, and testing and the post-quarantining cleaning and disinfection of HSTAIC, as well as utilities and overhead, including salaries and benefits of support staff. The operational cost of an average importation is high—between $750,000 and $1 million per import period. This cost is likely to increase, should the center remain open, since substantial infrastructure repairs are needed immediately and there is an ever-increasing requirement to maintain the aging facility. Expenses charged to selected importers vary by importation depending on the kind and number of animals in each shipment, and the country of origin.

Since operating costs while the facility is in use are charged entirely to the importers, if HSTAIC were fully utilized (that is, housing three importations during each year), it could probably be nearly self-supporting. However, due to under-utilization, the minimum operating budget must cover costs borne by the facility in the absence of animal shipments. The facility has never had three imports in a single year since its opening. In fact, no quarantines at all occurred for two years (1986 and 1990), two imports each for only three years (1993, 1996 and 1998), and the remaining years have had only one import each year. Thus, up to two-thirds of operational costs have had to be covered from agency funds. During a non-used year, approximately $390,000 must be allocated, from the agency budget, just to maintain the facility. In a partial-use year the deficits ranged between $130,000 and $260,000. Over the duration of the facility, the agency has diverted approximately $4 million in nominal dollars, or about $6.4 million in 1998 dollars, for operational expenditures to keep the facility ready for very few users.

These deficit amounts do not reflect the depreciation of the component parts of the facility and of replacement needs. While the property presently has no other purpose except maintaining readiness for the small number of importers of special livestock from countries that are not free from FMD, equipment, supplies and the physical plant still lose their value, whether with disuse or use, as they wear out or become obsolete. Furthermore, as the facility has aged, maintaining the building in useable condition has required more frequent upgrading of its components, which have varying degrees of life expectancy. The annual adjusted depreciation value of the various physical components of the facility is approximately $93,776 (obtained by straight line depreciation of all replaceable assets and equipment whose useful life is still active) or about $257/day. This is the cost of depreciation the facility has been incurring annually even with full use, the amount that should have been collected for the purpose of upgrading equipment. By initially excluding capital expenditures from the fee structure, the agency has forfeited the opportunity to charge users approximately $1.8 million in nominal dollars (or about $2.4 million in 1998 dollars) that it could have been collecting over the entire period. Overall, the operational deficits and the capital expenditures have accounted for about $8.8 million. If the facility is kept open, the agency would continue to incur similar losses, with only slight relief if these costs are prorated and added to user fees.

The agency has already spent over $1 million in the last five years to repair and modify an incinerator, test emissions, and replace stack pipes, in an effort to meet standards set by the U.S. Environmental Protection Agency (EPA) and the Florida Department of Environmental Protection (FDEP). Attempting to keep this aging facility in compliance with EPA/FDEP standards will continue to be expensive for the agency. (These needed repairs include repairing and upgrading the facility's wastewater treatment facility; replacing a generator, an incinerator, the roof, and underground fuel storage tanks; and upgrading the fire suppression/alarm and heating, ventilation, and air conditioning systems.) Currently about $4.5 million are needed to make the most urgently needed repairs. Closing the facility would make this unnecessary. Since the agency is currently operating with a large deficit, even increased use would still not immediately meet revenue needs. The money and human resources needed to keep this facility operating could be diverted to other programs that play a more important role in protecting the United States against animal disease incursions. The cost of closing the facility, about $1 million, would be offset by the future saving the agency would realize.

The proposed closure of the facility would not impact a substantial number of importers, because most importers do not use HSTAIC. Despite the original expectation that cattle and swine would be the predominant imports, over the last six years the facility has been used mainly by importers of llamas and alpacas. Using public funds in the maintenance of a facility that serves only specific importers places an undo burden on tax payers. The action is not expected to have a negative economic impact on this small number of entities, which could still import camelids into the United States from Chile, which has been recognized as FMD free since HSTAIC was dedicated. The facility closure could produce positive budgetary impact for the agency.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

Lists of Subjects

9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements

9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

9 CFR Part 130

Animals, Birds, Diagnostic reagents, Exports, Imports, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Tests.

Accordingly, we are proposing to amend 9 CFR parts 93, 94 and 130 as follows:

PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

1. The authority citation for part 93 would be revised to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

§§ 93.430 and 93.431 [Removed and reserved]

2. In part 93, §§ 93.430 and 93.431 would be removed and reserved.

§§ 93.522 and 93.523 [Removed]

3. In part 93, §§ 93.522 and 93.523 would be removed.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

4. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

5. In § 94.1, paragraph (b) would be revised to read as follows:

§ 94.1 Regions where rinderpest or foot-and-mouth disease exists; importations prohibited.

* * * * *

(b) The importation of any ruminant or swine or any fresh (chilled or frozen) meat of any ruminant or swine [1] that originates in any region where rinderpest or foot-and-mouth disease exists, as designated in paragraph (a) of this section, or that enters a port in or otherwise transits a region in which rinderpest or foot-and-mouth disease exists, is prohibited:

(1) Except as provided in part 93 of this chapter for wild ruminants and wild swine; and

(2) except as provided in paragraph (c) of this section for meat of ruminants or swine that originates in regions free of rinderpest and foot-and-mouth disease but that enters a port or otherwise transits a region where rinderpest or foot-and-mouth disease exists; and

(3) except as provided in § 94.4 of this part for cooked or cured meat from regions where rinderpest or foot-and-mouth disease exists.

* * * * *

PART 130—USER FEES

§ 130.1 [Amended]

6. The authority citation for part 130 would be revised to read as follows:

Authority: 5 U.S.C. 5542; 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114, 114a, 134a, 134b, 134c, 134d, 134f, 136, and 136a; 7 CFR 2.22, 2.80, and 371.2(d).

7. In § 130.1, the definition of *Animal Import Center* would be amended by removing the last sentence.

Done in Washington, DC, this 4th day of August, 1998.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–21363 Filed 8–7–98; 8:45 am]

BILLING CODE 3410–34–P

[1] Importation of animals and meat includes bringing the animals or meat within the territorial limits of the United States on a means of conveyance for use as sea stores or for other purposes.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–150–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737–100, –200, –300, –400, and –500 series airplanes. This proposal would require repetitive testing of certain main tank fuel boost pumps to identify those with degraded performance, and replacement of degraded pumps with new or serviceable pumps. This proposal also would require eventual replacement of the existing low pressure switches for boost pumps located in the main fuel tanks with higher threshold low pressure switches, which, when accomplished, would terminate the repetitive testing. This proposal is prompted by reports of engine power loss caused by unsatisfactory performance of the fuel boost pumps. The actions specified by the proposed AD are intended to prevent fuel suction feed operation on both engines without flight crew indication, and possible consequent multiple engine power loss.

DATES: Comments must be received by September 24, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–150–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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dorr M. Anderson, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2684; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by

interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–150–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–150–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received several reports of engine power loss, including one total power loss event, on Boeing Model 737–300, –400, and –500 series airplanes. These events were the result of degraded performance of the fuel boost pumps located in the main tanks. In each case, the low pressure indication system did not indicate that the pumps were operating unsatisfactorily.

Degradation of the fuel boost pumps involved in the reported engine power loss events was caused by corrosion of a braze connection in the rotor of the pump motor. This corrosion results in a decrease in the impeller rotation speed, which reduces the output pressure of the pump. Only boost pumps manufactured by the General Electric Company (GEC) of the United Kingdom are affected by this problem. Other FAA-approved main tank fuel boost pumps have not exhibited evidence of this corrosion problem.

Further investigation revealed that the low pressure switches for the fuel boost pumps were set at a pressure threshold that is too low. These pressure switches will not always detect degraded pump performance and will not provide indication of the problem to flight and maintenance crews until the output fuel pressure drops to an extremely low level. Low pressure switches with the improper pressure threshold are installed downstream of all FAA-approved main tank fuel boost pumps.

If not corrected, degraded fuel boost pump performance that is not detected by the low pressure switch and annunciated on the flight deck could result in multi-engine suction feed operation without flight crew indication, and possible consequent multiple engine power loss.

The reported engine power loss events occurred on Model 737–300, –400, and –500 series airplanes. However, the subject fuel boost pump system on the Model 737–100 and –200 series airplanes is similar to that on the affected Model 737–300, –400, and –500 series airplanes. Therefore, those Model 737–100 and –200 series airplanes may be subject to the same unsafe condition revealed on the Model 737–300, –400, and –500 series airplanes.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 737–28A1114, Revision 1, dated April 2, 1998, which describes procedures for repetitive testing of certain main tank fuel boost pumps to identify those with degraded performance, and replacement of degraded pumps with new or serviceable pumps. The alert service bulletin also describes procedures for replacement of the existing low pressure switches for boost pumps located in the main fuel tanks with higher threshold low pressure switches, which eliminates the need for the repetitive testing. Accomplishment of the replacement of the low pressure switches specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although the alert service bulletin recommends accomplishing the pump output pressure testing within 180 days, the FAA has determined that an interval of 180 days would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this proposed AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, availability of spare fuel boost pumps, and the time necessary to perform the testing (two hours). In light of all of these factors, the FAA finds a 90-day compliance time for initiating the proposed actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

The alert service bulletin does not restrict dispatch with main tank fuel boost pumps inoperative, in accordance with the Minimum Equipment List. However, this proposed AD would not allow dispatch of any airplane with any main tank fuel boost pump inoperative until the initial test of the boost pumps is accomplished. This restriction will limit the exposure to fuel suction feed operation.

The alert service bulletin also recommends that the low pressure switches should be replaced on airplanes equipped with one or more boost pumps manufactured by GEC or Argo-Tech. Further, the alert service bulletin does not recommend replacement of any low pressure switches for airplanes on which pumps manufactured by TRW are installed. However, this proposed AD would require, within 3 years, replacement of low pressure switches for all airplanes, regardless of the type of boost pump installed. The FAA has determined that the pressure threshold of the existing low pressure switches is set too low to allow timely identification of any fuel boost pump with degraded performance.

Cost Impact

There are approximately 2,772 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,140 airplanes of U.S. registry would be affected by this proposed AD.

For airplanes equipped with one or more main tank fuel boost pumps manufactured by GEC, it would take between 2 and 8 work hours per airplane to accomplish the proposed testing, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed testing on U.S. operators of these airplanes is estimated to be between $136,800 and $547,200, or between $120 and $480 per airplane, per testing cycle.

For all airplanes, it would take between 4 and 6 work hours per airplane to accomplish the proposed modification, at an average labor rate of $60 per work hour. Required parts would be provided by the airplane manufacturer at no cost to the operator. Based on these figures, the cost impact of the proposed modification on U.S. operators is estimated to be between $273,600 and $410,400, or between $240 and $360 per airplane.

The cost impact figures discussed above are based on assumptions that no

operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 98–NM–150–AD.

Applicability: Model 737–100, –200, –300, –400, and –500 series airplanes; line numbers 1 through 3002 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel suction feed operation on both engines without flight crew indication, and possible consequent multiple engine power loss, accomplish the following:

(a) For airplanes equipped with one or more main tank fuel boost pumps manufactured by the General Electric Company (GEC), of the United Kingdom: Accomplish paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this AD.

(1) As of the effective date of this AD, no airplane shall be dispatched with any main tank fuel boost pump inoperative unless the initial testing required by paragraph (a)(2) of this AD has been accomplished.

(2) Test each GEC-manufactured main tank fuel boost pump to determine the output pressure, in accordance with Boeing Alert Service Bulletin 737–28A1114, Revision 1, dated April 2, 1998, at the later of the times specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD. If the fuel boost pump output pressure measured during the testing required by this paragraph is less than 23 pounds per square inch gauge (psig), as measured at the input to the engine fuel pump; or less than 36 psig, as measured at the fuel boost pump low pressure switch; prior to further flight, replace the fuel boost pump with a new or serviceable fuel pump, in accordance with Boeing Alert Service Bulletin 737–28A1114, Revision 1, dated April 2, 1998.

(i) Prior to the accumulation of 3,000 total flight hours, or within 1 year since date of manufacture of the airplane, whichever occurs first; or

(ii) Within 90 days after the effective date of this AD.

(3) Repeat the testing required by paragraph (a)(2) of this AD thereafter at intervals not to exceed 6 months, until accomplishment of the requirements of paragraph (a)(4) of this AD.

(4) Within 2 years after the effective date of this AD, replace all four low pressure switches installed downstream of the main tank fuel boost pumps with higher threshold low pressure switches, in accordance with Boeing Alert Service Bulletin 737–28A1114, Revision 1, dated April 2, 1998. Accomplishment of this replacement constitutes terminating action for the requirements of paragraph (a) of this AD.

(b) For airplanes equipped with one or more main tank fuel boost pumps manufactured by Argo-Tech: Within 2 years after the effective date of this AD, replace all four low pressure switches installed downstream of the main tank fuel boost pumps with higher threshold low pressure switches, in accordance with Boeing Alert Service Bulletin 737–28A1114, Revision 1, dated April 2, 1998.

(c) For airplanes equipped with all four main tank fuel boost pumps manufactured by Thompson Rand Wooldridge (TRW): Within 3 years after the effective date of this AD, replace all four low pressure switches installed downstream of the main tank fuel boost pumps with higher threshold low pressure switches, in accordance with Boeing Alert Service Bulletin 737–28A1114, Revision 1, dated April 2, 1998.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle 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, Seattle ACO.

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

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

Issued in Renton, Washington, on August 3, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–21262 Filed 8–7–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–190–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Saab Model SAAB 2000 series airplanes, that currently requires deactivation of certain floormat heaters in the cabin area. In addition, that AD provides for optional terminating action for that deactivation. This action would remove the optional terminating action of the existing AD and would add airplanes to the applicability of the existing AD.

This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent short circuiting between the flight attendant's floormat heater and the floor panel, which could cause overheating of the floormat heater and lead to smoke or fire in the airplane cabin.

DATES: Comments must be received by September 9, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–190–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 SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. 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 Lind Avenue, 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 98–NM–190–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–190–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On September 17, 1997, the FAA issued AD 97–20–06, amendment 39–10144 (62 FR 50250, September 25, 1997), applicable to certain Saab Model SAAB 2000 series airplanes, to require deactivation of certain floormat heaters in the cabin area. In addition, that AD provides for optional terminating action for that deactivation. That action was prompted by a report indicating that a flight attendant's floormat heater became overheated as a result of a short circuit between a floormat heater and a floor panel that was made of conductive material; this condition resulted in smoke in the cabin area. The requirements of that AD are intended to prevent such short circuiting, which could cause overheating of the floormat heater and lead to smoke or fire in the airplane cabin.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the manufacturer has advised that the optional terminating action provided by AD 97–20–06 (reference Saab Service Bulletin 2000–53–020, Revision 02, dated October 18, 1996) does not eliminate the potential for a short circuit between the floormat heater and the floor panel. That optional terminating action involves the installation of a floor panel made of nonconductive material.

Explanation of Relevant Service Information

Saab has issued Alert Service Bulletin 2000–A25–080, Revision 01, dated April 3, 1998, which describes procedures for deactivation of certain floormat heaters in the cabin area. In addition, Revision 01 of the alert service bulletin revises the effectivity of the original issue to increase the number of airplanes affected by the identified unsafe condition. Accomplishment of the action specified in the alert service bulletin is intended to adequately address the identified unsafe condition. The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, classified this alert service bulletin as mandatory and issued Swedish airworthiness directive 1–124, dated March 30, 1998, in order to assure the continued airworthiness of these airplanes in Sweden.

FAA's Conclusions

This airplane model is manufactured in Sweden and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LFV has kept the FAA informed of the situation described above. The FAA has examined the findings of the LFV, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 97–20–06 to continue to require deactivation of certain floormat heaters in the cabin area. This action would remove the optional terminating action of the existing AD and would add airplanes to the applicability of the existing AD. The actions would be required to be accomplished in accordance with the alert service bulletin described previously in this proposed AD, or in accordance with Saab Service Bulletin 2000–A25–022, Revision 01, dated January 23, 1996, as specified in AD 97–20–06.

Cost Impact

There are approximately 3 airplanes of U.S. registry that would be affected by this proposed AD.

The deactivation that is currently required by AD 97–20–06 takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the deactivation currently required by AD 97–20–06 on U.S. operators is estimated to be $180, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10144 (62 FR 50250, September 25, 1997), and by adding a new airworthiness directive (AD), to read as follows:

SAAB Aircraft AB: Docket 98–NM–190–AD. Supersedes AD 97–20–06, Amendment 39–10144.

Applicability: Model SAAB 2000 series airplanes, serial numbers –004 through –064 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c)(1) 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 short circuiting between the flight attendant's floormat heater and the floor panel, which could cause overheating of the floormat heater and lead to smoke or fire in the airplane cabin, accomplish the following:

Restatement of the Requirements of AD 97–20–06:

(a) For airplanes having serial numbers –004 through –039 inclusive, on which Saab Modification No. 5780, as specified in Saab Service Bulletin 2000–53–020, Revision 02, dated October 18, 1996, has not been accomplished: Within 14 days after October 30, 1997 (the effective date of AD 97–20–06, amendment 39–10144), deactivate the flight attendant's floormat heater by either disconnecting electrical cable HW71–20 between the floormat heater and the floor panel, or by removing fuse 17HW (1) on panel 306VU, in accordance with Saab Service Bulletin 2000–A25–022, Revision 01, dated January 23, 1996, or Saab Alert Service Bulletin 2000–A25–080, Revision 01, dated April 3, 1998.

New Requirements of This AD:

(b) For airplanes other than those identified in paragraph (a) of this AD: Within 14 days after the effective date of this AD, deactivate the flight attendant's floormat heater by either disconnecting electrical cable HW71–20 between the floormat heater and the floor panel, or by removing fuse 17HW (1) on panel 306VU, in accordance with Saab Service Bulletin 2000–A25–022, Revision 01, dated January 23, 1996, or Saab Alert Service Bulletin 2000–A25–080, Revision 01, dated April 3, 1998.

(c)(1) 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, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

(2) Alternative methods of compliance relating to the deactivation, approved previously in accordance with AD 97–20–06, amendment 39–10144, are approved as alternative methods of compliance with paragraph (a) of this AD.

(3) Alternative methods of compliance relating to the optional terminating action of AD 97–20–06, amendment 39–10144, approved previously in accordance with that AD, are not considered to be approved as alternative methods of compliance with this AD.

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

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

Note 3: The subject of this AD is addressed in Swedish airworthiness directive 1–124, dated March 30, 1998.

Issued in Renton, Washington, on August 3, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–21261 Filed 8–7–98; 8:45 am]

BILLING CODE 4910–13–U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Recordkeeping

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of comment period on proposed rules.

SUMMARY: The Commodity Futures Trading Commission published a notice of proposed rulemaking concerning amendments to the recordkeeping requirements of Commission Regulation 1.31 on June 5, 1998 (63 FR 30668). The notice provided that comments should be received on or before August 4, 1998. In response to a request from the Futures Industry Association, the Commission has determined to extend the comment period for an additional 14 days, until August 18, 1998. As indicated in the notice, comments should be submitted by the specified date to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to *secretary@cftc.gov*. Reference should be made to ''Recordkeeping''.

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

FOR FURTHER INFORMATION CONTACT: Edson G. Case, Counsel, (202) 418–5430, electronic mail: ''ecase@cftc.gov;'' or Robert B. Wasserman, Special Counsel, (202) 418–5092, electronic mail: ''rwasserman@cftc.gov,'' Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

Issued in Washington, DC on August 4, 1998 by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–21306 Filed 8–7–98; 8:45 am]

BILLING CODE 6351–01–M

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

[Regulations No. 16]

RIN 0960–AE71

Effective Date of Application for Supplemental Security Income (SSI) Benefits

AGENCY: Social Security Administration (SSA).

ACTION: Proposed rules.

SUMMARY: We propose to revise our regulations to reflect and implement section 204 of Pub. L. 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Section 204 changed the date an SSI application is effective so that the earliest month for which benefits can be paid is the month following the month in which the application is filed. Section 204 also made related changes concerning emergency advance payments (EAPs), interim assistance reimbursements (IARs) and in the definition of ''eligible spouse''.

DATES: To be sure that your comments are considered, we must receive them no later than October 9, 1998.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, MD 21235, sent by telefax to (410) 966–2830, sent by e-mail to ''regulations@ssa.gov,'' or delivered to the Office of Process and Innovation Management, Social Security Administration, L2109 West Low Rise, 6401 Security Boulevard, Baltimore, MD 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Loretta Tabacca, Social Insurance Specialist, Office of Program Benefits Policy, Division of Eligibility and Enumeration Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–9881.

SUPPLEMENTARY INFORMATION:

Background

These proposed regulations would reflect and implement section 204 of Pub. L. 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which applies to applications for SSI benefits filed on or after August 22, 1996.

Section 204(a), which amended section 1611(c)(7)(A) and (B) of the Social Security Act (the Act), changed the effective date of an SSI application. For applications for SSI benefits filed on or after August 22, 1996, the effective date of an SSI application is the first day of the month following the later of: the date the application is filed; or, the date the individual becomes eligible for such benefits with respect to such application. The change in law affects the point at which SSI benefits can begin. Before the change in law, an individual could receive SSI benefits for the month in which an application for benefits was filed, and the amount of benefits for that month was prorated based on the number of days in that month that the individual met all factors of eligibility. Under section 204(a), the first month for which benefits can be paid is the month following the month that all eligibility requirements, including filing an application, are met. In view of this era of heightened fiscal responsibility, Congress enacted the change to the SSI application effective date, which has a minimal (less than 30 days of benefits) effect on an individual's benefit amount.

Effective August 22, 1996, section 204(b) of Pub. L. 104–193, which amended section 1631(a)(4)(A) of the Act, made some changes to the EAP process. It added the authority to make EAPs in the month of application to individuals who would be at least presumptively eligible for benefits the month following the date that the application is filed. Section 204(b) also provided that these EAPs are to be repaid through proportional deductions in SSI benefit payments over a period of not more than 6 months.

Since January 1974, when it first became effective, title XVI of the Act has authorized issuance of EAPs in situations of marked financial need among new claimants. These EAPs are expedited payments of funds based upon an applicant's status as presumptively meeting all of the requirements for eligibility. These EAPs will continue to be recovered from any retroactive SSI benefit payments.

Section 204(c)(1) of Pub. L. 104–193, which amended section 1614(b) of the Act, made a conforming change in the definition of an ''eligible spouse'' to conform to the change made by section 204(a) with respect to the effective date of an application. Under this change, in order for couple computation rules to apply in determining the amount of benefits to be paid in the first month that both members of a couple are eligible for payment of SSI benefits, the couple must be living in the same household on the first day of the month following the date the application for benefits was filed. Prior to this change, the couple had to be living in the same household on the date the application was filed in order for the couple computation rules to apply to the first month both members of the couple were eligible for payment.

Section 204(c)(2) also made a conforming amendment to section 1631(g)(3) of the Act concerning reimbursement of States under IAR agreements. Consistent with the change made by section 204(a) in the effective date of an application for SSI benefits, States may continue to be reimbursed for interim assistance furnished for meeting basic needs during the period beginning with the month the individual becomes eligible for payment of SSI benefits.

Explanation of Revisions

To reflect and implement section 204(a), we propose amending §§ 416.200, 416.203, 416.211, 416.262, 416.305, 416.315, 416.330, 416.335, 416.420, 416.421, 416.501, 416.502, 416.1160, 416.1163, 416.1165, 416.1245 and 416.1335 as follows:

We propose to revise §§ 416.200 and 416.203 to reflect the statutory change made by section 204(a) under which the first month for which an individual who meets all the basic eligibility requirements listed in § 416.202 may receive SSI benefits is the month after the month he or she meets these eligibility requirements (see § 416.501). An individual cannot become eligible for payment of SSI benefits until the month after the month in which the individual first becomes eligible for SSI benefits. We also propose to amend the last sentence of § 416.200 to update a cross-reference.

We also propose conforming amendments to paragraph (a)(1) of § 416.211. As a result of the statutory change, an individual who is a resident of a public institution at the time he or she first applies for and meets all other eligibility factors for SSI benefits, will be ineligible for payment of SSI benefits until the first day of the month following the day of the individual's release from the institution.

We propose to revise § 416.262 to clarify, consistent with section 1619 of

the Act, that in order for an individual to be eligible for special SSI cash benefits, the individual must have been eligible for payment of a regular SSI benefit in a prior month. As noted previously, the earliest month in which an individual can become eligible for payment of SSI benefits is the month after the month in which the application for benefits was filed.

We propose to revise § 416.305(a) to clarify that filing an application assures that the individual receives benefits for any months that individual is determined eligible to receive payment. This clarification reflects the statutory change which ended payment of benefits for the first month in which an individual becomes eligible for benefits.

We also propose to revise the example in paragraph (c) of § 416.315 to illustrate that the earliest month for which benefits can be paid is the month following the month in which the individual first becomes eligible for benefits.

We also propose an amendment to our regulations at § 416.330(a) to reflect the statutory change affecting the first month for which benefits can be paid. We propose to revise § 416.330(a) to state that when an individual files an application before all the requirements for eligibility are met, the earliest month for which the application can be effective for payment is the month following the month that all requirements are met. We also propose to delete the language describing proration of benefits in the first month of eligibility to reflect the fact that section 204 ended such proration. In addition, we also propose to amend § 416.330(b) to state that if an individual meets all the requirements for eligibility after the period for which the application was in effect and a new application is filed, the earliest month for which benefits can be paid is the first month following the month that all the eligibility requirements are met based on the filing of the new application.

We propose to revise § 416.335 to state that when an individual files an application in or after the month all the other requirements for eligibility are met, the application cannot be the basis for payment before the first day of the month following the month that the application was filed. We also propose to delete the language that pertains to proration of benefits in the first month of eligibility.

We also propose to amend §§ 416.420 and 416.421 to clearly state the different policies on when SSI benefits can be paid based on the filing of an application and a resumption of benefits after at least one month of ineligibility. The change in law which is effective for applications filed on or after August 22, 1996, effectively ends the proration of SSI benefits based on the day of the month that an application was filed. Proration of benefits continues to apply to resumption of benefits in posteligibility situations.

Additionally, we propose to revise §§ 416.501 and 416.502 to clarify that when an individual files an application for SSI benefits, the earliest month for which payment can be made is the month following the month of initial eligibility. When eligibility is reestablished after at least one month of ineligibility, benefits can be prorated for the first month of reeligibility.

We propose to revise §§ 416.1160(b)(2), 416.1163(e), and 416.1165(f) to clarify that, in initial claims situations, the first month in which deeming applies for purposes of determining the amount of a benefit is the month an individual is first eligible for payment. These revisions conform to the legislative change affecting the date an SSI application is effective for payment. We also propose to correct the cross-references in § 416.1166(d) to accurately reflect the current reference in the regulations.

We propose to revise § 416.1245(b) to conform to the legislative change affecting the date an individual can receive SSI payments, specifically conditional benefits, following the application effective date. As a result of the legislative change, the months of payment eligibility may not coincide with the months of the conditional benefits disposal period. Additionally, the payment period, and thus the resulting overpayment, may be different for initial claims and posteligibility situations. Therefore, we are eliminating references to 9 months of conditional benefit payments and revising the regulations to refer only to benefits received during the conditional benefits period.

Finally, in order to implement section 204(a), we propose to amend § 416.1335 to reflect the fact that, as a result of the statutory change, a period of benefit suspension can begin when an individual is no longer eligible for SSI benefits even though that person had not received any SSI benefits because the person's only month of eligibility was prior to the effective date of the application.

To reflect the provisions of section 204(b) which expanded the authority of SSA to issue EAPs, we propose to amend § 416.520(a), (b), and (c) to clarify that we have the authority to issue an EAP in the month that an application is filed even though that month is prior to the effective date of the application and prior to when the individual can be eligible to receive SSI benefits. We also propose to revise § 416.520(d) to reflect the amendment made by section 204(b) providing that an EAP shall be repaid through proportional reduction in benefits payable over a period of not more than 6 months. Consistent with our longstanding policy and this new statutory provision, if past-due SSI benefits awarded to the individual exceed the amount of the EAP, the entire amount of the EAP will be deducted from the past-due benefits. Finally, we propose to amend the definition of ''presumptively eligible'' in § 416.520(b)(4) to clarify that all of the requirements for eligibility are involved.

To reflect the changes made by section 204(c)(1), we propose to revise the definition of ''eligible spouse'' in § 416.1801(c). The law changed the point at which SSA determines whether an eligible individual and eligible spouse are an eligible couple. Eligible couple determinations in these situations previously were made when an application was filed but now will be made as of the first day of the month following the date the application is filed. In addition, we propose to amend § 416.1801(c) to correct an erroneous cross-reference in the definition of ''spouse''.

To reflect the conforming amendment made by section 204(c)(2), we propose to amend the definition of interim assistance in § 416.1902 to state that interim assistance begins with the first month of eligibility for payment of SSI benefits.

Electronic Versions

The electronic file of this document is available on the Federal Bulletin Board (FBB) at 9 a.m. on the date of publication in the **Federal Register**. To download the file, modem dial (202) 512–1387. The FBB instructions will explain how to download the file and the fee. This file is in WordPerfect and will remain on the FBB during the comment period.

Regulatory Procedures

Regulatory Flexibility Act

We certify that these proposed regulations will not have a significant economic impact on a substantial number of small entities because they affect only individuals. Thus, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Executive Order 12866

These proposed rules reflect and implement the provisions of sections 204(a), (b) and (c) of Pub. L. 104–193. The Office of Management and Budget (OMB) has reviewed these proposed rules and determined that they meet the criteria for an economically significant regulatory action under Executive Order 12866. These proposed regulations also meet the definition of a ''major rule'' under 5 U.S.C. 801 ff., and the following cost and benefit assessment fulfills the requirements of those provisions as well. In addition, SSA has determined, as required under the aforementioned statute, that these proposed regulations do not create any unfunded mandates for State or local entities pursuant to sections 202–205 of the Unfunded Mandates Act of 1995.

Projected Costs

Under the statutory change, individuals who file an SSI application on or after August 22, 1996 cannot receive SSI benefits for the first month of eligibility; therefore, benefits will begin later. The cost to individuals is illustrated in the following example: Assuming section 204(a) had not been enacted, an individual who filed an SSI application on August 22, 1996, having met all the requirements for eligibility in that month, would have received an August 1996 SSI benefit amount of $121.80. (The SSI benefit amount was computed using the national average SSI monthly payment amount for the total SSI population for August 1996 of $377.58 and prorating that amount for 10 days (August 22 through August 31).) Since section 204(a) was enacted, the same individual would have received no payment for August 1996, the first month of eligibility. The cost to this individual would be $121.80.

Potential Benefits

Since these proposed rules reflect statutory changes which delay the effective date of payment of SSI benefits, we project that there will be reduced outlays from general revenues.

Program Costs

There are no program costs associated with these proposed rules.

Program Savings

It is estimated that due to the legislation there will be reduced program outlays resulting in the following savings (in millions of dollars) to the SSI program ($780 million in a 6 year period):

FY1998	FY1999	FY2000	FY2001	FY2002	FY2003	Total
$120	$125	$130	$130	$135	$140	$780

There are no costs or savings to the Medicaid program as a result of the change to the application effective date. Though the Health Care Financing Administration (HCFA) had initially projected Medicaid savings from this provision due to the loss of coverage resulting from the elimination of payment of SSI benefits for the month in which the SSI application is filed, subsequent manual guidance from HCFA allowed States to provide Medicaid coverage during this month (as well as the usual 3-month retroactive period). Consequently, the initial estimated savings have been eliminated and, overall, there is no Medicaid cost effect.

Administrative Costs

We anticipate negligible administrative costs (i.e., less than $1 million and 30 workyears). The administrative costs are the net of additional workyears related to systems changes to reflect the point at which benefits can now begin.

Administrative Savings

We do not anticipate any administrative savings to result from these proposed regulations since eligibility must be determined from the filing date as was the case before the effective date of these proposed rules.

Policy Alternatives

There are no discretionary policies involved in implementing section 204 (a), (b) and (c). Therefore, we find no need to consider alternative policies.

Paperwork Reduction Act

These proposed regulations impose no reporting/recordkeeping requirements necessitating clearance by OMB.

(Catalog of Federal Domestic Assistance Program No. 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: May 15, 1998.

Kenneth S. Apfel,

Commissioner of Social Security.

For the reasons set forth in the preamble, we are proposing to amend subparts B, C, D, E, K, L, M, R, and S of part 416 of chapter III of title 20 of the Code of Federal Regulations as set forth below.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart B—[Amended]

1. The authority citation for subpart B of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1110(b), 1602, 1611, 1614, 1615(c), 1619(a), 1631, and 1634 of the Social Security Act (42 U.S.C. 902(a)(5), 1310(b), 1381a, 1382, 1382c, 1382d(c), 1382h(a), 1383, and 1383c); secs. 211 and 212, Pub. L. 93–66, 87 Stat. 154 and 155 (42 U.S.C. 1382 note); sec. 502(a), Pub. L. 94–241, 90 Stat. 268 (48 U.S.C. 1681 note); sec. 2, Pub. L. 99–643, 100 Stat. 3574 (42 U.S.C. 1382h note).

2. Section 416.200 is revised to read as follows:

§ 416.200 Introduction.

You are eligible for SSI benefits if you meet all the basic requirements listed in § 416.202. However, the first month for which you may receive SSI benefits is the month after the month in which you meet these eligibility requirements. (See § 416.501.) You must give us any information we request and show us necessary documents or other evidence to prove that you meet these requirements. We determine your eligibility for each month on the basis of your countable income in that month. You continue to be eligible unless you lose your eligibility because you no longer meet the basic requirements or because of one of the reasons given in §§ 416.210 through 416.216.

3. Section 416.203 is amended by revising paragraph (b) to read as follows:

§ 416.203 Initial determinations of SSI eligibility.

* * * * *

(b) *How we determine your eligibility for SSI benefits.* We determine that you are eligible for SSI benefits for a given month if you meet the requirements in § 416.202 in that month. However, you cannot become eligible for payment of SSI benefits until the month after the month in which you first become eligible for SSI benefits (see § 416.501).

In addition, we usually determine the amount of your SSI benefits for a month based on your income in an earlier month (see § 416.420). Thus, it is possible for you to meet the eligibility requirements in a given month but receive no benefit payment for that month.

4. Section 416.211 is amended by revising paragraph (a)(1) to read as follows:

§ 416.211 You are a resident of a public institution.

(a) *General rule.* (1) Subject to the exceptions described in paragraphs (b), (c), and (d) of this section and § 416.212, you are not eligible for SSI benefits for any month throughout which you are a resident of a public institution as defined in § 416.201. In addition, if you are a resident of a public institution when you apply for SSI benefits and meet all other eligibility requirements, you cannot be eligible for payment of benefits until the first day of the month following the day of your release from the institution.

* * * * *

5. Section 416.262 is amended by revising paragraph (a) to read as follows:

§ 416.262 Eligibility requirements for special SSI cash benefits.

* * * * *

(a) You were eligible to receive a regular SSI benefit or a federally administered State supplementary payment (see § 416.2001) in a month before the month for which we are determining your eligibility for special cash benefits as long as the month was not in a prior period of eligibility which has terminated according to §§ 416.1331 through 416.1335;

* * * * *

Subpart C—[Amended]

6. The authority citation for subpart C of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1611, and 1631(a), (d), and (e) of the Social Security Act (42 U.S.C. 902(a)(5), 1382, and 1383(a), (d), and (e)).

7. Section 416.305 is amended by revising paragraph (a) (2) to read as follows:

§ 416.305 You must file an application to receive supplemental security income benefits.

(a) * * *

(2) Assure that you receive benefits for any months you are eligible to receive payment; and

* * * * *

8. Section 416.315 is amended by revising the example in paragraph (c) to read as follows:

§ 416.315 Who may sign an application.

* * * * *

(c) * * *

Example: Mr. Smith comes to a Social Security office to file an application for SSI disability benefits for Mr. Jones. Mr. Jones, who lives alone, just suffered a heart attack and is in the hospital. He asked Mr. Smith, whose only relationship is that of a neighbor and friend, to file the application for him. We will accept an application signed by Mr. Smith since it would not be possible to have Mr. Jones sign and file the application at this time. SSI benefits can be paid starting with the first day of the month following the month the individual first meets all eligibility requirements for such benefits, including having filed an application. If Mr. Smith could not sign an application for Mr. Jones, a loss of benefits would result if it is later determined that Mr. Jones is in fact disabled.

9. Section 416.330 is revised to read as follows:

§ 416.330 Filing before the first month you meet the requirements for eligibility.

If you file an application for SSI benefits before the first month you meet all the other requirements for eligibility, the application will remain in effect from the date it is filed until we make a final determination on your application, unless there is a hearing decision on your application. If there is a hearing decision, your application will remain in effect until the hearing decision is issued.

(a) If you meet all the requirements for eligibility while your application is in effect, the earliest month for which we can pay you benefits is the month following the month that you first meet all the requirements.

(b) If you first meet all the requirements for eligibility after the period for which your application was in effect, you must file a new application for benefits. In this case, we can pay you benefits only from the first day of the month following the month that you meet all the requirements based on the new application.

10. Section 416.335 is revised to read as follows:

§ 416.335 Filing in or after the month you meet the requirements for eligibility.

When you file an application in the month that you meet all the other requirements for eligibility, the earliest month for which we can pay you benefits is the month following the month you filed the application. If you file an application after the month you first meet all the other requirements for eligibility, we cannot pay you for the month in which your application is filed or any months before that month. See §§ 416.340, 416.345 and 416.350 on how a written statement or an oral inquiry made before the filing of the application form may affect the filing date of the application.

Subpart D—[Amended]

11. The authority citation for subpart D of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1611(a), (b), (c), and (e), 1612, 1617, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382(a), (b), (c), and (e), 1382a, 1382f, and 1383).

12. Section 416.420 is amended by revising paragraphs (b)(1) through (3) to read as follows:

§ 416.420 Determination of benefits; general.

* * * * *

(b) *Exceptions to the general rule—(1) First month of initial eligibility for payment or the first month of eligibility after a month of ineligibility.* We use your countable income in the current month to determine your benefit amount for the first month you are initially eligible for payment of SSI benefits (see § 416.501) or for the first month you again become eligible for SSI benefits after at least a month of ineligibility. Your payment for a first month of reeligibility after at least one month of ineligibility will be prorated according to the number of days in the month that you are eligible beginning with the date on which you reattain eligibility.

Example: Mrs. Y applies for SSI benefits in September and meets the requirements for eligibility in that month. (We use Mrs. Y's countable income in September to determine if she is eligible for SSI in September.) The first month for which she can receive payment is October (see § 416.501). We use Mrs. Y's countable income in October to determine the amount of her benefit for October. If Mrs. Y had been receiving SSI benefits through July, became ineligible for SSI benefits in August, and again became eligible for such benefits in September, we would use Mrs. Y's countable income in September to determine the amount of her benefit for September. In addition, the proration rules discussed above would also apply to determine the amount of benefits in September in this second situation.

(2) *Second month of initial eligibility for payment or second month of eligibility after a month of ineligibility.* We use your countable income in the first month prior to the current month to determine how much your benefit amount will be for the current month when the current month is the second month of initial eligibility for payment or the second month of reeligibility following at least a month of ineligibility. However, if you have been

receiving both an SSI benefit and a Social Security insurance benefit and the latter is increased on the basis of the cost-of-living adjustment or because your benefit is recomputed, we will compute the amount of your SSI benefit for January, the month of an SSI benefit increase, by including in your income the amount by which your Social Security benefit in January exceeds the amount of your Social Security benefit in December.

Example: Mrs. Y was initially eligible for payment of SSI benefits in October. Her benefit amount for November will be based on her countable income in October (first prior month).

(3) *Third month of initial eligibility for payment or third month of eligibility after a month of ineligibility.* We use your countable income according to the rule set out in paragraph (a) of this section to determine how much your benefit amount will be for the third month of initial eligibility for payment or the third month of reeligibility after at least a month of ineligibility.

Example: Mrs. Y was initially eligible for payment of SSI benefits in October. Her benefit amount for December will be based on her countable income in October (second prior month).

* * * * *

13. Section 416.421 is amended by removing the first sentence of paragraph (a) and by removing the example at the end of paragraph (b).

Subpart E—[Amended]

14. The authority citation for subpart E of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1601, 1602, 1611(c) and (e), and 1631(a)–(d) and (g) of the Social Security Act (42 U.S.C. 902(a)(5), 1381, 1381a, 1382(c) and (e), and 1383(a)–(d) and (g)); 31 U.S.C. 372OA.

15. Section 416.501 is revised to read as follows:

§ 416.501 Payment of benefits: General.

Payment of SSI benefits will be made for the month after the month of initial eligibility and for each subsequent month provided all requirements for eligibility (see § 416.202) and payment (see § 416.420) are met. In the month the individual re-establishes eligibility after at least a month of ineligibility, benefits are paid for such a month beginning with the date in the month on which the individual meets all eligibility requirements. In some months, while the factors of eligibility based on the current month may be established, it is possible to receive no payment for that month if the factors of eligibility for payment are not met. Payment of benefits may not be made for any period that precedes the first month following the date on which an application is filed or, if later, the first month following the date all conditions for eligibility are met.

16. Section 416.502 is amended by revising the first sentence to read as follows:

§ 416.502 Manner of payment.

For the month an individual reestablishes eligibility after a month of ineligibility, an SSI payment will be made on or after the day of the month on which the individual becomes reeligible to receive benefits. * * *

17. Section 416.520 is amended by revising the first two sentences in paragraph (a) and by revising paragraphs (b)(1) and (b)(4), (c) introductory text, (c)(1) and (d) to read as follows:

§ 416.520 Emergency advance payment.

(a) *General.* We may pay a one-time emergency advance payment to an individual initially applying for benefits who is presumptively eligible for SSI benefits and who has a financial emergency. The amount of this payment cannot exceed the Federal benefit rate (see §§ 416.410 through 416.414) plus the federally administered State supplementary payment, if any (see § 416.2020), which apply for the month for which the payment is made. * * *

(b) * * *

(1) *Emergency advance payment* means a direct, expedited payment by a Social Security Administration field office to an individual or spouse who is initially applying (see paragraph (b)(3) of this section), who is at least presumptively eligible (see paragraph (b)(4) of this section), and who has a financial emergency (see paragraph (b)(2) of this section). * * *

* * * * *

(4) *Presumptively eligible* is the status of an individual or spouse who presents strong evidence of the likelihood of meeting all of the requirements for eligibility including the income and resources tests of eligibility (see subparts K and L of this part), categorical eligibility (age, disability, or blindness), and technical eligibility (United States residency and citizenship or alien status—see subpart P of this part).

(c) *Computation of payment amount.* To compute the emergency advance payment amount, the maximum amount described in paragraph (a) of this section is compared to both the expected amount payable for the month for which the payment is made (see paragraph (c)(1) of this section) and the amount the applicant requested to meet the emergency. The actual payment amount is no more than the least of these three amounts.

(1) In computing the emergency advance payment amount, we apply the monthly income counting rules appropriate for the month for which the advance is paid, as explained in § 416.420. Generally, the month for which the advance is paid is the month in which it is paid. However, if the advance is paid in the month the application is filed, the month for which the advance is paid is considered to be the first month of expected eligibility for payment of benefits.

* * * * *

(d) *Recovery of emergency advance payment where eligibility is established.* When an individual or spouse is determined to be eligible and retroactive payments are due, any emergency advance payment amounts are recovered in full from the first payment(s) certified to the United States Treasury. However, if no retroactive payments are due and benefits are only due in future months, any emergency advance payment amounts are recovered through proportionate reductions in those benefits over a period of not more than 6 months. (See paragraph (e) of this section if the individual or spouse is determined to be ineligible.)

* * * * *

Subpart K—[Amended]

18. The authority citation for subpart K of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382a, 1382b, 1382c(f), 1382j, and 1383); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

19. Section 416.1160 is amended by revising paragraph (b)(2)(i), and redesignating paragraphs (b)(2)(ii) and (b)(2)(iii) as paragraphs (b)(2)(iii) and (b)(2)(iv), respectively, and adding a new paragraph (b)(2)(ii), to read as follows:

§ 416.1160 What is deeming of income.

* * * * *

(b) * * *

(2) * * *

(i) We use the income from the first month you are initially eligible for payment of SSI benefits (see § 416.501) to determine your benefit amount for that month. In the following month (the second month you are eligible for payment), we use the same countable income that we used in the preceding

month to determine your benefit amount.

(ii) To determine your benefit amount for the first month you again become eligible after you have been ineligible for at least a month, we use the same countable income that we use to determine your eligibility for that month. In the following month (the second month of reeligibility), we use the same countable income that we used in the preceding month to determine your benefit amount.

* * * * *

20. Section 416.1163 is amended by revising paragraph (e)(1) to read as follows:

§ 416.1163 How we deem income to you from your ineligible spouse.

* * * * *

(e) *Determining your SSI benefit.* (1) In determining your SSI benefit amount, we follow the procedure in paragraphs (a) through (d) of this section. However, we use your ineligible spouse's income in the second month prior to the current month. We vary this rule if any of the exceptions in § 416.1160(b)(2) applies (for example, if this is the first month you are eligible for payment of an SSI benefit or if you are again eligible after at least a month of being ineligible). In the first month of your eligibility for payment (or re-eligibility), we deem your ineligible spouse's income in the current month to determine both whether you are eligible for a benefit and the amount of your benefit. In the second month, we deem your ineligible spouse's income in that month to determine whether you are eligible for a benefit but we deem your ineligible spouse's income in the first month to determine the amount of your benefit.

* * * * *

21. Section 416.1165 is amended by revising paragraph (f) to read as follows:

§ 416.1165 How we deem income to you from your ineligible parent(s).

* * * * *

(f) *Determining your SSI benefit.* In determining your SSI benefit amount, we follow the procedure in paragraphs (a) through (d) of this section. However, we use your ineligible parents' income in the second month prior to the current month. We vary this rule if any of the exceptions in § 416.1160(b)(2) applies (for example, if this is the first month you are eligible for payment of an SSI benefit or if you are again eligible after at least a month of being ineligible). In the first month of your eligibility for payment (or re-eligibility) we deem your ineligible parents' income in the current month to determine both whether you are eligible for a benefit and the amount of your benefit. In the second month we deem your ineligible parents' income in that month to determine whether you are eligible for a benefit but we again use your countable income (including any that was deemed to you) in the first month to determine the amount of your benefit.

* * * * *

22. Section 416.1166 is amended by revising paragraph (d) to read as follows:

§ 416.1166 How we deem income to you and your eligible child from your ineligible spouse.

* * * * *

(d) *Determining your eligibility for SSI benefits and benefit amount.* We then follow the rules in § 416.1163(c) to find out if any of your ineligible spouse's current monthly income is deemed to you and, if so, to determine countable income for a couple. Next, we follow paragraph (e) of this section to determine your child's eligibility. However, if none of your spouse's income is deemed to you, none is deemed to your child. Whether or not your spouse's income is deemed to you in determining your eligibility, we determine your benefit amount as explained in § 416.1163(e).

* * * * *

Subpart L—[Amended]

23. The authority citation for subpart L of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

24. Section 416.1245 is amended by revising paragraphs (b)(1), (b)(2)(v) and (b)(5) to read as follows:

§ 416.1245 Exceptions to required disposition of real property.

* * * * *

(b) *Reasonable efforts to sell.* (1) Excess real property is not included in countable resources for so long as the individual's reasonable efforts to sell it have been unsuccessful. The basis for determining whether efforts to sell are reasonable, as well as unsuccessful, will be a 9-month disposal period described in § 416.1242. If it is determined that reasonable efforts to sell have been unsuccessful, further SSI payments will not be conditioned on the disposition of the property and only the benefits paid during the 9-month disposal period will be subject to recovery. In order to be eligible for payments after the conditional benefits period, the individual must continue to make reasonable efforts to sell.

(2) * * *

(v) The 9-month disposal period has expired.

* * * * *

(5) An individual who has received conditional benefits through the expiration of the 9 month disposal period and whose benefits have been suspended as described at § 416.1321 for reasons unrelated to the property excluded under the conditional benefits agreement, but whose eligibility has not been terminated as defined at §§ 416.1331 through 416.1335, can continue to have the excess real property not included in countable resources upon reinstatement of SSI payments if reasonable efforts to sell the property resume within 1 week of reinstatement. Such an individual will not have to go through a subsequent conditional benefits period. However, the individual whose eligibility has been terminated as defined at §§ 416.1331 through 416.1335 and who subsequently reapplies would be subject to a new conditional benefits period if there is still excess real property.

Subpart M—[Amended]

25. The authority citation for subpart M of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1611–1615, 1619, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382–1382d, 1382h, and 1383).

26. Section 416.1335 is amended by revising the second sentence to read as follows:

§ 416.1335 Termination due to continuous suspension.

* * * We will count the 12-month suspension period from the start of the first month that you are no longer eligible for SSI benefits (see § 416.1321(a)) or the start of the month after the month your special SSI eligibility status described in § 416.265 ended. * * *

Subpart R—[Amended]

27. The authority citation for subpart R of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1614(b), (c), and (d), and 1631(d)(1) and (e) of the Social Security Act (42 U.S.C. 902(a)(5), 1382c(b), (c), and (d), and 1383(d)(1) and (e)).

28. Section 416.1801(c) is amended by revising paragraph (3)(i) in the definition of ''Eligible spouse'' and by correcting a cross-reference in the

definition of ''Spouse'' to read as follows:

§ 416.1801 Introduction.

* * * * *

(c) * * *

Eligible Spouse * * *

(3) * * *

(i) The first day of the month following the date the application is filed (for the initial month of eligibility for payment based on that application);

* * * * *

Spouse means a person's husband or wife under the rules of § 416.1806.

* * * * *

Subpart S—[Amended]

29. The authority citation for subpart S of part 416 continues to read as follows:

Authority: Secs. 702(a)(5) and 1631 of the Social Security Act (42 U.S.C. 902(a)(5) and 1383).

30. Section 416.1902 is amended by revising the definition of ''interim assistance'' to read as follows:

§ 416.1902 Definitions.

* * * * *

Interim assistance means assistance the State gives you, including payments made on your behalf to providers of goods or services, to meet your basic needs, beginning with the first month for which you are eligible for payment of SSI benefits and ending with, and including, the month your SSI payments begin, or assistance the State gives you beginning with the day for which your eligibility for SSI benefits is reinstated after a period of suspension or termination and ending with, and including, the month the Commissioner makes the first payment of benefits following the suspension or termination if it is determined subsequently that you were eligible for benefits during that period. It does not include assistance the State gives to or for any other person. If the State has prepared and cannot stop delivery of its last assistance payment to you when it receives your SSI benefit payment from us, that assistance payment is included as interim assistance to be reimbursed. Interim assistance does not include assistance payments financed wholly or partly with Federal funds.

* * * * *

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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. 98–046N]

Codex Alimentarius: Meeting of the Codex Committee on General Principles

AGENCY: Office of the Undersecretary for Food Safety, USDA.

ACTION: Notice.

SUMMARY: The Office of the Undersecretary for Food Safety is sponsoring a public meeting on August 14, 1998, to provide information and receive public comments on agenda items to be discussed at the Thirteenth Session of the General Principles Committee of the Codex Alimentarius Commission, which will be held in Paris, France, September 7–11, 1998.

DATES: The public meeting is scheduled for Friday, August 14, 1998, from 9:00 a.m. to 12:00 p.m.

ADDRESSES: The public meeting will be held in the Washington Plaza Hotel, 10 Thomas Circle, NW, Massachusetts Avenue and 14th Street, NW, Washington, DC 20005. Written comments should be sent to: Patrick J. Clerkin, Associate U.S. Manager for Codex, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Patrick J. Clerkin, Associate U.S. Manager for Codex, U.S. Codex Office, Food Safety and Inspection Service; Telephone: (202) 205–7760; Fax: (202) 720–3157.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission (Codex) was established in 1962 by two United Nations organizations, the Food and Agriculture Organization and the World Health Organization. Codex is the principal international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration and correctly labeled. In the United States, the U.S. Department of Agriculture; Food and Drug Administration, Department of Health and Human Services; and the Environmental Protection Agency manage and carry out U.S. Codex duties.

The Codex Committee on General Principles was established to develop principles for procedural and general matters referred to it by the Codex Alimentarius Commission. These matters have included the establishment of general principles defining the purpose and scope of the Codex Alimentarius Commission, the nature of Codex standards and the forms of acceptance by countries of Codex standards, and the development of guidelines for Codex committees.

The Undersecretary for Food Safety recognizes the importance of providing interested parties the opportunity to obtain background information on the Thirteenth Session of the General Principles Committee of Codex and to address items on the agenda. For this reason, the Office of the Undersecretary is holding this public meeting and seeking oral comments or written submissions on the agenda items presented.

Issues To Be Discussed at the Public Meeting

The following specific issues will be discussed during the public meeting:

1. Adoption of the Agenda.
2. Matters referred by the Codex Alimentarius Commission and other Codex Committees.
3. Risk Analysis.
   a. Definitions related to Risk Management.
   b. Working Principles for Risk Analysis.
   c. Food safety objectives.
4. Measures intended to facilitate consensus.
5. Review of the General Principles of Codex.
   a. Consideration of special treatment for developing countries.
   b. Revision of the Acceptance Procedure.
6. Review of the status and objectives of Codex texts.
7. Review of the Statements of Principles on the Role of Science and Extent to which Other Factors are taken into Account—Application in the case of Bovine somatotropin and Porcine somatotropin.
8. Revision of the Procedural Manual.
   a. Procedures concerning the participation of international non-governmental organizations.
   b. Other aspects.
9. Review of the Code of Ethics for International Trade in Foods.

Done at Washington, DC.

F. Edward Scarbrough,

U.S. Manager for Codex.

[FR Doc. 98–21282 Filed 8–7–98; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 98–047N]

Meeting: The Food Safety Regulatory Workforce of the Future

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) is holding a public meeting to solicit comment and to discuss the workforce of the future for the regulation of meat, poultry, and egg products. The Agency's food safety program continues to change to reflect an increased focus on food safety beyond slaughtering and processing plants. In all likelihood, there will be major changes in the regulatory program of the future and in the workforce needed to achieve improved food safety. As FSIS considers its long-range objectives and strategic plans for the future, it would like the views and recommendations of the public.

DATES: The meeting will be held on August 14, 1998, from 9:00 a.m. to 3:00 p.m.

ADDRESSES: The meeting will be held at the Washington Plaza Hotel, 10 Thomas Circle, NW, Washington, DC 20009; telephone (202) 842–1300. To register

for the meeting, contact Ms. Jennifer Callahan of the FSIS Planning Staff at (202) 501–7138 of by FAX at (202) 501–7642. Persons requiring a sign language interpreter or other special accommodation should contact Ms. Callahan at the above numbers.

SUPPLEMENTARY INFORMATION: The Pathogen Reduction/Hazard Analysis and Critical Control Point (PR/HACCP Systems) final rule was published on July 25, 1996. The rule calls for the development of a comprehensive HACCP-based farm-to-table food safety system. The rule requires implementation of HACCP systems in all meat and poultry establishments to reduce the risk of foodborne disease. In addition, the rule requires that each establishment develop and implement written sanitation standard operating procedures (SOPs), that slaughter establishments conduct regular microbial testing, and that slaughter establishments and establishments producing raw ground products meet pathogen reduction performance standards for *Salmonella.*

The sanitation SOPs and the *E. coli* process control regulations went into effect on January 27, 1997. The *Salmonella* pathogen reduction performance standards requirements will be applicable simultaneously with HACCP implementation dates. Large plants implemented HACCP systems in January 1998, and small plants will begin implementing HACCP in January 1999. The deadline for very small establishments, those with fewer than 10 employees or annual sales of less than $2.5 million, is January 2000.

Other changes are being considered for implementation in the future. FSIS plans to test alternative modes of conducting inspection, employing new validated pathogen reduction intervention technologies, and identifying other consumer protection activities to achieve a higher degree of food safety from farm to table. The Agency also is evaluating its human resources to determine new skills its dedicated workforce will need in the future and the type of training that will be required for its employees.

The meeting is open to the public. FSIS is interested in receiving comments and recommendations from all of its stakeholders on the nature and scope of the of food safety regulatory system for the future.

Done in Washington, DC, on August 4, 1998.

Thomas J. Billy,

Administrator.

[FR Doc. 98–21362 Filed 8–7–98; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 98–029N]

Availability of Report of the Recall Policy Working Group

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Meeting Notice; Request for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is making available for public comment a report entitled ''Improving Recalls at the Food Safety and Inspection Service.'' Recalls are initiated by a firm, either on its own or at the request of FSIS, to remove from commerce any meat, poultry, or egg product that there is reason to believe is adulterated or misbranded. The report, which was prepared by an FSIS Working Group, assesses the Agency's recall policy and procedures for before, during, and after a recall is initiated and provides concrete, practical recommendations for improving the Agency's recall process within FSIS' current statutory authority. FSIS also is holding a public meeting to discuss the report and the comments from the public about the Agency's recall policy.

DATES: Written comments must be received on or before October 9, 1998.

ADDRESSES: The meeting will be held from 9:00 a.m. to 4:30 p.m. on October 5 at the Doubletree Hotel Park Terrace, 1515 Rhode Island Avenue, Washington, DC 20005 A block of rooms will be held under USDA/FSIS until September 5, 1998. Please call the hotel directly at 800–222–TREE to make a reservation. To register for the meeting, contact Ms. Mary Gioglio by telephone at (202) 501–7244 or (202) 501–7138 or by FAX at (202) 501–7642. If a sign language interpreter or other special accommodation is necessary, contact Ms. Gioglio at the above numbers by September 30, 1998.

Single copies of the report of the Recall Policy Working group are available from the FSIS Docket Clerk in the FSIS Docket Room, Room 102, Cotton Annex, 300 12th Street, SW, Washington, DC 20250–3700, between 8:30 a.m. and 4:30 p.m., Monday through Friday. Persons also may request the report by writing to the above address or calling the Docket Room at (202) 720–3813 during the designated hours.

Submit one original and two copies of written comments on the report to the FSIS Docket Clerk, Docket #98–029N, at the above address. All comments received in response to this notice will be considered part of the public record will be available for viewing in the Docket Room between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Philip S. Derfler, Associate Deputy Administrator, Office of Policy, Program Development, and Evaluation, at (202) 720–2710 or FAX (202) 720–2025.

SUPPLEMENTARY INFORMATION: During 1997, industry initiated several major Class I recalls at FSIS' request, one of which involved more than 25 million pounds of ground beef believed to be contaminated with *E. coli* 0157:H7. As a result of these recalls, concerns were raised about the Agency's policy regarding recalls, the process for identifying affected product, industry's recordkeeping practices, and public and interagency notification problems. On September 24, 1997, FSIS held a public meeting on its recall policy and procedures to determine whether changes are needed. Approximately 30 people make oral presentations at the meeting, and the Agency received a small number of written comments after the meeting.

In November 1997, FSIS created a Working Group to assess its current recall policies and practices, to consider the oral and written comments that the Agency had received, and to develop a set of recommendations on how recalls should be accomplished. The Working Group focused on three major topics: how FSIS administers recalls; how FSIS communicates with consumers, industry, and other Federal and State agencies about recalls; and how FSIS should proceed after the recalled product is removed from commerce. Based on a comprehensive review of the issues, the Working Group has determined that the Agency's recall policy and procedures are basically sound, but that improvements can be made to make them more consistent with the Pathogen Reduction/Hazard Analysis Critical Control Point approach to inspection. The Working Group has submitted its report to the FSIS Administrator.

On May 13 and 14, 1998, FSIS presented a draft of the Working Group's report to the Meat and Poultry Inspection Advisory Committee for comments and suggestions. Generally, the Committee strongly endorsed the report, although at least one Committee member dissented.

As a result of the Committee's discussion and deliberations, the Working Group has made a small number of changes to the report to clarify the group's recommendations. In

addition, FSIS is requesting comment on a number of issues that were highlighted in the Advisory Committee's discussions:

1. How can FSIS or the affected plant best communicate with the consumer when it is necessary to do so? Is the press release the most effective means? When is a press release appropriate? The Agency requests comments on these issues from communications experts, from agencies that have been involved in recalls, and from all other interested parties.

2. How can FSIS ensure that when it sends notification of a recall to State agencies that that notification is sent to the appropriate agencies and reaches the appropriate person within those agencies?

3. At what point should the Agency consider a recall to be closed? Should FSIS keep the recall open if there is an ongoing criminal investigation of the event out of which the recall arose?

4. Should the Agency issue public information on proper cooking of meat, poultry, or egg products whenever there is a recall that involves one of these types of products that has been contaminated with a pathogen, even if the Agency's public notification policy does not call for a news release about the recall?

5. What should be the role of Agency compliance officers in a recall? The Working Group's report calls for their role to be expanded. Is this appropriate?

The Agency will review the report in conjunction with the public comments that it receives, further consideration within the Agency and discussion with other agencies, as well as with the comments of the members of the Advisory Committee. Based on its review, the Agency will formulate a set of actions that it considers appropriate to take in response to the report. The Agency will submit its plans to the Secretary of Agriculture for concurrence. Once it arrives at a course of action, FSIS intends to announce its plans in the **Federal Register**.

Done at Washington, DC, on August 4, 1998.

Thomas J. Billy,

Administrator.

[FR Doc. 98–21281 Filed 8–7–98; 8:45 am]

BILLING CODE 3410–DM–M

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Special Agricultural Safeguard Measures Pursuant to the Uruguay Round Agreements Act

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notification of invocation of special agricultural safeguard duty on imports of sheep meat.

SUMMARY: Pursuant to U.S. Notes 1 and 2 to Subchapter IV, Chapter 99, of the Harmonized Tariff Schedule of the United States, in conjunction with such Subchapter IV, this is notification of invocation of the applicable safeguard of one cent per kilogram on certain imports of sheep meat, commencing on the date of publication of this notice through December 31, 1998.

EFFECTIVE DATE: August 10, 1998.

FOR FURTHER INFORMATION CONTACT: Cathy McKinnell, Multilateral Trade Negotiation Division, Stop 1022, Foreign Agricultural Service, U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Washington, DC 20250–1022, or telephone (202) 720–6064.

SUPPLEMENTARY INFORMATION: U.S. Notes 1 and 2 to Subchapter IV, Chapter 99, of the Harmonized Tariff Schedule of the United States (HTS) in conjunction with such Subchapter IV set forth certain safeguard duties that may be imposed upon specified imported agricultural goods under certain conditions. These duties are measures established in accordance with Article 5 of the World Trade Organization (WTO) Agreement on Agriculture, as approved pursuant to Section 101 of the Uruguay Round Agreements Act (P.L. 103–465). Within Subchapter IV, HTS Subheading 9904.02.60 sets forth an additional safeguard duty of one cent per kilogram for sheep meat, if entered during the effective period of safeguards based upon quantity announced by the Secretary of Agriculture. In conformity with Article 5 of the WTO Agreement on Agriculture and Section 405 of the Uruguay Round Agreements Act, the quantity of imported sheep meat have exceeded 125 percent of the average annual imports for the preceeding three years (the ''trigger level''). The HTS subheading for sheep meat to which the additional duty would apply are: 0204.21.00, 0204.22.40, 0204.23.40, 0204.41.00, 0204.42.40, and 0204.43.40.

Section 405(a) of the Uruguay Round Agreements Act requires, among other things, that the President shall determine and cause to be published in the **Federal Register** the list of special safeguard agricultural goods and the applicable trigger prices and, on an annual basis, trigger levels. Section 405(b) of that act provides, in relevant part, that if the President determines with respect to a special safeguard agricultural good that it is appropriate to impose the volume-based safeguard, then the President shall determine the amount of the duty to be imposed, the period such duty shall be in effect, and any other terms and conditions applicable to the duty.

Further to the application of such special agricultural safeguard duties, the President proclaimed on December 23, 1994 (Presidential Proclamation No. 6763) the provisions of U.S. Notes 1 and 2 to Subchapter IV, Chapter 99, of the HTS as well as the automatically applicable safeguard duties set forth in such subchapter upon satisfaction of the requisite conditions. Such U.S. Notes 1 and 2 set forth the other terms and conditions for application of any such duty.

As also provided in Presidential Proclamation 6763, the President delegated to the Secretary of Agriculture the authority to make the determinations and effect the publications described in section 405(a) of the Uruguay Round Agreements Act. The Secretary of Agriculture has further delegated this authority to the Under Secretary for Farm and Foreign Agricultural Services (7 CFR § 2.16(a)(3)(x1ii)), who has in turn further delegated such authority to the Administrator of the Foreign Agricultural Service (7 CFR § 2.43(a)(42)).

The Administrator determined that the 1998 trigger level for sheep meat is 9,335,000 kilograms (63 FR 13387, Mar. 19, 1998).

Notice

The Administrator has determined that the amount of sheep meat is imported during 1998 has exceeded the trigger level of 9,335,000 kilograms. In accordance with U.S. Notes 1 and 2, Subchapter IV, Chapter 99 of the HTS and Subheading 9904.02.60 an additional duty of one cent per kilogram shall apply from the date of publication of this notice through December 31, 1998.

As provided in U.S. Note 1, goods of Canada or Mexico imported into the United states are not subject to such duty. As provided in U.S. Note 2, this duty shall not apply to any goods en route on the basis of a contract settled

before the date of publication of this notice.

Lon Hatamiya,

Administrator, Foreign Agricultural Service.

[FR Doc. 98–21280 Filed 8–7–98; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Forest Service

Oil and Gas Leasing: Custer National Forest; Sioux Ranger District; Harding County, SD

AGENCIES: Forest Service, USDA; Bureau of Land Management, USDI.

ACTION: Notice; revision of notice of intent to prepare an environmental impact statement.

SUMMARY: A Notice of Intent was published in the **Federal Register** [61 FR 11602] on Thursday, March 21, 1996, indicating that an environmental impact statement (EIS) would be prepared on the proposal to lease Federal oil and gas minerals on that portion of the Sioux Ranger District in South Dakota on the Custer National Forest. That Notice of Intent is revised to change the schedule for completion of the draft EIS.

Originally the draft environmental impact statement was scheduled to be released to the public in March 1997 with the final statement to be filed in September 1997. Under the current schedule, the draft environmental impact statement should be available for review in February 1999, and the final statement should be released in August 1999.

DATE: This action is effective upon the publication of this notice.

ADDRESSES: Nancy T. Curriden, Forest Supervisor, Custer National Forest, P.O. Box 50760, Billings, MT 59105; and Larry E. Hamilton, State Director, Bureau of Land Management, Montana State Office, P.O. Box 36800, Billings, MT 59107–6800.

FOR FURTHER INFORMATION CONTACT:

Mark Slacks, EIS Team Leader, Custer National Forest, telephone (406) 248–9885, extension 240.

Dated: July 20, 1998.

Nancy T. Curriden,

Forest Supervisor.

[FR Doc. 98–21297 Filed 8–7–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Destination Control Statement (DCS).

Agency Form Number: None.

OMB Approval Number: 0694–0097.

Type of Request: Extension of a currently approved collection of information.

Burden: 1,142 hours.

Average Time Per Response: 5 seconds per response.

Number of Respondents: 10,000 respondents.

Needs and Uses: Both exporters and forwarders have responsibility to ensure that the proper DCS is placed on all copies of the commercial invoice. This statement serves as a notice to all foreign parties in an export transaction that further shipment to any country not authorized is prohibited. In any Office of Export Enforcement proceeding evidence of the sending of the commercial invoice, bill of lading or other form of notice of the prohibition against diversion will serve as proof of the person's receipt of the notice.

Affected Public: Individuals, businesses or other for-profit organizations.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Victoria Baecher-Wassmer (202) 395–5871.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Victoria Baecher-Wassmer, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20230.

Dated: August 3, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–21265 Filed 8–7–98; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Export License Information on Bill of Lading.

Agency Form Number: None.

OMB Approval Number: 0694–0094.

Type of Request: Extension of a currently approved collection of information.

Burden: 4,681 hours.

Average Time Per Response: 5 seconds per response.

Number of Respondents: 3,500,000 respondents.

Needs and Uses: The Export Administration Regulations require that all forwarders or brokers who use the monthly Shipper's Export Declaration procedures must include on the bill of lading, air waybill, etc., either the number of and expiration date of an export license issued by BXA, or the appropriate symbol indicating the inapplicability of an export licenses requirement or the applicable License Exception. The information furnishes official representations to customs officials to promote orderly export and transit of shipments for delivery to an ultimate consignee in a foreign country.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Victoria Baecher-Wassmer, (202) 395–5871.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Victoria Baecher-Wassmer, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, D.C. 20230.

Dated: August 3, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–21266 Filed 8–7–98; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Five Year Records Retention Period.

Agency Form Number: None.

OMB Approval Number: 0694–0096.

Type of Request: Extension of a currently approved collection of information.

Burden: 229 hours.

Average Time Per Response: 0.01 second per response

Number of Respondents: 200,000 respondents.

Needs and Uses: The five year records retention requirement enables BXA to detect violations from records up to five years old to correspond with the five year statute of limitations and prove that a violation did or did not take place. The documents can also provide exculpatory evidence for firms who have been accused of export control violations and are innocent.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Victoria Baecher-Wassemer (202) 395–5871.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Victoria Baecher-Wassemer, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20230.

Dated: August 3, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–21267 Filed 8–7–98; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Report on Unscheduled Unloading And Unloading And/Or Return of Cargo.

Agency Form Number: None.

OMB Approval Number: 0694–0040.

Type of Request: Extension of a currently approved collection of information.

Burden: 2 hours.

Average Time Per Response: 1 hour per response.

Number of Respondents: 2 respondents.

Needs and Uses: This collection of information is the reports to BXA required by carriers exporting controlled goods or technology when it is necessary to unload the cargo at a destination other than that shown on the Shipper's Export Declaration or when directed to unload and/or return cargo.

Affected Public: Individuals, businesses or other for-profit organizations.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Victoria Baecher-Wassmer (202) 395–5871.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Victoria Baecher-Wassmer, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20230.

Dated: August 3, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–21268 Filed 8–7–98; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Pub. L. 104–13.

Bureau: International Trade Administration.

Title: Application of License to Enter Watches and Watch Movements into the Customs Territory of the U.S.—Public Law 97–446.

Agency Form Number: ITA–334P.

OMB Number: 0625–0040.

Type of Request: Revision-Regular Submission.

Burden: 5 hours.

Number of Respondents: 5.

Avg. Hours Per Response: 1 hour.

Needs and Uses: Pub. L. 97–446, as amended by Pub. L. 103–465, requires the Department of Commerce and the Interior to administer the distribution of duty exemptions and duty refunds to watch producers in the U.S. insular possessions and the Northern Mariana Islands. The primary consideration in collecting information is the enforcement of the law and the information gathered is limited to that necessary to prevent abuse of the program and to permit a fair and equitable distribution of its benefits. Form ITA–334P is the principal program form used for recording the annual operational data on the basis of which program entitlements are distributed among the producers (and the provision of which to the Departments constitutes their annual application for these entitlements).

Affected Public: Businesses or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Victoria Baecher-Wassmer, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Departmental Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Victoria Baecher-Wassmer, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 4, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–21269 Filed 8–7–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Pub. L. 104–13.

Bureau: International Trade Administration.

Title: Watch Duty-Exemption Program Forms.

Agency Form Number: ITA–340P, 360P, 361P.

OMB Number: 0625–0134.

Type of Request: Revision-Regular Submission.

Burden: 83 hours.

Number of Respondents: 5.

Avg. Hours Per Response: 10 minutes.

Needs and Uses: Pub. L. 97–446, as amended by Pub. L. 103–465, requires the Department of Commerce and the Interior to administer the distribution of duty exemptions and duty refunds to watch producers in the U.S. insular possessions and the Northern Mariana Islands. The primary consideration in collecting information is the enforcement of the law and the information gathered is limited to that necessary to prevent abuse of the program and to permit a fair and equitable distribution of its benefits. Form ITA–340P provides the data to assist in verification of duty-free shipments and make certain the allocations are not exceed. Form ITA-360P and ITA–361P are necessary to implement the duty refund program.

Affected Public: Businesses or other for-profit.

Frequency: On Occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Victoria Baecher-Wassmer, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Departmental Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Victoria Baecher-Wassmer, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503 within 30 days of the publication of this notice.

Dated: August 3, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–21270 Filed 8–7–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Pub L. 104–13.

Agency: International Trade Administration.

Title: Information on Articles for Physically or Mentally Handicapped Persons Imported Free of Duty.

Agency Form Number: ITA–362P.

OMB Number: 0625–0118.

Type of Request: Regular Submission.

Burden: 304 hours.

Number of Respondents: 380.

Avg. Hours Per Response: 4 minutes.

Needs and Uses: Congress, when it enacted legislation to implement the Nairobi Protocol to the Florence Agreement, included a provision for the Departments of Commerce and Treasury to collect information on the import of articles for the handicapped. Form ITA–362P, Information on Articles for Physically or Mentally Handicapped Persons Imported Free of Duty, is the vehicle by which statistical information is obtained to assess whether the duty-free treatment of articles for the handicapped has had a significant adverse impact on a domestic industry (or portion thereof) manufacturing or producing a like or directly competitive article. Without the collection of data, it would be almost impossible for a sound determination to be made and for the President to appropriately redress the situation.

Affected Public: Businesses or other for-profit, not-for-profit institutions, state, local or tribal governments, federal government, individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Victoria Baecher-Wassmer, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Departmental Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Victoria Baecher-Wassmer, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503 within 30 days of publication of this **Federal Register** Notice.

Dated: August 4, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–21271 Filed 8–7–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of initiation of process to revoke Export Trade Certificate of Review No. 95–00001.

SUMMARY: The Secretary of Commerce issued an export trade certificate of review to VINEX International, Inc. Because this certificate holder has failed to file an annual report as required by law, the Department is initiating proceedings to revoke the certificate. This notice summarizes the notification letter sent to VINEX International, Inc.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5l3l. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (''the Act'') [15 U.S.C. 4011–21] authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III [''the Regulations''] are found at 15 CFR part 325. Pursuant to this authority, a certificate of review was issued on July 25, 1995 to VINEX International, Inc.

A certificate holder is required by law (Section 308 of the Act, 15 U.S.C. 4018) to submit to the Department of Commerce annual reports that update

financial and other information relating to business activities covered by its certificate. The annual report is due within 45 days after the anniversary date of the issuance of the certificate of review [Sections 325.14(a) and (b) of the Regulations]. Failure to submit a complete annual report may be the basis for revocation. [Sections 325.10(a) and 325.14(c) of the Regulations].

The Department of Commerce sent to VINEX International, Inc., on August 1, 1997, a letter containing annual report questions with a reminder that its annual report was due on September 8, 1997. Additional reminders were sent on January 9, 1998, and on July 9, 1998. The Department has received no written response to any of these letters.

On August 4, 1998, and in accordance with Section 325.10 (c)[1] of the Regulations, a letter was sent by certified mail to notify VINEX International, Inc. that the Department was formally initiating the process to revoke its certificate. The letter stated that this action is being taken because of the certificate holder's failure to file an annual report.

In accordance with Section 325.10(c)(2) of the Regulations, each certificate holder has thirty days from the day after its receipt of the notification letter in which to respond. The certificate holder is deemed to have received this letter as of the date on which this notice is published in the **Federal Register**. For good cause shown, the Department of Commerce can, at its discretion, grant a thirty-day extension for a response.

If the certificate holder decides to respond, it must specifically address the Department's statement in the notification letter that it has failed to file an annual report. It should state in detail why the facts, conduct, or circumstances described in the notification letter are not true, or if they are, why they do not warrant revoking the certificate. If the certificate holder does not respond within the specified period, it will be considered an admission of the statements contained in the notification letter (Section 325.10(c)[2] of the Regulations).

If the answer demonstrates that the material facts are in dispute, the Department of Commerce and the Department of Justice shall, upon request, meet informally with the certificate holder. Either Department may require the certificate holder to provide the documents or information that are necessary to support its contentions (Section 325.10(c)[3] of the Regulations).

The Department shall publish a notice in the **Federal Register** of the revocation or modification or a decision not to revoke or modify (Section 325.10(c)[4] of the Regulations). If there is a determination to revoke a certificate, any person aggrieved by such final decision may appeal to an appropriate U.S. district court within 30 days from the date on which the Department's final determination is published in the **Federal Register** (Sections 325.10(c)(4) and 325.11 of the Regulations).

Dated: August 4, 1998.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

[FR Doc. 98–21283 Filed 8–7–98; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of initiation of process to revoke Export Trade Certificate of Review No. 94–00003.

SUMMARY: The Secretary of Commerce issued an export trade certificate of review to James W. Smith (d/b/a Premier International. Because this certificate holder has failed to file an annual report as required by law, the Department is initiating proceedings to revoke the certificate. This notice summarizes the notification letter sent to James W. Smith (d/b/a Premier International).

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (''the Act'') [15 U.S.C. 4011–21] authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III [''the Regulations''] are found at 15 CFR part 325. Pursuant to this authority, a certificate of review was issued on June 10, 1994 to James W. Smith (d/b/a Premier International).

A certificate holder is required by law (Section 308 of the Act, 15 U.S.C. 4018) to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate. The annual report is due within 45 days after the anniversary date of the issuance of the certificate of review [Sections 325.14(a) and (b) of the Regulations]. Failure to submit a complete annual report may be the basis for revocation. [Sections 325.10(a) and 325.14(c) of the Regulations].

The Department of Commerce sent to James W. Smith (d/b/a Premier International), on April 8, 1997, a letter containing annual report questions with a reminder that its annual report was due on July 25, 1997. Additional reminders were sent on January 9, 1998, and on July 10, 1998. The Department has received no written response to any of these letters.

On August 4, 1998, and in accordance with Section 325.10(c)[1] of the Regulations, a letter was sent by certified mail to notify James W. Smith (d/b/a Premier International) that the Department was formally initiating the process to revoke its certificate. The letter stated that this action is being taken because of the certificate holder's failure to file an annual report.

In accordance with Section 325.10(c)(2) of the Regulations, each certificate holder has thirty days from the day after its receipt of the notification letter in which to respond. The certificate holder is deemed to have received this letter as of the date on which this notice is published in the **Federal Register**. For good cause shown, the Department of Commerce can, at its discretion, grant a thirty-day extension for a response.

If the certificate holder decides to respond, it must specifically address the Department's statement in the notification letter that it has failed to file an annual report. It should state in detail why the facts, conduct, or circumstances described in the notification letter are not true, or if they are, why they do not warrant revoking the certificate. If the certificate holder does not respond within the specified period, it will be considered an admission of the statements contained in the notification letter (Section 325.10(c)[2] of the Regulations).

If the answer demonstrates that the material facts are in dispute, the Department of Commerce and the Department of Justice shall, upon request, meet informally with the certificate holder. Either Department may require the certificate holder to provide the documents or information that are necessary to support its contentions (Section 325.10(c)[3] of the Regulations).

The Department shall publish a notice in the **Federal Register** of the revocation or modification or a decision not to revoke or modify (Section 325.10(c)[4] of the Regulations). If there is a determination to revoke a certificate, any person aggrieved by such final

decision may appeal to an appropriate U.S. district court within 30 days from the date on which the Department's final determination is published in the **Federal Register** (Sections 325.10(c)(4) and 325.11 of the Regulations).

Dated: August 4, 1998.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

[FR Doc. 98–21284 Filed 8–7–98; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 072998A]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council's (Council) Highly Migratory Species Advisory Subpanel (HMSAS) will hold a public meeting.

DATES: The HMSAS meeting will be held on Friday, September 4, 1998, in Long Beach, CA, at 10:00 a.m. and will continue until business is completed that day.

ADDRESSES: The meeting will be held at NMFS Southwest Regional Office, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Six, telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The primary purpose of the HMSAS meeting is to discuss current issues related to highly migratory species in the Pacific Ocean, and in particular coordinated management in the U.S. Exclusive Economic Zone.

Although other issues not contained in this agenda may come before the Subpanel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted those issues specifically identified in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton (503) 326–6352 at least 5 days prior to the meeting date.

Dated: August 3, 1998.

Bruce C. Morehead,

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

[FR Doc. 98–21256 Filed 8–7–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071798E]

Endangered Species; Permits

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

ACTION: Receipt of an application for an incidental take permit (NMFS permit #1168).

SUMMARY: Notice is hereby given that the Washington Department of Natural Resources at Olympia, WA (WDNR) has applied in due form for a permit that would authorize incidental take of threatened Lower Columbia River (LCR) steelhead (*Oncorhynchus mykiss*) associated with timber management activities in western Washington state. This request is pursuant to the unlisted species provisions of the Implementation Agreement for the WDNR Habitat Conservation Plan.

DATES: Written comments or requests for a public hearing on the application must be received on or before September 9, 1998.

ADDRESSES: The application, documents cited in this notice, and comments received are available for review, by appointment, at:

Washington Habitat Conservation Branch, 510 Desmond Drive SE, Suite 103, Lacey, WA 98503 (360–753-6054).

FOR FURTHER INFORMATION CONTACT: Mr. Steve Landino, Chief Washington Habitat Conservation Branch, Lacey, WA (360-753-6054).

SUPPLEMENTARY INFORMATION: WDNR requests a permit under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227).

To date, protective regulations for threatened lower Columbia River steelhead under section 4(d) of the ESA have not been promulgated by NMFS. This notice of receipt of an application requesting a *permit for the incidental* take of this species is issued as a precaution in the event that NMFS issues protective regulations that prohibit takes of lower Columbia River steelhead. The initiation of a 30-day public comment period on the application, including its proposed take of lower Columbia River steelhead, does not presuppose the contents of the eventual protective regulations. Those individuals requesting a hearing on the above application should set out the specific reasons why a hearing would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA.

Background

In April of 1996, NMFS and the U.S. Fish and Wildlife Service (together the Services) received a completed Habitat Conservation Plan (HCP) application package from WDNR. The distribution to interested parties was initiated and a **Federal Register** notice was published on April 5, 1996 (61 FR 15297) which announced the release of the draft HCP and Implementing Agreement (IA), the U.S. Fish and Wildlife Service incidental take permit application, and the draft Environmental Impact Statement (EIS) to the public. The comment period closed on May 20, 1996.

The Services addressed concerns raised about the HCP and discussed alternative approaches with WDNR. Upon completion of these discussions, and after addressing the public comments, the Services and WDNR prepared a final EIS, including sections highlighting the changes made to the HCP and IA. The Notice of Availability of a final EIS was published in the November 1, 1996 **Federal Register** (61 FR 56563) with the 30-day waiting period ending on December 2, 1996. The U.S. Fish and Wildlife Service's incidental take permit (PRT–812521) was issued on January 30, 1997 (62 FR 8980).

LCR steelhead were listed as threatened under the ESA on March 19, 1998 (63 FR 13347). WDNR requests a 50-year permit (NMFS permit #1168) from NMFS that would authorize incidental take of threatened LCR steelhead associated with timber management activities in western Washington consistent with WDNR's HCP. The purpose of this notice is to seek public comment on WDNR's request for an incidental take permit.

Implementation Agreement Provisions

The IA is a legal document describing the roles and responsibilities of NMFS and WDNR during the proposed permit period. WDNR's IA contains provisions

for those unlisted anadromous fish species that may occur within the Olympic Experimental State Forest and the five West Side Planning Units of the HCP. According to the IA on page B.12 of the HCP in Section 25.1 (b), should any of those species that were unlisted at the time of finalization of the HCP become listed under the ESA, WDNR may request an incidental take permit that would authorize take of the listed anadromous species from NMFS, or in the case where NMFS has already issued a permit, an addition of the new species to the existing incidental take permit. NMFS would then make a decision on issuance of the permit or permit amendment without requiring additional mitigation, unless, within a specified sixty-day period, NMFS demonstrates that extraordinary circumstances exist.

Prior to the issuance of an incidental take permit for take of LCR steelhead to WDNR for timber management activities in western Washington, NMFS will determine if extraordinary circumstances exist and will also reinitiate the section 7 process to determine whether issuance of the permit would appreciably reduce the likelihood of the survival and recovery of LCR steelhead or any other species.

LCR Steelhead Requirements and New Information

NMFS is currently reviewing information about LCR steelhead to determine whether extraordinary circumstances exist and/or whether issuance of an incidental take permit to WDNR would appreciably reduce the ability of LCR steelhead to survive and recover in the wild. Information collected as part of the LCR steelhead listing determination process is also being used to make the permit issuance decision. This information is available for review at the address listed above.

The LCR steelhead Evolutionarily Significant Unit (ESU) occupies tributaries to the Columbia River between the Cowlitz and Wind Rivers in Washington, inclusive, and the Willamette and Hood Rivers in Oregon, inclusive. Excluded are steelhead in the upper Willamette River Basin above Willamette Falls, and steelhead from the Little and Big White Salmon Rivers in Washington. Hatchery populations considered part of this ESU include late-spawning Cowlitz Trout Hatchery stock (winter-run). LCR steelhead occur within WDNR's Columbia Westside Planning Unit.

Steelhead exhibit perhaps the most complex suite of life history traits of any species of Pacific salmonid. They can be anadromous or freshwater resident. Resident forms are usually called rainbow trout. Those that are anadromous can spend up to seven years in freshwater prior to smoltification, and then spend up to three years in saltwater prior to first spawning.

While most species of salmonids die after spawning, steelhead trout may spawn more than once. Most spawning in Washington streams typically stretches from December through June. Adult steelhead spawn in gravel in both mainstem rivers and tributaries. Steelhead eggs may incubate in stream gravel for 1.5–4 months, depending on water temperature, before hatching. Following emergence from the gravel, juveniles rear in freshwater from one to four years (usually two years), then migrate to the ocean. In the marine environment they typically rear for 1–3 years prior to returning to their natal stream to spawn primarily as three-four year olds.

Historic adverse impacts to steelhead from forest management and related land-use activities included removal of large woody debris from streams and riparian areas, inputs of sediment from upslope logging and road construction, elevated stream temperatures, and transportation of logs within the channel network.

Minimization and Mitigation Measures

WDNR's Habitat Conservation Plan utilizes a combination of conservation measures that are expected to protect steelhead and other anadromous fish species. The riparian conservation strategy defines a riparian management zone consisting of an inner riparian buffer and an outer wind buffer where needed. The principal function of the riparian buffer is protection of salmonid habitat; the principal function of the wind buffer is the protection of the riparian buffer. All fishbearing streams (Washington State Type 1 through 3 waters) receive a conservatively managed buffer equal in width (measured horizontally from the 100-year floodplain) to a site-potential tree height (derived from 100-year site-index curves) or 100 feet, whichever is greater. This prescription should result in average riparian buffer widths between 150 and 160 feet. Non-fishbearing Type 4 streams receive a 100–foot buffer. No harvest will be allowed in the first 25 feet of the riparian buffer. An outer wind buffer will be applied on all fishbearing streams in areas that are prone to windthrow. For Type 1 and 2 waters, a 100 foot wind buffer is placed along the windward side, and Type 3 waters greater than 5 feet in width have a 50 foot wind buffer along the windward side. Additional information can be found in the HCP at pages IV. 56–59.

The management of these buffers is yet to be determined by scientific working groups which include NMFS participation and participation by outside scientists from the Tribes and Universities. Side-boards for these discussions are described in the HCP on pages IV. 59–61. In the interim, and in the case no agreement is reached by the scientific working groups, interim standards and default standards for percent volume removal during a one-time-per-rotation entry are described in the HCP on pages IV. 61–62. In general, these standards allow between 10 and 25 percent removal of existing volume with greater removal of hardwoods and of trees further from the stream; and less removal of conifers and trees closer to the stream. Only restoration activities would occur in the first 25 feet, while wind buffers could have 50 percent volume removal.

Inner gorges and mass-wasting areas are protected by unstable hillslope and mass wasting protection provisions of the HCP (IV. 62) and it is expected that 50 percent of the seasonal streams (Type 5) will be protected as a result of the mass-wasting protection provisions. The other 50 percent of Type 5 streams receive interim protections as necessary and will be addressed within the Type 5 research and adaptive-management component to be completed within the first 10 years of the HCP. Watershed Analysis can only increase (not decrease) the level of protection these streams receive. Road management is another critical component of WDNR's HCP (HCP IV. 62–68).

These minimization and mitigation measures described above represent the minimum level of riparian conservation that WDNR has committed to implement. Several aspects of the HCP, including riparian protection, are subject to adaptive management. To ensure that the mitigation and minimization strategies are effective, the HCP incorporates a variety of aquatic monitoring components that will provide feedback for adaptive management, and if needed, increases in the mitigation for riparian protection. A scientific working group is also addressing the exact nature of the monitoring component within the side-boards established in the HCP (V. 1–9).

Dated: August 3, 1998.

Patricia A. Montanio,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–21254 Filed 8–7–98; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Applications of the CME for Designation as a Contract Market in Futures and Options on Three Month Eurodollar FRAs

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of terms and conditions of proposed commodity futures and option contracts.

SUMMARY: The Chicago Mercantile Exchange (CME or Exchange) applied for designation as a contract market in futures and options on three month Eurodollar FRAs (forward rate agreements). The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before September 9, 1998.

ADDRESSES: Interested persons should submit their views and comment to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street, NW Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to the CME three month Eurodollar FRA futures and option contracts.

FOR FURTHER INFORMATION, CONTACT: Please contact Michael Penick of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW, Washington, DC 20581, telephone (202) 418–5279. Facsimile number: (202) 418–5527. Electronic mail: mpenick@cftc.gov

SUPPLEMENTARY INFORMATION: According to the CME, the proposed contracts differ from the existing three-month Eurodollar futures and option in that:

[The proposed] Eurodollar FRA futures contracts are not subject to daily pay and collects based on the daily settlement price. Hence, Eurodollar FRA futures contracts are not subject to Rule 814—Settlement to Settlement Price Daily. All pays and collects for a Eurodollar FRA futures contract occur on the final settlement date. A Forward Rate Agreement (FRA) is a contract specifying payments based on differences between an agreed upon interest rate and a future and an uncertain interest rate. Pays and collects for Forward Rate Agreements in the over-the-counter market also occur on the final settlement date of the contract. Thus, the proposed futures contract will be an easy transition for FRA traders.

Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street, NW, Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5100.

Other materials submitted by the CME in support of the applications for contract market designations may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulation thereunder (17 C.F.R. Part 145 (1997)), except to the extent they are entitled to confidential treatment as set forth in 17 C.F.R. 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 C.F.R. 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CME should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on August 3, 1998.

Steven Manaster,

Director.

[FR Doc. 98–21264 Filed 8–7–98; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Joint Advisory Committee on Nuclear Weapons Surety; Meeting

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Joint Advisory Committee on Nuclear Weapons Surety will conduct a closed session on 27 August, 1998, at Science Applications International Corporation, San Diego, CA.

The Joint Advisory Committee is charged with advising the Secretary of Defense, Department of Energy, and the Joint Nuclear Weapons Council on nuclear weapons systems surety matters. At this meeting the Joint Advisory Committee will receive classified briefings on the nuclear weapons stockpile and Department of Defense nuclear readiness.

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended, Title 5, U.S.C. App. II, (1988)), this meeting concerns matters, sensitive to the interests of national security, listed in 5 U.S.C. Section 552b(c)(1) and accordingly this meeting will be closed to the public.

Dated: August 4, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–21263 Filed 8–7–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Enter Into a Cooperative Research and Development Agreement Concerning BRL–CAD™

AGENCY: U.S. Army Research Laboratory.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Research Laboratory (ARL), Survivability/Lethality Analysis Directorate, is actively seeking a Cooperative Research and Development Agreement (CRADA) partner for the further development and commercialization of BRL–CAD™ technology. BRL–CAD™ is a geometric modeling and computer-aided analysis software environment developed by ARL and its predecessor organizations. A detailed description of this software environment and its capabilities can be found at http://web.arl.mil/software/brlcad/index.html.

The software, of which version 5.0 will be released imminently, is already a critical tool for the survivability/lethality analysis community, and enhancements could greatly broaden its utility for the academic and commercial sectors. The CRADA partner will assist in enhancing, documenting, distributing, maintaining, and providing user support for the software. A meeting will be held at Aberdeen Proving Ground, MD, 15 August 1998, to discuss the specifics of the proposed CRADA. The meeting will be held in Bldg. 330 from 1000–1200. Please register for this conference at http://www.federallabs.org/flc/ma/pl. If you do not have Internet access, you may register by contacting the U.S. Army

Research Laboratory, Technology Transfer Office at 410–278–5028. All registrants must execute a Non-disclosure Non-use Agreement with the U.S. Army Research Laboratory prior to being admitted to the meeting.

FOR FURTHER INFORMATION CONTACT: Michael D. Rausa, U.S. Army Research Laboratory, Office of Research and Technology Applications, ATTN: AMSRL–CS–TT/BLDG. 433, Aberdeen Proving Ground, Maryland 21005–5425, Telephone: (410) 278–5028.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–21251 Filed 8–7–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 17 & 18 August 1998.

Time of Meeting: 0830–1630 (both days).

Place: Alexandria, VA.

Agenda: The Army Science Board's (ASB) Issue Group panel on ''Schedule Realism'' will meet with the U.S. Army Operational Test and Evaluation Command for briefings and discussions on the Initial Operational Test and Evaluation results of Maneuver Control System (MCS), Combat System Support Control System (CSSCS), Ground Based Common Sensor—Light (GBCS–L), and Joint Surveillance Target Attack Radar System—Ground Station Module (JSTARS–GSM). These meetings will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact our office at (703) 604–7490.

Leonard Gliatta,

COL, GS, Army Science Board.

[FR Doc. 98–21272 Filed 8–7–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 9 September 1998.

Time of Meeting: 1000–1500.

Place: Presidential Towers—SARDA Conference Room, Crystal City, VA.

Agenda: The Army Science Board's (ASB) Issue Group panel on ''De-militarization of the Multiple Launch Rocket System (MLRS) Rockets'' will meet to discuss the implementation of demilitarization and disposal cost reduction actions during the design and production of missiles and munitions with Army PM's. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. For further information, please call our office at (703) 604–7490.

Leonard Gliatta,

COL, GS, Army Science Board.

[FR Doc. 98–21273 Filed 8–7–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 9, 1998.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: August 4, 1998.

Hazel Fiers

Acting Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: New.

Title: Federal Direct Stafford/Ford Loan and Federal Direct Unsubsidized Stafford/Ford Loan Master Promissory Note

Frequency: On occasion.

Affected Public: Individuals or households.

Reporting and Recordkeeping Hour Burden:

Responses: 2,031,360.

Burden Hours: 2,031,360.

Abstract: This form is the means by which a Federal Direct Stafford/Ford Loan and/or Federal Direct Unsubsidized Stafford/Ford Loan borrower promises to repay his or her loan.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Dwight D. Eisenhower Professional Development Program Triennial Report.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't; SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 52.

Burden Hours: 433.

Abstract: States are required to submit triennial reports to the Department on their progress toward achieving performance indicators for professional development.

[FR Doc. 98–21250 Filed 8–7–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 9, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: August 4, 1998.

Hazel Fiers,

Acting Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Annual Report of Title I Allocations to Local Educational Agencies (LEAs).

Frequency: Annually.

Affected Public: State, local or Tribal Gov't; SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 52.

Burden Hours: 416.

Abstract: An annual survey will be conducted to collect data on Title I allocations to local educational agencies in order for the Department of Education to establish a prior year base on which to determine ''hold-harmless'' guarantees for each LEA when computing Title I, Part A allocations in accordance with the authorizing statute.

Office of Postsecondary Education

Type of Review: Extension.

Title: Application for Grants Under the Minority Science Improvement Program.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 200.

Burden Hours: 8,000.

Abstract: This application is essential to conducting the competition for new awards in Fiscal Year 1999 for eligible institutions of higher education to participate in the Minority Science Improvement Program.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (OMB Control No. 1890–0001). Therefore, this 30-day public comment period notice will be the only public comment notice published for this information collection.

Type of Review: Reinstatement.

Title: Application for Designation as an Eligible Institution.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 1,200.

Burden Hours: 9,600.

Abstract: Institutions of Higher Education will submit this form in order to be designated as eligible to compete for grants under the Higher Education Act of 1965, as amended, Title III, Parts A and C.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (OMB Control No. 1890–0001). Therefore, this 30-day public comment period notice will be the only public comment notice published for this information collection.

[FR Doc. 98–21249 Filed 8–7–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–175–004]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

August 4, 1998.

Take notice that on July 31, 1998, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Second Revised Sheet No. 45D to be effective May 1, 1998.

ANR states that this filing is made in compliance with the Commission's Order dated July 21, 1998 in the captioned proceeding.

ANR 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.

David P. Boergers,

Secretary.

[FR Doc. 98–21313 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–688–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

August 4, 1998.

Take notice that on July 23, 1998, as supplemented on July 31, 1998, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030–0146, filed in Docket No. CP98–688–000, a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct and operate a new point of delivery for Columbia Gas of Pennsylvania, Inc. (CPA) in Franklin County, Pennsylvania, under its blanket certificate issued in Docket No. CP83–76–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia says that it will construct and operate this new point of delivery for firm transportation service under existing rate schedules and within certificated entitlements. CPA estimates that the volumes for the new point of delivery will be 225 Dth/day. CPA has requested that its existing SST Rate Schedule Agreement with Columbia be amended by reducing the MDDQs at the existing Admire point of delivery by 225 Dth/day and reassigning the same volume of gas to the proposed new TARCO point of delivery. Columbia asserts that the quantities of natural gas to be provided through the new point of delivery will be within Columbia's authorized level of service.

Columbia estimates the cost to construct this new point of delivery will be $16,400. CPA will reimburse Columbia 100% of the total actual cost of the proposed construction. Columbia states that it will comply with all of the environmental requirements of Section 157.206(d) of the Commission's Regulations prior to the construction of any facilities.

Any person on the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, 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 request is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 98–21328 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–20–015]

El Paso Natural Gas Company; Notice of Technical Conference

August 4, 1998.

The Commission's order issued in this proceeding on July 16, 1998, concerning El Paso Natural Gas Company's proposed weighting procedures for scheduling pooling transactions on its system, directed that a technical conference be held to address issues raised by the filing.

Take notice that the technical conference will be held on Wednesday, September 2, 1998, at 10:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

All interested parties and staff are permitted to attend.

David P. Boergers,

Secretary.

[FR Doc. 98–21335 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–287–022]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

August 4, 1998.

Take notice that on July 31, 1998, El Paso Natural Gas Company (El Paso) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, to become effective August 1, 1998:

Eighteenth Revised Sheet No. 30
Tenth Revised Sheet No. 31

El Paso states that the above tariff sheets are being filed to implement five negotiated rate contracts pursuant to the Commission's statement of Policy on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines issued January 31, 1996 at Docket Nos. RM95–6–000 and RM96–7–000.

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.

David P. Boergers,

Secretary.

[FR Doc. 98–21336 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–361–000]

Equitrans, L.P.; Notice of Proposed Changes in FERC Gas Tariff

August 4, 1998.

Take notice that on July 31, 1998, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following pro forma tariff sheet, with an effective date of September 1, 1998:

Fifth Revised Sheet No. 10

Equitrans requests that the Commission impose the minimum suspension period for the effectiveness and grant any other waivers necessary to permit a September 1 effective date.

Equitrans states that his filing implements changes in retainage factors applicable to storage, transportation, and gathering service which are intended to reimburse Equitrans in kind for fuel, loss and unaccounted for gas required to provide service to Equitrans' customers. Equitrans maintains that the retainage factors proposed in this filing have been agreed to by Equitrans' customers as part of a comprehensive settlement which has been negotiated in Equitrans' on-going Section 4(e) rate case in Docket No. RP97–346. The settlement documents in that proceeding are currently being finalized, and Equitrans anticipates that a Stipulation and Agreement supported or not opposed by all parties and the Commission Staff will be filed with the presiding Administrative Law Judge in the month of August. However, to give early implementation to a provision of the settlement, Equitrans states that it is proposing to adopt revised retainage factors in its tariff beginning on September 1.

The retainage percentages proposed as part of this filing are 3.25% for transmission, 5.00% for gathering and .65% for storage. Equitrans states that these retainage levels represent an integrated package in the Docket No. RP97–346 settlement, unaccounted for on the Equitrans system which customers are willing to bear. Equitrans submits that Commission approval of this retainage filing in its entirety will satisfy all parties and facilitate the ultimate approval of the overall settlement in Docket No. RP97–346.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–21320 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG98–14–000]

Kansas Pipeline Company; Notice of Filing

August 4, 1998.

Take notice that on July 31, 1998, Kansas Pipeline Company (KPC) submitted an Emergency motion requesting a temporary waiver of certain standards of conduct under Order Nos. 497 *et seq.*[1] and Order Nos. 566, *et seq.*[2] KPC states that the single employee of its marketing affiliate, MarGasCo Partnership (''MarGasCo''), resigned unexpectedly and, until a new employee is hired and trained, KPC has designated an operating employee of KPC to perform the day-to-day duties of MarGasCo. KPC requests a 90-day waiver of standards of conduct E, F and G, 18 CFR 161.3 (e), (f) and (g) (1998), so that the operating employee may temporarily perform marketing activities without violating the rules.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 285.211 or 385.214). All such motions to intervene or protest should be filed on or before August 10, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–21331 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

[1] Order No. 497, 53 FR 22139 (June 14, 1988), FERC Stats. & Regs. 1986–1990 ¶30,820 (1988); Order No. 497–A, *order on rehearing,* 54 FR 52781 (December 22, 1989), FERC Stats. & Regs. 1986–1990 ¶30868 (1989); Order No. 497–B, *order extending sunset date,* 55 FR 43291 (December 28, 1990), FERC Stat. & Regs. 1986–1990 ¶30,908 (1990); Order No. 497–C, *order extending sunset date,* 57 FR 9 (January 2, 1992), FERC Stats. & Regs. 1991–1996 ¶30934 (1991), *rehearing denied,* 57 FR 5815 (February 18, 1992), 58 FERC ¶61,139 (1992); *Tenneco Gas* v. *FERC* (affirmed in part and remanded in part), 969 F. 2d 1187 (D.C. Cir. 1992); Order No. 497–D, *order on remand and extending sunset date,* 57 FR 58978 (December 14, 1992), FERC Stats. & Regs. 1991–1996 ¶30,958 (December 4, 1992); Order No. 497–E, *order on rehearing and extending sunset date,* 59 FR 243 (January 4, 1994), FERC Stats. & Regs. 1991–1996 ¶30,987 (December 23, 1993); Order No. 497–F, *order denying rehearing and granting clarification,* 59 FR 15336 (April 1, 1994), 66 FERC ¶61,347 (March 24, 1994); and Order No. 497–G, *order extending sunset date,* 59 FR 32884 (June 27, 1994), FERC Stats. & Regs. 1991–1996 ¶30,996 (June 17, 1994).

[2] Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No. 566, 59 FR 32885 (June 27, 1994), FERC Stats. & Regs. 1991–1996 ¶30,997 (June 17, 1994); Order No. 566–A, *order on rehearing,* 59 FR 52896 (October 20, 1994), 69 FERC ¶61,044 (October 14, 1994); Order No. 566–B, *order on rehearing,* 59 FR 65707, (December 21, 1994), 69 FERC ¶61,334 (December 14, 1994).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–362–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

August 4, 1998.

Take notice that on July 31, 1998, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, certain tariff sheets to be effective September 1, 1998.

Natural states that the purpose of this filing is to implement a negotiated rate provision in its tariff consistent with the Federal Energy Regulatory Commission's (Commission) ''Statement of Policy and Request for Comments'' issued January 31, 1996 in Docket Nos. RM95–6 and RM96–7.

Natural requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets submitted to become effective September 1, 1998.

Natural states that the copies of the filing are being mailed to its customer

and interested state regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E. Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–21321 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–702–000]

Natural Gas Pipeline Company of America; Notice of Application to Abandon

August 4, 1998.

Take notice that on July 29, 1998, Natural Gas Pipeline Company of America (Natural), 747 East 22nd Street, Lombard, Illinois 60148 filed pursuant to Section 7(b) of the Natural Gas Act, for authority to abandon by sale to its affiliate MidCon Texas Pipeline Operator (MidCon) a lateral, and related facilities located in Duval and Jim Wells Counties, Texas.

Specifically, Natural proposes to abandon: (1) 19.79 miles of 10-inch pipeline lateral (Sejita Lateral), two meters, and two side taps. Natural intends to sell the facilities to MidCon for the higher of $10.00 or their net book value. The net book value of the facilities as of June 30, 1998 was $0.

Any person desiring to be heard or make any protest with reference to said application should on or before August 25, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protesters parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required, or if the Commission on its own review of the matter finds that permission and approval of the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Natural to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 98–21329 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–032]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

August 4, 1998.

Take notice that on July 31, 1998, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets to be effective August 1, 1998:

Sixteenth Revised Sheet No. 7
Fourth Revised Sheet No. 7E.02

NGT states that the purpose of this filing is to reflect the expiration of a negotiated rate contract and the consolidation of certain reserved tariff sheets.

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.

David P. Boergers,

Secretary.

[FR Doc. 98–21334 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–85–003]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

August 4, 1998.

Take notice that on July 31, 1998, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheet to be effective September 1, 1998:

Third Revised Sheet No. 307A

In compliance with the Commission's July 21, 1998 Order Granting In Part and Denying In Part Rehearing in Docket No. RP98–85–002, NGT submits the referenced tariff sheet to incorporate tariff language that will provide for waiver of electronic nomination requirements in the event of temporary emergencies such as system crashes, outages, or slow response time.

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.

David P. Boergers,

Secretary.

[FR Doc. 98–21337 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–697–000]

Northwest Pipeline Corporation; Notice of Application

August 4, 1998.

Take notice that on July 27, 1998, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed an application in Docket No. CP98–697–000 pursuant to Section 7(b) of the Natural Gas Act, for permission and approval to abandon its Hagood Meter Station and the associated 4-inch Hagood Lateral located in Rio Blanco County, Colorado, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Northwest proposes to abandon, by removal its Hagood Meter Station, and to abandon in place, the approximately 2,200 feet of associated 4-inch Hagood Lateral, at an estimated cost of $7,800. It is stated that the subject facilities were constructed to purchase natural gas for Northwest's system supply and to receive gas for transportation. Northwest states it now operates solely as a transporter of gas and has no received any gas at the Hagood Meter Station since 1988. Northwest indicates it has not existing transportation agreement obligations to receive gas at the Hagood Meter Station, and that retiring those inactive facilities will slightly reduce its rate base and associated operating and maintenance expenses to the ultimate benefit of all rate payers on the system.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 25, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northwest to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 98–21330 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–360–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

August 4, 1998.

Take notice that on July 31, 1998, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective September 1, 1998.

Panhandle states that this filing removes from its currently effective rates the Second Supplemental Take-or-Pay (TOP) Volumetric Surcharge of .04¢ per Dt. applicable to firm and interruptible service established in Docket No. RP97–433–000. The current volumetric surcharge in Section 18.4 of the General Terms and Conditions (GT&C) was approved by the Commission letter order issued August 29, 1997.

Panhandle further states that this filing removes from its currently effective rates the $0.39 per Dt. Canadian Resolution Reservation Surcharge applicable to Rate Schedules FT, EFT and LFT, the 2.44¢ per Dt. Canadian Resolution Volumetric Surcharge applicable to Rate Schedule SCT and the 1.75¢ per Dt. Canadian Resolution Volumetric Surcharge applicable to Rate Schedules IT and EIT. The current Canadian Resolution Surcharges in Section 18.6 of the GT&C were established in a October 2, 1992 Stipulation and Agreement (October 2, 1992 Settlement) in Docket No. RP91–229–000 et al., approved by a Commission order issued October 30, 1992, 60 FERC ¶ 61,160 (1992).

Panhandle also states that this filing removes from its currently effective rates the Second GSR Settlement Rate Component applicable to interruptible transportation service provided under Rate Schedule IT and EIT. The Second GSR Settlement Interruptible Rate Component was established in a April 18, 1996 Stipulation and Agreement in Docket No. RP95–411–000 (April 18, 1996 Settlement). The April 18, 1996 Settlement was approved by Commission order issued May 31, 1996 75 FERC ¶ 61,242 (1996). In accordance with Article I, Section 3(e) of the April 18, 1996 Settlement, the initial recovery period will terminate on August 31, 1998.

Accordingly, Panhandle proposes to remove 0.04¢ from the 8.48¢ GSR Rate Component applicable to Rate Schedules IT and EIT to reduce the GSR Rate Component to 8.44¢.

Panhandle states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–21319 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–365–000]

Sea Robin Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

August 4, 1998.

Take notice that on July 31, 1998, Sea Robin Pipeline Company (Sea Robin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the revised tariff sheets set forth on Appendix A to the filing, to become effective September 1, 1998.

With the implementation of its new computer system that is GISB compliant, Sea Robin proposes to streamline certain contract, billing, and information requirements to better serve its customers' needs. Sea Robin has reviewed these changes with its customers at a customer meeting during the past year while developing the SoNet Premier system and proposes to implement them as of September 1, 1998, based on the premise that SoNet Premier will be ready to transact business for that date. In addition, the tariff sheets contain provisions implementing the GISB standards for which Sea Robin sought waiver in Docket No. RP97–224. Sea Robin also seeks to clarify with respect to its waivers issued by the Commission on June 9, 1998, and July 10, 1998, in Docket Nos. RP97–224 and RP97–343, respectively, that while SoNet Premier is currently proposed to be operational on August 31, 1998, it will be operational to transact business for the gas day of September 1, 1998. Finally, by submission of such sheets Sea Robin proposes to implement version 1.2 of the GISB standards pursuant to the requirements of Order No. 584–G, effective September 1, 1998.

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.

David P. Boergers,

Secretary.

[FR Doc. 98–21324 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–364–000]

South Georgia Natural Gas Company; Notice of Proposed Changes to FERC Gas Tariff

August 4, 1998.

Take notice that on July 31, 1998, South Georgia Natural Gas Company (South Georgia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the revised Tariff sheets set forth on Appendix A hereto to become effective on September 1, 1998, the proposed implementation date of the SoNet Premier computer system.

With the implementation of the new computer system that is GISB compliant, South Georgia proposes to streamline certain contract, billing, and information requirements to better serve its customers' needs. South Georgia has reviewed these changes with its customers at customer meetings during the past year while developing the SoNet Premier system and proposes to implement them as of September 1, 1998, based on the premise that SoNet Premier will be ready to transact business on that date. In addition, the tariff sheets contain provisions implementing the GISB standards for which South Georgia sought a waiver in Docket No. RP97–182. South Georgia also seeks to clarify with respect to its waiver issued by the Commission on June 9, 1998, in Docket No. RP97–182, that while SoNet Premier is currently proposed to be operational on August 31, 1998, it will be operational to transact business for the gas day of September 1, 1998. Finally, by submission of such sheets South Georgia proposes to implement version 1.2 of the GISB standards pursuant to the requirements of Order No. 584–G, effective September 1, 1998.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 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 determing 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.

David P. Boergers,

Secretary.

[FR Doc. 98–21323 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER98–441–000, ER98–1019–000, ER98–2550–000, ER98–495–000, ER98–1614–000, ER97–2145–000, ER98–2668–000, ER98–2669–000, ER98–496–000, ER98–2160–000, ER98–441–001, ER98–495–001, and ER98–496–001]

Southern California Edison Company, California Independent System Operator Corp., El Segundo Power, LLC, Pacific Gas & Electric Company, Duke Energy Moss Landing LLC, Duke Energy Oakland LLC, San Diego Gas & Electric Company, Southern California Edison Company, Pacific Gas & Electric Company and San Diego Gas & Electric Company; Notice of Settlement Conference

August 4, 1998.

Take notice that a settlement conference will be convened in the subject proceedings on Tuesday, August 11, 1998, at 9:00 am., through Thursday, August 13, 1998. If necessary, the conference may be convened on August 12, 1998, before Chief Administrative Law Judge Wagner acting as a Settlement Judge. Also, if necessary, the conference may continue beyond August 13 , 1998. The conference will be held at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), my attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to section 385.214 of the Commission's regulations.

For additional information, please contact Paul B. Mohler at (202) 208–1240, or by e-mail at paul.mohler@ferc.fed.us.

Parties wishing to contact Chief Administrative Law Judge Wagner may

do so at: Honorable Curtis L. Wagner, Jr., Chief Administrative Law Judge, Federal Energy Regulatory Commission, 888 First St., N.E., Room 11F–1, Washington, DC 20426. Phone: 202–219–2500, FAX: 202–219–3289, E-mail: curtis.wagner@ferc.fed.us with a cc to: martha.altamar@ferc.fed.us.

David P. Boergers,

Secretary.

[FR Doc. 98–21312 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–186–001]

Southern Natural Gas Company; Notice of Refund Report

August 4, 1998.

Take notice that on July 30, 1998 Southern Natural Gas Company (Southern) tendered for filing a Refund Report. Southern states that it is making this refund in order to include interest on the amounts originally refunded on March 31, 1998.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before August 11, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–21314 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–363–000]

Southern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

August 4, 1998.

Take notice that on July 31, 1998, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the revised Tariff sheets set forth on Appendix A to the filing, to become effective on September 1, 1998, the proposed implementation date of its SoNet Premier computer system.

With the implementation of its new computer system that is GISB compliant, Southern proposes to streamline certain contract, billing, and information requirements to better serve its customers' needs. Southern has reviewed these changes with its customers at customer meetings during the past year while developing the SoNet Premier system and proposes to implement them as of September 1, 1998, based on the premise that SoNet Premier will be ready to transact business on that date. In addition, the tariff sheets contain provisions implementing the GISB standards for which Southern sought a waiver in Docket No. RP97–137.

Southern also seeks to clarify with respect to its waiver issued by the Commission on June 9, 1998, in Docket No. RP97–137, that while SoNet Premier is currently proposed to be operational on August 31, 1998, it will be operational to transact business for the gas day of September 1, 1998. Finally, by submission of such sheets Southern proposes to implement version 1.2 of the GISB standards pursuant to the requirements of Order No. 584–G, effective September 1, 1998.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 285.211 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.

David P. Boergers,

Secretary.

[FR Doc. 98–21322 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER98–3177–000 and EL98–63–000]

Southwestern Electric Power Company; Notice of Initiation of Proceeding and Refund Effective Date

August 4, 1998.

Take notice that on August 3, 1998, the Commission issued an order in the above-indicated docket initiating a proceeding in Docket Nos. ER98–3177–000 and EL98–63–000 under section 206 of the Federal Power Act.

The refund effective date in Dockets Nos. ER98–3177–000 and EL98–63–000 will be 60 days after publication of this notice in the **Federal Register**.

David P. Boergers,

Secretary.

[FR Doc. 98–21325 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–170–002]

Texas Gas Transmission Corporation; Notice of Compliance Filing With Commission's Order Accepting Report Subject to Condition

August 4, 1998.

Take notice that on July 30, 1998, Texas Gas Transmission Corporation (Texas Gas) tendered a filing in compliance with the Commission's Order Accepting Report Subject to Condition, issued June 1, 1998, rendering its Final GSR Reconciliation Report. As more fully described in the filing, Texas Gas is resubmitting, by reference, the report filed on March 30, 1998, in the instant proceeding, because remaining issues under its GSR contracts have not been resolved and because no new CSR costs have been incurred.

Texas Gas states that copies of the filing have been served upon Texas Gas's affected jurisdictional customers, those appearing on the service list in the captioned docket, and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before August 11, 1998.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–21338 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–5–30–000]

Trunkline Gas Company: Notice of Proposed Changes in FERC Gas Tariff

August 4, 1998.

Take notice that on July 31, 1998, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective September 1, 1998:

Twenty-Sixth Revised Sheet No. 6
Twenty-Fifth Revised Sheet No. 7
Twenty-Sixth Revised Sheet No. 8
Twenty-Sixth Revised Sheet No. 9
Eighth Revised Sheet No. 9A
Twenty-Fifth Revised Sheet No. 10
Eleventh Revised Sheet No. 10A

Trunkline states that this filing is being made in accordance with Section 23 (Miscellaneous Revenue Flowthrough Surcharge Adjustment) of the General Terms and Conditions of Trunkline's FERC Gas Tariff, First Revised Volume No 1.

Trunkline further states that copies of this filing are being served on all affected shippers and applicable state regulatory agencies.

Any person desiring to be heard or to protect 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 part 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.

David P. Boergers,

Secretary.

[FR Doc. 98–21326 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–281–001]

Venice Gathering System, L.L.C.; Notice of Tariff Filing

August 4, 1998.

Take notice that on July 30, 1998, Venice Gathering System, L.L.C. (VGS) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet, with an effective date of August 1, 1998:

Substitute First Revised Sheet No. 196

VGS states that it is submitting this substitute tariff sheet to comply with a Commission Letter Order issued July 23 in the above-referenced proceeding.

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.

David P. Boergers,

Secretary.

[FR Doc. 98–21316 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–280–001]

Warren Transportation, Inc.; Notice of Tariff Filing

August 4, 1998.

Take notice that on July 30, 1998, Warren Transportation, Inc. (WTI) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, with an effective date of August 1, 1998:

First Revised Sheet No. 165

WTI states that it is submitting this revised tariff sheet to comply with a Commission Letter Order issued July 23 in the above-referenced proceeding.

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.

David P. Boergers,

Secretary.

[FR Doc. 98–21315 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–359–000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

August 4, 1998.

Take notice that on July 31, 1998, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Traiff, Second Revised Volume No. 1, the following revised tariff sheet to become effective September 1, 1998:

First Revised Sheet No. 232A.1

Williston Basin states that the revised tariff sheet reflects a change to the limit on the length of term utilized in evaluating bids for uncommitted firm capacity from five years to twenty years.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–21318 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2302–044]

Central Maine Power; Notice of Availability of Environmental Assessment

August 4, 1998.

An Environmental Assessment (EA) is available for public review. The EA was prepared for an application filed by Central Maine Power, Licensee for the Lewiston Falls Project. In its application filed on September 30, 1996, the licensee requests that the Commission amend the project license for the Lewiston Falls Project by removing the inoperable Bates No. 2 generating station from the project boundary.

The EA finds that the proposed action would not be a major Federal action significantly affecting the quality of the human environment.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA can be obtained by calling the Commission's public reference room at (202) 208–1371.

David P. Boergers,

Secretary.

[FR Doc. 98–21332 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6641–027]

City of Marion and Smithland Hydroelectric Partners; Notice of Availability of Draft Environmental Assessment

August 4, 1998.

A draft environmental assessment (DEA) is available for public review. The DEA is for an application to amend the Smithland Hydroelectric Project. The licensee proposes to replace the licensed three large turbine/generator units with 216 small turbines and 108 generator units. The Smithland Project is an existing U.S. Army Corps of Engineers Dam, located on the Ohio River in Livingston County, Kentucky.

The DEIS was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the DEA can be viewed in the Public Reference Branch, Room 2A, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

Please submit any comments within 60 days from the date of this notice. Any comments, conclusions, or recommendations that draw upon studies, reports, or other working papers of substance should be supported by appropriate documentation.

Comments should be addressed to David P. Boergers, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Please affix Project No. 6641–027 to all comments. For further information, please contact the project manager, Ms. Rebecca Martin, at (202) 219–2650.

David P. Boergers,

Secretary.

[FR Doc. 98–21327 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11128–004]

Odell Hydroelectric Company; Notice of Availability of Draft Environmental Assessment

August 4, 1998.

A draft environmental assessment (DEA) is available for public review. The DEA is for a proposed amendment to remove Red Dam as a project facility from the Brooklyn Project license. The DEA finds that approval of the proposed amendment would not constitute a major federal action significantly affecting the quality of the human environment. The Brooklyn Project is located on the Upper Ammonoosuc River, in Coos County, New Hampshire.

The DEA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the DEA can be obtained by calling the Commission's Public Reference Room at (202) 208–1371.

Please submit any comments on the DEA within 40 days from the date of this notice. Any comments, conclusions, or recommendations that draw upon studies, reports, or other working papers of substance should be supported by appropriate documentation. Comments should be addressed to: The Secretary, Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C., 20426. Please affix Project No. 11128–004 to all comments.

David P. Boergers,

Secretary.

[FR Doc. 98–21333 Filed 8–7–98; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

FEDERAL REGISTER NUMBER: 98–19893.

PREVIOUSLY ANNOUNCED DATE AND TIME: Tuesday, July 28, 1998, 10:00 a.m., Meeting Closed to the Public.

This meeting has been cancelled.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, July 30, 1998, 10:00 a.m., Meeting Open to the Public.

This meeting has been cancelled.

DATE AND TIME: Thursday, August 13, 1998 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advisory Opinion 1998–11: John A. Ramirez on behalf of Patriot Holdings.

Advisory Opinion 1998–14: Eugene F. Douglass, and Eugene F. Douglass for U.S. Senate.

Advisory Opinion 1998–15: Fitzgerald for Senate, Inc., by Richard A. Roggeveen, Treasurer.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone (202) 694–1220.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 98–21458 Filed 8–6–98; 12:03 pm]

BILLING CODE 6715–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6141–1]

Pesticides; Application for New or Amended Pesticide Registration; Submission of EPA ICR No. 0277.11 to OMB for Review and Approval; Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of submission to OMB.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this document announces that the Information Collection Request

(ICR) entitled: Application For New or Amended Pesticide Registration, [EPA ICR No. 0277.11, OMB No. 2070–0060] has been forwarded to the Office of Management and Budget (OMB) for review and approval pursuant to the OMB procedures in 5 CFR 1320.12. The ICR, which is abstracted below, describes the nature of the information collection and its estimated cost and burden. The Agency is requesting that OMB renew for 3 years the existing approval for this ICR, which is currently scheduled to expire on September 30, 1998. A **Federal Register** document announcing the Agency's intent to seek OMB approval for this ICR and a 60-day public comment opportunity, requesting comments on the request and the contents of the ICR, was issued on April 17,1998 (63 FR 19250). EPA did not receive any comments on this ICR during the comment period. Additional comments may be submitted on or before [Insert date 30 days after publication in the **Federal Register**].

FOR FURTHER INFORMATION CONTACT: Sandy Farmer by phone at 202–260–2740, or via e-mail at ''farmer.sandy@epa.gov,'' or using the address indicated below. Please refer to EPA ICR No. 0277.11 and OMB Control No. 2070–0060.

ADDRESSES: Send comments, referencing EPA ICR No. 0277.11 and OMB Control No. 2070–0060, to the following addresses:

Ms Sandy Farmer, U.S. Environmental Protection Agency, Regulatory Information Division (Mail Code: 2137), 401 M Street, S.W., Washington, DC 20460;

and to:

Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, N.W., Washington, DC 20503.

SUPPLEMENTARY INFORMATION:

Review Requested: This is a request to renew a currently approved information collection pursuant to 5 CFR 1320.12.

ICR Numbers: EPA ICR No. 0277.11; OMB Control No. 2070–0060.

Current Expiration Date: Current OMB approval expires on September 30, 1998.

Title: Application For New or Amended Pesticide Registration.

Abstract: Under section 3 of the Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Environmental Protection Agency (EPA, the Agency) is responsible for registering pesticide products on the basis of scientific data adequate to show that, when used according to label directions, they will not pose unreasonable risk to human health, or the environment, including endangered species. Regulations that govern the implementation of this mandate are found in 40 *Code of Federal Regulations* (CFR) parts 152 and 158.

An individual or entity wanting to obtain a registration for a pesticide product must submit an application package consisting of information relating to the identity and composition of the product, and supporting data (or compensation for other's data) for the product as outlined in 40 CFR part 158. The EPA bases registration decisions for pesticides on its evaluation of a battery of test data provided primarily by the applicants for registration. Required studies include testing to show whether a pesticide has the potential to cause unreasonable adverse human health or environmental effects. The Agency currently collects data on physical chemistry, acute and chronic toxicology, environmental fate, ecological effects, worker exposure, residue chemistry, environmental chemistry, and product performance. If the data show that the benefits of the pesticide product outweigh the risks, then a registration is approved.

Burden Statement: The information covered by this request is collected when an individual or entity applies for registration of a pesticide product. The EPA makes small businesses aware of the ''Formulators's Exemption Statement'' (EPA Form 8570–27) that allows an applicant to reduce their data submission burden when the pesticide product is comprised of an EPA-registered pesticide product by exempting the applicant from furnishing much of the data.

The annual registration applicant respondent burden for collection of information associated with this activity is estimated to average in a range from 8 hours to 188 hours per application depending upon the type of application made. Estimates for the annual applicant respondent burden for collection of information associated with the four categories of pesticide product applicants average: 188 hours per application for ''Type A'' antimicrobial products; 188 hours per application for new active ingredient, biochemical, new food use and new use products; eight hours per application for ''Type B'' antimicrobial products; and eight hours per application for amendments and notifications, etc. This estimate includes the time reading the regulations, planning the necessary data collection activities, conducting tests, analyzing data, generating reports and completing other required paperwork, and storing, filing, and maintaining the data.

Respondents/Affected Entities: Pesticide registrants. SIC codes 286 (Industrial Organic Chemicals) and 287 (Agricultural Chemicals).

Estimated Number of Respondents: 2,100 pesticide registrants.

Frequency of Response: One time, on occasion.

Estimated Total Annual Burden: 187,640 hours.

Estimated Total Annualized Costs: $12 million.

Estimated Total Annual Capital Costs: There are no capital costs.

Changes in Burden Estimates: This information collection request has changed since the last OMB approval. After extensive consultation with stakeholders, the Office of Pesticide Programs has streamlined several forms and created two new ones. The revised and new forms take less time to complete and reduce the volume of paper pesticide registrants send to the Agency. Burden time and cost will decrease for the industry and the Agency. The first streamlining measure created two forms from three existing ones. The revised data compensation form (EPA Form 8570–34) replaced two older forms. This new form allows pesticide registrants to indicate the data requirements they have completed and to reference existing data produced by another company. The second revised form, the data matrix (EPA Form 8570–35), replaced an older form by clarifying the instructions and providing more protection for data submitters. For consistency, both revised forms are used for registration and reregistration.

In response to the President's Reinventing Government Initiative, EPA developed through a public notice and comment process a self-certification initiative. The outcome of this effort was the creation of two new forms, (EPA Forms 8570–356 and 8570–37), for the voluntary self-certification of product chemistry data for manufacturing-use and end-use products. The forms reduce industry's paperwork burden, expedite the review process and reduce the amount of time the Agency needs to review the product chemistry for registration or reregistration of these products.

Last year, EPA submitted an amendment to this ICR and obtained OMB approval for these revised forms and adjusted the OMB approved burden hours accordingly. These changes have now been fully integrated into this ICR. Other changes in this ICR relate to the removal of certain activities from coverage by this ICR. This ICR no longer includes burden hour or cost estimates

for activities conducted for the EPA Training Verification Program or the Pesticide Worker Protection Standards because these activities are now covered under a separate ICR. In addition, information previously collected as a one time information collection to support amended labeling requirements for termiticide products, Pesticide Regulation Notice 96–7, is complete and no longer estimated in this information request.

In addition to the removal of these items, the Agency has also added to its basic registration information collection. The additional burden hours represent an estimated increase in the activities related to the implementation of the 1996 amendments to FIFRA and include the implementation of the Reduced-Risk Initiative (PR Notice 97–3, attachment C).

These changes account for a total burden hour decrease from the total burden of the last approved ICR, which was 218,938 hours, to 187,640 hours per year, for a total net reduction of 31,298 hours from 3 years ago. However, since EPA has already adjusted the total burden hours in OMB's inventory to reflect the majority of the decreases, the total burden hours in OMB's inventory, which is currently 190,505 hours, will decrease to 187,640, for a total net reduction of just 2,865 hours.

The total respondent costs have increased from approximately $6.0 million to $12 million per year, for a total net increase of $6 million. The reason for this increase in costs is due mainly to the update in the loaded labor hourly rates used to calculate the costs.

According to the procedures prescribed in 5 CFR 1320.12, EPA has submitted this ICR to OMB for review and approval. Any comments related to the renewal of this ICR should be submitted within 30 days of this document, as described above.

Dated: July 30, 1998.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 98–21356 Filed 8–7–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6140–9]

Request for Applications for Essential Use Exemptions to the Production and Import Phaseout of Ozone Depleting Substances Under the Montreal Protocol

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Through this notice, the Environmental Protection Agency (EPA) is requesting applications for consideration at the Eleventh Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer (the Protocol) to be held in September 1999, for exemptions to the production and import phaseout in 2000 and subsequent years for ozone-depleting substances (including halons 1211 and 1301, CFC–11, CFC–12, CFC–113, CFC–114, CFC–115, CFC–13, CFC–111, CFC–112, CFC–211, CFC–212, CFC–213, CFC–214, CFC–215, CFC–216, CFC–217, carbon tetrachloride, and methyl chloroform).

DATES: Applications for essential use exemptions must be submitted to EPA no later than September 24, 1998 in order for the United States (U.S.) government to complete its review and to submit nominations to the United Nations Environment Programme (UNEP) and the Protocol Parties in a timely manner.

ADDRESSES: Send three copies of application materials to: Chris O'Donnell, Stratospheric Protection Division (6205J), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Send one copy of application materials to: Air Docket A–93–39, 401 M Street, S.W. (6102), Room M1500, Washington, D.C. 20460.

CONFIDENTIALITY: Applications should not contain confidential or proprietary information. Such information should be submitted under separate cover and should be identified by placing on (or attaching to) the information, at the time it is submitted to EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as ''trade secret,'' ''proprietary,'' or ''company confidential.'' Information covered by a claim of business confidentiality will be disclosed by EPA only to the extent, and by means of the procedures, set forth at 40 CFR Part 2, Subpart B (41 FR 36902). If no claim of confidentiality accompanies the information when it is received by EPA, the information may be made available to the public by EPA without further notice to the company (40 CFR 2.203).

FOR FURTHER INFORMATION CONTACT: Chris O'Donnell at the above address or at (202) 564–9079 telephone, (202) 565–2095 fax, or odonnell.chris@epa.gov. General information may be obtained from the Stratospheric Ozone Hotline at 1–800–296–1996.

SUPPLEMENTARY INFORMATION:

I. Background—The Essential Use Nomination Process

As described in previous **Federal Register** (FR) notices (58 *FR* 29410, May 20, 1993; 59 *FR* 52544, October 18, 1994; 60 *FR* 54349, October 23, 1995; 61 *FR* 51110, September 30, 1996; and 62 *FR* 51655, October 2, 1997), the Parties to the Protocol agreed during the Fourth Meeting in Copenhagen on November 23–25, 1992, to accelerate the phaseout schedules for Class I ozone-depleting substances. Specifically, the Parties agreed to phase out the production of halons by January 1, 1994, and the production of other Class I substances, except methyl bromide, by January 1, 1996. The Parties also reached decisions and adopted resolutions on a variety of other matters, including the criteria to be used for allowing ''essential use'' exemptions from the phaseout of production and importation of controlled substances. Language regarding essential uses was added to the Protocol provisions in Article 2 governing the control measures. Decision IV/25 of the Fourth Meeting of the Parties details the specific criteria and review process for granting essential use exemptions.

At the Eighth Meeting of the Parties in 1996, the Parties modified the timetable for nomination of essential uses. Pursuant to Decision VIII/9, Parties may nominate a controlled substance for an exemption from the production phaseout by January 31 of each year. The United Nations Environment Programme (UNEP) committees then review the nominations at their spring meetings and forward their recommendations for decision at the Meeting of the Parties later that year. The Parties may choose to grant the exemption for one or more of the nominated years, but each approved or pending application may be reconsidered and modified by the Parties at their annual meetings. Since the Parties in 1999 will be considering

nominations for the year 2000 and beyond, today's notice solicits requests for those years. Further detail on the essential use process is provided later in this section.

Decision IV/25 states that ''* * * a use of a controlled substance should qualify as ''essential'' only if: (i) it is necessary for the health, safety or is critical for the functioning of society (encompassing cultural and intellectual aspects); and (ii) there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health''. In addition, the Parties agreed ''that production and consumption, if any, of a controlled substance, for essential uses should be permitted only if: (i) all economically feasible steps have been taken to minimize the essential use and any associated emission of the controlled substance; and (ii) the controlled substance is not available in sufficient quantity and quality from the existing stocks of banked or recycled controlled substances. * * *''

Section 614 (b) of the Clean Air Act Amendments of 1990 (the Act) provides: ''In the case of conflict between any provision of this title [Title VI of the Act] and any provision of the Protocol, the more stringent provision shall govern.'' Thus, to the extent that an accelerated phaseout schedule has been adopted under the Protocol, EPA can legally provide exemptions for uses authorized by the Protocol but not otherwise specified in the Act as long as any additional production does not exceed the production reduction schedule contained in section 604(a).

The first step in the process to qualify a use as essential under the Protocol is for the user to ascertain whether the use of the controlled substance meets the Decision IV/25 criteria. The user should then notify EPA of the candidate use and provide information for U.S. government agencies and the Protocol Parties to evaluate that use according to the criteria under Decision IV/25. The UNEP Technology and Economic Assessment Panel (TEAP) has issued a handbook entitled ''Handbook on Essential Use Nominations,'' (the handbook) available from EPA, to guide applicants. Applicants should follow the guidelines in the handbook when preparing their exemption requests. Applicants should note that the current TEAP handbook was revised in 1997 to reflect Decision VIII/10 of the Parties. Therefore applicants should use the handbook dated August 1997 when preparing their exemption requests.

Upon receipt of the exemption request, EPA reviews the application and works with other interested federal agencies to determine whether it meets the essential use criteria and as a result, warrants being nominated for an exemption. Applicants should be aware that recent essential use exemptions granted to the U.S. for 1999 were limited to chlorofluorocarbons (CFCs) for metered dose inhalers (MDIs) to treat asthma and chronic obstructive pulmonary disease.

In the case of multiple exemption requests for a single use, EPA aggregates exemption requests received from individual entities into a single U.S. request. An important part of the EPA review is to determine that the aggregate request for a particular out-year adequately reflects the market penetration potential and expected availability of CFC substitutes by that point in time. If the sum of individual requests does not incorporate such assumptions, the U.S. government may adjust the aggregate request to better reflect true market needs.

Nominations submitted to the Ozone Secretariat by the U.S. and other Parties are then forwarded to the UNEP TEAP and its Technical Options Committees (TOCs), which review the submissions and make recommendations to the Parties for exemptions. Those recommendations are then considered by the Parties at their annual meeting for final decision. If the Parties declare a specified use of a controlled substance as essential and issue the necessary exemptions from the production phaseout, EPA may propose regulatory changes to reflect the decisions by the Parties consistent with the Act.

The timing of the reviews is such that in any given year the Parties review nominations for exemption from the production phaseout intended for the following year and any subsequent years. This means that, if nominated, applications submitted in response to today's notice for CFC production in 2000 and beyond will be considered by the Parties in 1999 for final action at the Meeting of the Parties in September of that year.

II. Information Required for Essential Use Applications for Production or Importation of Class I Substances in 2000 and Subsequent Years

Through this notice, EPA requests applications for essential use exemptions for all Class I substances for 2000 and subsequent years. All requests for exemptions submitted to EPA must present the information relevant to the application as prescribed in the TEAP Handbook mentioned in the previous section. As noted earlier, the TEAP handbook was revised to incorporate Decision VIII/10 adopted by the Parties at their Eighth Meeting, in November 1996. Decision VIII/10 will require applicants to expand on information provided in previous nominations as well as provide new information. Since the U.S. government does not forward incomplete or inadequate nominations to the Ozone Secretariat, it is important for applicants to provide all information requested in the Handbook, including the information specified in the supplemental research and development form (page 43) and the accounting framework matrix (page 41). Applicants should also note that reformulation information is required from all drug sponsors, irrespective of whether they manufacture their own product or contract with a filler to produce their product.

The accounting framework matrix in the Handbook is titled, ''IV. Reporting Accounting Framework for Essential Uses Other Than Laboratory and Analytical Applications.'' The data requested in column H, On Hand Start of Year, is the total quantity of each controlled substance that an applicant has on hand as of January 1st of the year in question, whether the material is held for the applicant under contract or is on-site at the facility, and whether the material was produced prior to the phaseout or obtained after the phaseout. The data requested in column J, Used for Essential Use, is the gross total quantity of the controlled substance that was used in the essential-use process, including amounts emitted, used in cleaning equipment, recycled or destroyed. Parties have been asked to request this information from companies, and these forms will assist the EPA in preparing a complete and comprehensive nomination. In brief, the TEAP Handbook states that applicants must present information on:

- Role of use in society
- Alternatives to use, including education programs on alternatives
- Steps to minimize use, including development of CFC-free alternatives
- Steps to minimize emissions
- Amount of substance available through recycling and stockpiling
- Quantity of controlled substances requested by year.

EPA anticipates that the 1999 review by the Parties of MDI essential use requests will focus extensively on research efforts underway to develop alternatives to CFC MDIs, on education programs to inform patients and providers of the phaseout and the transition to alternatives, and on steps taken to minimize CFC use and emissions including efforts to recapture or reprocess the controlled substance.

Accordingly, applicants are strongly advised to present detailed information on these points, including the scope and cost of such efforts and the medical and patient organizations involved in the work. Applicants can strengthen their exemption requests by submitting a complete set of education materials and including copies of printed, electronic or audio-visual tools. Applicants are given notice that exemption requests without adequate information on research and education will not be considered complete.

Applicants should submit their exemption requests to EPA as noted in the **ADDRESSES** section at the beginning of today's notice.

Dated: August 3, 1998.

Robert Perciasepe,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 98–21346 Filed 8–7–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6140–1]

Availability of FY 97 Grant Performance Reports for Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, and South Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of grantee performance evaluation reports.

SUMMARY: EPA's grant regulations (40 CFR 35.150) require the Agency to evaluate the performance of agencies which receive grants. EPA's regulations for regional consistency (40 CFR 56.7) require that the Agency notify the public of the availability of the reports of such evaluations. EPA recently performed end-of-year evaluations of seven state air pollution control programs (Alabama Department of Environmental Management, Florida Department of Environmental Protection, Georgia Department of Natural Resources, Kentucky Department for Environmental Protection, Mississippi Bureau of Pollution Control, North Carolina Department of Environment and Natural Resources, South Carolina Department of Health and Environmental Control), and 16 local programs (Knox County Department of Air Pollution Control, TN; Chattanooga-Hamilton County Air Pollution Control Bureau, TN; Memphis-Shelby County Health Department, TN; Nashville-Davidson County Metropolitan Health Department, TN; Jefferson County Air Pollution Control District, KY; Western North Carolina Regional Air Pollution Control Agency, NC; Mecklenburg County Department of Environmental Protection, NC; Forsyth County Environmental Affairs Department, NC; Palm Beach County Public Health Unit, FL; Hillsborough County Environmental Protection Commission, FL; Dade County Environmental Resources Management, FL; Jacksonville Air Quality Division, FL; Broward County Environmental Quality Control Board, FL; Pinellas County Department of Environmental Management, FL; City of Huntsville Department of Natural Resources, AL; Jefferson County Department of Health, AL). The 23 evaluations were conducted to assess the agencies' performance under the grants awarded by EPA under authority of section 105 of the Clean Air Act. EPA Region 4 has prepared reports for each agency identified above and these reports are now available for public inspection. The State of Tennessee's evaluation will be made available for public review at a later date.

ADDRESSES: The reports may be examined at the EPA's Region 4 office, 61 Forsyth Street, SW, Atlanta, Georgia 30303, in the Air, Pesticides, and Toxics Management Division.

FOR FURTHER INFORMATION CONTACT: Linda Thomas, (404) 562–9064, at the above Region 4 address, for information concerning the state agencies in Alabama, Florida, Mississippi, Georgia, and the local agencies in those states. Vera Bowers, (404) 562–9053, at the above Region 4 address, for information concerning the state agencies in Kentucky, North Carolina, South Carolina, Tennessee, and the local agencies in those states.

Dated: July 30, 1998.

Winston A. Smith,

Acting Regional Administrator, Region 4.

[FR Doc. 98–21342 Filed 8–7–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6141–2]

Announcement of Stakeholder Forums on Perchlorate in Water

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of stakeholder forums.

SUMMARY: The Interagency Perchlorate Steering Committee (IPSC) will be holding two one-day stakeholder forums on August 25, 1998 in Salt Lake City, Utah, and on August 27, 1998 in Phoenix, Arizona. The IPSC, a working partnership of government agencies chartered to facilitate identification of the issues and coordinate the exchange of scientific information related to potential perchlorate contamination in the environment, includes representatives from the U.S. Environmental Protection Agency (EPA), Department of Defense (DoD), Agency for Toxic Substances and Disease Registry (ATSDR), National Institute for Environmental Health Sciences (NIEHS), Native American Tribes, Utah Department of Environmental Quality, Utah Department of Health Laboratories, Nevada Division of Environmental Protection, Texas Natural Resources Conservation Commission and California Department of Health Services. The purpose of these stakeholder forums is to disseminate information on the key scientific issues, to identify additional issues, and to hear stakeholder concerns. This meeting will be similar in content to the perchlorate stakeholders meeting the IPSC held in Henderson, Nevada on May 19–21, 1998. At the upcoming meeting, the IPSC is again seeking input from State and Tribal drinking water programs, the regulated community (public water systems), public health organizations, academia, environmental and public interest groups, engineering firms, and the public on a number of issues related to perchlorate contamination in the environment. The IPSC encourages the full participation of stakeholders at the forum.

DATES: The Salt Lake City, Utah forum will be held on Tuesday, August 25, 1998 from 8:00 a.m. to 5:30 p.m. MST. An additional public evening session will be held from 7:00 p.m. to 9:00 p.m. MST. The Phoenix, Arizona forum will be held on Thursday, August 27, 1998 from 8:30 a.m. to 5:30 p.m. MST.

ADDRESSES: The August 25, 1998 forum will be held at the Department of Enviromental Quality, 168 North, 1950 West, Building 2, Room 101. The August 27, 1998 forum will be held at Arizona State University, West Campus, UCB Building, La Sala Rm. B & C. To register, please contact the EPA Safe Drinking Water Hotline via e-mail at hotline-sdwa@epamail.epa.gov or by calling 1–800–426–4791 or 703–285–1093 between 9:00 a.m. and 5:30 p.m. EDT. Those registered by August 18, 1998, will receive a draft agenda, logistics information, and discussion papers prior to the forum. When registering, please indicate it is for the

''Perchlorate Forum'', specify which meeting you will attend and provide your name, organization, title, mailing address, telephone number, facsimile number, and e-mail address.

FOR FURTHER INFORMATION CONTACT: For additional information on forum logistics, please contact the EPA Safe Drinking Water Hotline at 1–800–426–4791.

SUPPLEMENTARY INFORMATION:

A. Background

Perchlorate is used as an oxidizer component in solid propellant (fuel) for rockets, missiles, and fireworks. It is very soluble in water, mobile in aqueous systems and can persist for many decades under typical ground water and surface water conditions. Recent (April 1997) advances in the analytical detection capability for low concentrations of perchlorate, from 400 to 4 parts per billion (ppb), have led to the discovery of the chemical at various manufacturing sites and some drinking water supply wells of communities in California, Nevada, and Utah. Perchlorate has been found in ground water at six Superfund hazardous waste sites in California, at six other California non-Superfund waste sites, two sites in the Henderson, Nevada area, one site in Utah, and in the discharge to a creek in Texas. Water suppliers in both northern and southern California, and the Las Vegas Water Authority have found perchlorate in their water supplies generally at levels less than 18 ppb but ranging as high as 280 ppb, with several in the 100–200 ppb range. Perchlorate has also been detected at low levels (5 to 9 ppb) in the Colorado River.

Concerns have been raised about perchlorate because of the lack of adequate scientific information about the contaminant, including: where the contamination occurs, what reliable methods exist to detect it in various media, what the potential health effects are, and what treatment technologies exist. Historically, potassium perchlorate was used therapeutically to treat hyperthyroidism in Graves' Disease patients because it inhibits iodine uptake and thereby reduces thyroid hormone production. Thyroid hormone deficiencies can affect normal metabolism, growth, and development.

Currently, perchlorate does not have a National Primary Drinking Water Regulation (NPDWR) or Health Advisory (HA) established. Under the Safe Drinking Water Act (SDWA), as amended in 1996, EPA is required to develop a list of contaminants, known as the Contaminant Candidate List (CCL), that are known or anticipated to occur in public water systems and may require regulation under SDWA (section 1412(b)(1)). As a result of public comment on a draft of the CCL published on October 6, 1998 (62 FR 52193), perchlorate was added to the final CCL that was published on March 2, 1998 (63 FR 10274). At this time, additional research on health effects, effective treatment technologies, analytical methods, and occurrence is necessary before a determination can be made of whether to regulate perchlorate with an NPDWR or to develop guidance.

B. Request for Public Involvement

The IPSC is encouraging development of a sound research and management strategy by the involved government agencies through facilitating identification of the issues concerning perchlorate contamination and by coordinating information exchange to ensure the incorporation of the best available science and stakeholder input on technical and policy issues.

The stakeholder forum will cover a broad range of topics including: (1) key exposure characterization issues (occurrence and sites of known contamination, transport and transformation, analytical methods); (2) perchlorate health risk assessment (health effects and toxicology studies, the peer review process); (3) key technical assessments (treatment technologies, waste stream handling); (4) ecological impacts; (5) regulatory and policy issues and; (6) future stakeholder involvement. Background materials on perchlorate issues will be sent in advance of the forum to those who register with the EPA Safe Drinking Water Hotline by August 18, 1998.

The IPSC has announced this forum to hear the views of stakeholders on actions that the agencies represented by the IPSC are taking or are planning to take to address perchlorate contamination. The public is invited to participate fully during the August 25, 1998 and August 27, 1998 forums and during future opportunities for stakeholder participation.

Dated: August 5, 1998.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 98–21355 Filed 8–7–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6139–9]

Notice of Availability of Final Guidance on Implementing the Capacity Development Provisions of the Safe Drinking Water Act Amendments of 1996, and Information for States on Implementing the Capacity Development Provisions of the Safe Drinking Water Act Amendments of 1996

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is making available final Guidance on Implementing the Capacity Development Provisions of the Safe Drinking Water Act Amendments of 1996. This guidance contains four parts: (1) Introduction to the Technical, Managerial, and Financial Capacity of Water Systems, (2) Guidance on DWSRF Withholding Determinations Related to State Programs for Ensuring That All New Community Water Systems and New Nontransient, Noncommunity Water Systems Demonstrate Technical, Managerial, and Financial Capacity (3) Guidance on DWSRF Withholding Determinations Related to State Capacity Development Strategies, and (4) Guidance on Assessment of Capacity for Purposes of Awarding SRF Assistance. The purpose of this guidance is to implement national policy which clarifies the statutory requirements of the capacity development related provisions of the SDWA. Part 2 of this guidance fulfills the Agency's obligation under section 1420(d)(4) to publish guidance related to new system capacity.

EPA is also making available two information documents related to capacity development. First, EPA is making available final Information for States on Implementing the Capacity Development Provisions of the Safe Drinking Water Act Amendments of 1996. The primary purpose of this document is to complement the aforementioned guidance, and offer States ideas and suggestions as they begin to formulate capacity development programs under the Act. Second, EPA is making available Information for the Public on Participating in Preparing State Capacity Development Strategies. The purpose of this document is provide the public with information enabling them to effectively participate in the

development of their State's capacity development strategy.

FOR FURTHER INFORMATION CONTACT: The above documents may be obtained by contacting the Safe Drinking Water Hotline on 1–800–426–4791. Additional information on capacity development is available on the EPA Office of Ground Water and Drinking Water Web Site at the URL address ''http://www.epa.gov/OGWDW'' or by contacting Peter E. Shanaghan on 202–260–5813 or on email: shanaghan.peter@epamail.epa.gov.

Dated: August 2, 1998.

J. Charles Fox,

Acting Assistant Administrator, Office of Water.

[FR Doc. 98–21345 Filed 8–7–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6140–2]

Rhode Island Marine Sanitation Device Standard; Notice of Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On March 6, 1998 notice was published that the State of Rhode Island had petitioned the Regional Administrator, Environmental Protection Agency, to determine that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for all waters within the 3 mile territorial limit of Rhode Island's coastline and all coastal shore ponds which would include Point Judith and Potter Ponds, Quonochontaug Pond, Ninigret and Green Hill Ponds, Winnapaug Pond, the Pawcatuck River and also within the 3 mile territorial waters surrounding Block Island. The petition was filed pursuant to section 312(f)(3) of Public Law 92–500, as amended by Public Law 95–217 and 100–4, for the purpose of declaring these waters a ''No Discharge Area'' (NDA).

Section 312(f)(3) states: After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such States require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply.

The information submitted to me by the State of Rhode Island certified that there are forty-three disposal facilities available to service vessels operating in the marine waters of Rhode Island. A list of the facilities, phone numbers, locations, and hours of operation is appended at the end of the determination.

Based on the examination of the petition and its supporting information, which included site visits by EPA New England staff, newspaper articles, 120 comment letters, scientific studies, I have determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the area covered under this determination which include all marine waters within the 3 mile territorial limit of Rhode Island's coastline and all coastal shore ponds which would include Point Judith and Potter Ponds, Quonochontaug Pond, Ninigret and Green Hill Ponds, Winnapaug Pond, the Pawcatuck River and also within the 3 mile territorial waters surrounding Block Island. The areas covered under this petition include Latitude 71° 22° 55° Longitude 41° 53° 36° at the Providence River, Latitude 71° 13° 09°, 71° 12° 18° Longitude 41° 42° 11°, 41° 41° 09° in Mount Hope Bay, Latitude 71° 07° 04°,Longitude 41° 26° 25° at the Massachusetts state border, and Latitude 71° 55° 48° Longitude 41° 16° 40° at the Connecticut border.

This determination is made pursuant to section 312(f)(3) of Public Law 92–500, as amended by Public Law 95–217 and 100–4.

A Response to Comments was prepared for the 120 communications the EPA New England received during the 60-day comment period, and may be requested from EPA by written request to Ann Rodney, U.S. Environmental Protection Agency—New England, Office of Ecosystem Protection, Water Quality Unit (CWQ), JFK Federal Building, Boston, MA 02203.

Dated: July 30, 1998.

John P. DeVillars,

Regional Administrator, Region I.

PUMP-OUT FACILITIES AVAILABLE IN RHODE ISLAND WATERS

Marina name	Number	Water body	Hours of operation
City of Providence	454–4447	Seekonk River	F–Su 10am–9:30pm/ M–Th 10am–8pm.
Bootlegger Marina	273–2444	Seekonk River	F–Su 10am–9:30pm/M–Th 10am–8pm.
Edgewood Yacht Club	466–1000/ext: 3245	Providence River	24 Hours.
Port Edgewood Marina	941–2000	Providence River	24 Hours.
Pawtuxet Cove Marina	941–2000	Providence River	24 hours.
Rhode Island Yacht Club	941–0220	Providence River	24 Hours.
Cove Haven Marina	246–1600 Ch 9	Bullocks River	24 Hours.
Warren Town Dock	245–7340	Warren River	24 Hours.
Bristol—BOAT	253–1700	Kickamuit River/Bristol Harbor	Daily 8am–12pm.
Rockwell Town Pier	253–1700	Bristol Harbor	W 3pm–6pm/Sa–Su 10a–p.
Brewer's Sakonnet Marina	683–3551 Ch 9	Sakonnet River	Daily 8am–5pm.
Pirates Cove Marina	683–3030 Ch 9	Sakonnet River	Daily 8am–5pm.
East Passage Yachting Center	683–4000 Ch 9	East Passage	May–Sep 7am–7pm/Oct–Apr 8am–5pm.
Alden Yacht	683–4200 Ch 71	East Passage	call 683–4200.
Bay Marina Inc	739–6435	Warwick Cove	Call 739–6435.
Carlson's Marina	738–4278 Ch 9	Warwick Cove	Apr–Nov 8am–5pm.
Wharf Marina	737–2233	Warwick Cove	24 Hours.
Harbor Light Marina	737–6353	Warwick Cove	Daily 8am–9pm.
Warwick Cove Marina	737–2446	Warwick Cove	Daily 7am–8pm.

PUMP-OUT FACILITIES AVAILABLE IN RHODE ISLAND WATERS—Continued

Marina name	Number	Water body	Hours of operation
Apponaug Harbor Marina	739–5055	Apponaug Cove	M–F 9am/Sa 12pm–4pm.
Brewer's Yacht Yard at Cowesett	884–0544 Ch 9	Greenwich Bay/Apponaug cove	M–Sa 8am–4:30pm.
Greenwich Bay Marina Club	884–1810 Ch 9	Greenwich Bay & Cove	Apr–Nov 8am–5pm.
East Greenwich Yacht Club	884–7700 Ch 9	Greenwich Cove	Daily 9am–4pm.
Allen Harbor Marina	294–1212	Allen Harbor	Call 294–1212.
Brewer's Wickford Cove Marina	884–7014 Ch 9	Wickford Harbor	Daily 7am–6pm.
Wickford Marina	294–8160 Ch 10	Wickford Harbor	Daily 8am–6pm.
Goat Island	849–5655 Ch 9	Newport Harbor	Daily 7:30am–8pm.
Long Wharf Marina—BOAT	849–2210 Ch 9	Newport Harbor	Daily 8am–6pm.
Newport Yachting Center	846–1600 Ch 9 & 11	Newport Harbor	Daily 8am–7:30pm.
Newport Yacht Club	846–1600	Newport Harbor	Daily 8am–8pm.
Ida Lewis Yacht Club		Newport Harbor	Members & Guests.
New York Yacht Club		Newport Harbor	Member & Guests.
East Ferry Town Dock—2	423–7262	Jamestown Harbor	Daily 8am–8pm.
West Ferry Town Dock	423–1556	Dutch Island	24 Hours.
Ram Point Marina	738–4535 Ch 1 & 9	Point Judith Pond	24 Hours.
Avondale Boat Yard	348–8187	Little Narr./Pawcatuck River	Daily 8am–5pm.
Block Island Boat Basin	466–2631 Ch 9	Great Salt Pond	Daily 7am–7pm.
Champlins Marina	466–2641 Ch 68	Great Salt Pond	Daily 7am–9pm.
Payne's Dock	466–5572	Great Salt Pond	Daily 7am–6pm.
Block Island Harbor Dept.—2 BOATS.	466–3204 Ch 12	Great Salt Pond	Daily 7am–11am/1pm–sunset.
Block Island Town Dock—cart	466–3204	Old Harbor	Daily 7am–5pm
Pending Pump-out Facilities			
Warren—BOAT	245–7340	Warren River	To be determined.
Jamestown—BOAT		James Town Harbor	To be determined.
Galilee State Pier		Point Judith Pond	To be determined.
Southern View Marina		Point Judith Pond	To be determined.
Frank Hall Boat Yard		Little Narr Bay/Pawcatuck River.	May–Nov 8am–4pm.
Watch Hill—BOAT		Little Narr Bay/Pawcatuck River	To be determined.

All phone numbers use area code 401.

[FR Doc. 98–21344 Filed 8–7–98; 8:45 am]
BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission.

DATE AND TIME: Thursday, August 20, 1998, at 2:00 p.m. (Eastern Time).

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 L Street, N.W., Washington, D.C. 20507.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes.

2. Panel Discussion on Hiring and Employment of Adults with Disabilities in the Federal Sector.

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to published notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission meetings.) Please telephone (202) 663–7100 (voice) and (202) 663–4074 (TDD) at any time for information on these meetings. Contact person for more information: Frances M. Hart, Executive Officer on (202) 663–4070.

Dated: August 6, 1998.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 98–21551 Filed 8–6–98; 3:54 pm]
BILLING CODE 6750–06–M

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting

August 5, 1998.

DELETION OF AGENDA ITEM FROM AUGUST 6TH OPEN MEETING

The following item has been deleted from the list of agenda items scheduled for consideration at the August 6, 1998, Open Meeting and previously published at 63 FR 41571 (August 4, 1998).

Item No.	Bureau	Subject
4	Mass Media and Office of General Counsel.	TITLE: Implementation of Section 309(j) of the Communications Act—Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses (MM Docket No. 97–234); Reexamination of the Policy Statement on Comparative Broadcast Hearings (GC Docket No. 92–52); and Proposals to Reform the Commission's Comparative Hearing Process to Expedite the Resolution of Cases (GEN Docket No. 90–264). SUMMARY: The Commission will consider implementing its authority under Section 309(j) of the Communications Act to utilize competitive bidding procedures to award commercial broadcast, secondary broadcast and Instructional Television Fixed Service licenses.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–21437 Filed 8–6–98; 10:55 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Notice of Public Information Collections Approved by the Office of Management and Budget

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: The Paperwork Reduction (Act 44 U.S.C. 3501 *et seq.*), requires agencies to display a currently valid control number for each of its information collections. Notwithstanding any other provisions of law, no person may be penalized for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display such a control number. In accordance with the Paperwork Reduction Act requirements, this notice announces the following Federal Maritime Commission information collections that have received extensions of Office of Management and Budget (OMB) approval: Licensing of Ocean Freight Forwarders and the related Form FMC–18; Surety for Non-Vessel-Operating Common Carriers; and the Certification of Company Policies and Efforts to Combat Rebating.

FOR FURTHER INFORMATION CONTACT: Questions concerning the OMB control numbers and expiration dates should be directed to: George D. Bowers, Director, Office of Information Resources Management, Federal Maritime Commission, 800 North Capitol Street, NW, Washington, D.C. 20573, (Telephone: (202) 523–5834).

SUPPLEMENTARY INFORMATION: .

1. Ocean Freight Forwarder Licensing and Application Form FMC–18–OMB Approval Number 3072–0018 Expires July 31, 2001

Abstract: Section 19 of the Shipping Act of 1984, 46 U.S.C. app. 1718, requires that no person shall act as a freight forwarder unless they hold a license by the Federal Maritime Commission. The Act requires the Commission to issue a license to any person that it determines to be qualified by experience and character to act as an ocean freight forwarder if that person has provided a surety bond issued by a surety company found acceptable by the Secretary of the Treasury. The Commission has implemented the provisions of Section 19 in regulations contained in 46 CFR Part 510 and its related application form, FMC–18.

The Commission estimates an annual respondent universe of 2,007 licensed freight forwarders. Total annual burden is estimated at 2,018 person hours apportioned as follows: 822 hours to comply with the regulation provisions; 502 hours for recordkeeping requirements; and 694 hours to complete the Form FMC–18.

2. Foreign Commerce Anti-Rebating Certification—OMB Approval Number 3072–0028 Expires July 31, 2001

Abstract: Section 15(b) of the Shipping Act of 1984, 46 U.S.C. app. 1714(b), requires the chief executive officer of each common carrier and certain other persons to file with the Commission a periodic written certification that anti-rebating policies have been implemented and that full cooperation will be given to any Commission investigation of illegal rebating activity. The Commission has implemented the provisions of section 15(b) in regulations contained in 46 CFR 582.

The Commission estimates an annual respondent universe of 4,857 as follows: 2,450 non-vessel-operating common carriers, 400 vessel operating common carriers and 2,007 ocean freight forwarders. The total annual burden on respondents is estimated at 2,429 person hours.

3. NVOCC Surety Bonds—OMB Approval Number 3072–0053 Expires July 31, 2001

Abstract: Section 23(a) of the Shipping Act of 1984, 46 U.S.C. app. § 1721(a), requires each non-vessel operating common carrier (NVOCC) to furnish the Commission with an acceptable bond, proof of insurance or other surety, which is to be available to pay for damages arising from transportation-related activities, reparations or penalties. The Commission has implemented the provisions of section 23(a) in regulations contained in 46 CFR 583.

The Commission estimates there are approximately 2,450 NVOCCs who will file these documents for a total annual burden of 2,450 person hours per year.

Dated: August 4, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–21279 Filed 8–7–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 4, 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 acquire 100 percent of the voting shares of First National Bank of Missouri City, Missouri City, Texas.

Board of Governors of the Federal Reserve System, August 5, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–21366 Filed 8–7–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 25, 1998.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Wintrust Financial Corporation, Lake Forest, Illinois; to engage *de novo* through its subsidiary, Wintrust Asset Management Company, National Association, Lake Forest, Illinois, in trust company activities, pursuant § 225.28(b)(5) of Regulation Y.

Board of Governors of the Federal Reserve System, August 5, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–21367 Filed 8–7–98; 8:45 am]

BILLING CODE 6210–01–F

GENERAL ACCOUNTING OFFICE

[GAO/GAGAS–ED–2]

Government Auditing Standards: Auditor Communication

AGENCY: General Accounting Office.

ACTION: Notice of availability of documents.

SUMMARY: The U.S. General Accounting Office (GAO), on the recommendation of the Advisory Council on Government Auditing Standards, has issued an exposure draft of a proposed revision to Government Auditing Standards (GAGAS) titled *Government Auditing Standards: Auditor Communication, (GAO/GAGAS–ED–2)* and is seeking public comment. The proposed revision would (1) add a new field work standard for financial statement audits on auditor communication and, (2) revise the reporting standard for reporting on compliance with laws and regulations and on internal control over financial reporting. The revision will be effective for financial audits of periods ending on or after September 15, 1999.

DATES: Comments are accepted through September 30, 1998.

ADDRESSES: A copy of the exposure draft can be obtained on the Internet on GAO's Home Page (www.gao.gov) in the Special Publications section. Additional copies of these proposed standards can be obtained from the U.S. General Accounting Office, Room 1100, 700 4th Street, NW., Washington, DC 20548, by calling 202–512–6000, or via FAX 202–512–6061. Comments should be both in writing and on diskette (in ASCII format), addressed to Robert W. Gramling, Director, Corporate Audits and Standards, Accounting and Information Management Division, U.S. General Accounting Office, 441 G Street NW., Room 5089, Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Robert W. Gramling, 202–512–9406.

SUPPLEMENTARY INFORMATION: In February 1997, the Advisory Council on Government Auditing Standards endorsed a revised approach of issuing individual standards issue-by-issue as the Council reaches consensus on a particular issue, with periodic codification of the standards. This revised approach was adopted to provide more timely revision of the standards for emerging audit issues. However, the practice of seeking public comments on all draft revisions will continue under the new approach.

The American Institute of Certified Public Accountants (AICPA), in issuing Statements on Auditing Standards (SAS) No. 61, *Communication With Audit Committees*, and SAS No. 83, *Establishing an Understanding With the Client*, set requirements for auditors to establish an understanding with the client regarding the services to be performed and to determine that certain matters related to the conduct of an audit under generally accepted auditing standards are communicated to those who are responsible for overseeing the financial reporting process. This exposure draft requires specific communication with the auditee, including the audit committee if applicable or other equivalent group, regarding the scope of compliance and internal control work to be performed under government auditing standards. The exposure draft also proposes strengthening the linkage of the auditor's report on the financial statements with the auditor's reports on compliance with laws and regulations and internal control over financial reporting when these reports are issued separately. This exposure draft should reduce the risk that either the auditor or auditee may misinterpret the needs or expectations of the other party and should improve the usefulness of the auditor's reports required under government auditing standards. In addition, this exposure draft moves a reporting standard on auditor communication, with some modification, to a field work standard, as communication on the scope of work to be performed on an audit is viewed more appropriately as a field work standard. This exposure draft also amends the reporting standard on reporting on compliance with laws and regulations and internal control over financial reporting, as well as presents conforming changes to GAGAS field work standards for financial statement audits to recognize the effect of SAS No. 78 on GAGAS for internal control, the effect of SAS No. 82 on GAGAS for consideration of fraud, and the effect of OMB Circular A–133 on GAGAS for audits of state and local governments and nonprofit organizations.

The Council will consider the comments in making recommendations to the Comptroller General of the United States in finalizing revisions to the standards. Publication of the final standard will be announced in the **Federal Register**.

Jeffrey C. Steinhoff,

Director of Planning and Reporting, Accounting and Information Management Division.

[FR Doc. 98–21359 Filed 8–7–98; 8:45 am]

BILLING CODE 1610–02–P

GENERAL ACCOUNTING OFFICE

[GAO/GAGAS–ED–3]

Government Auditing Standards: Auditor Communication

AGENCY: General Accounting Office.

ACTION: Notice of availability of documents.

SUMMARY: The U.S. General Accounting Office (GAO), on the recommendation of the Advisory Council on Government Auditing Standards, has issued an exposure draft of a proposed revision to Government Auditing Standards (GAGAS) titled Government Auditing Standards: Additional Documentation Requirements When Assessing Control Risk at Maximum for Computer-Related Controls (GAO/GAGAS-ED–3) and is seeking public comment. The proposed revision would add a new field work standard for financial statement audits prescribing additional documentation requirements for (1) the assessment of control risk at maximum for assertions significantly dependent on computer applications and (2) the basis for concluding that resulting audit procedures are designed to effectively achieve audit objectives and appropriately limit audit risk. The revision will be effective for financial statement audits of periods ending on or after September 15, 1999.

DATES: Comments are accepted through September 30, 1998.

ADDRESSES: A copy of the exposure draft can be obtained on the Internet on GAO's Home Page (www.gao.gov) in the Special Publications section. Additional copies of these proposed standards can be obtained from the U.S. General Accounting Office, Room 1100, 700 4th Street, NW., Washington, DC 20548, by calling 202–512–6000, or via FAX 202–512–6061. Comments should be both in writing and on diskette (in ASCII format), addressed to Robert W. Gramling, Director, Corporate Audits and Standards, Accounting and Information Management Division, U.S. General Accounting Office, 441 G Street NW., Room 5089, Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Robert W. Gramling, 202–512–9406.

SUPPLEMENTARY INFORMATION: In February 1997, the Advisory Council on Government Auditing Standards endorsed a revised approach of issuing individual standards issue-by-issue as the Council reaches consensus on a particular issue, with periodic codification of the standards. This revised approach was adopted to provide more timely revision of the standards for emerging audit issues. The approach will continue the practice of seeking public comments on all draft revisions.

The American Institute of Certified Public Accountants (AICPA), in issuing Statement on Auditing Standards (SAS) No. 78, Consideration of Internal Control in a Financial Statement Audit: An Amendment to Statement on Auditing Standards No. 55, requires auditors to document their basis for conclusions when control risk is assessed below maximum. However, SAS No. 78 does not impose a similar requirement for assessments of control risk at maximum.

This proposed standard will help ensure that auditors conducting financial statement audits in accordance with Government Auditing Standards carefully consider controls related to assertions which are significantly dependent on computer applications and appropriately limit audit risk related to such assertions. This exposure draft also presents conforming changes to GAGAS field work standards for financial statement audits to recognize, where applicable, the effect of SAS No. 78 on GAGAS for internal control.

The Council will consider the comments in making recommendations to the Comptroller General of the United States in finalizing revisions to the standards. Publication of the final standard will be announced in the **Federal Register**.

Jeffrey C. Steinhoff,

Director of Planning and Reporting, Accounting and Information Management.

[FR Doc. 98–21360 Filed 8–7–98; 8:45 am]

BILLING CODE 1610–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 98092]

The Epidemiology of Opportunistic Infections in Bone Marrow Transplant Recipients Notice of Availability of Fiscal Year 1998 Funds; Amendment

A notice announcing the availability of fiscal year (FY) 1998 funds for cooperative agreements for the epidemiology of opportunistic infections in bone marrow transplant recipients was published in the **Federal Register** on July 28, 1998, [Vol. 63 FR Number 144]. The notice is amended as follows:

On page 40294, First column, under ''Eligible Applicants'', the first paragraph, second sentence should read: ''Eligible applicants must perform or collect data on >100 new BMTs per year in order to maximize the number of BMT recipients under surveillance, and therefore increase the power of the study.'' On page 40294, Second column, under ''Recipient Activities'', paragraph c., second sentence, the second sentence should read: ''This should include methods to determine risk factors and incidence rates of important OIs.'' On page 40295, First column, under ''Capacity (35 Points)'', the fourth paragraph should read: ''Extent to which the applicant demonstrates it has collected data on the likely important OIs, as well as possible new and emerging OIs such as *Streptococcus Viridans* spp., coagulase-negative *Staphylococcus* spp., etc. On page 40295, Third column, fourth paragraph should read: For program technical assistance contact: Clare A. Dykewicz, M.D., M.P.H., CENTERS FOR DISEASE CONTROL, Mailstop A12, 1600 Clifton Rd. NE, Atlanta, GA 30333, Telephone (404) 639–4932, FAX (404) 639–4664, Email address: cad3@cdc.gov.''

All other information and requirements of the notice remain the same.

Dated: August 4, 1998.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–21291 Filed 8–7–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

The Centers for Disease Control and Prevention (CDC); Meeting

Name: Advisory Committee on Immunization Practices (ACIP) Working Group on Influenza.

Times and Dates: 8 a.m.–5:30 p.m., September 1, 1998; 8 a.m.–12 noon, September 2, 1998.

Place: CDC, Auditorium A, Building 2, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents. The Influenza Working Group was formed to assist the Committee in expanding the current ACIP influenza immunization recommendations to include the use of new influenza vaccines and antiviral agents expected to be licensed by the Food and Drug Administration within the next two years.

Matters to be Discussed: The agenda will include presentations on the potential health benefits of vaccinating healthy adults against influenza; economic studies on vaccinating healthy adults against influenza; a study on the vaccination of healthy women; the cost effectiveness of vaccinating healthy adult workers; modeling the economics of vaccinating healthy adults against influenza; comments from the Food and Drug Administration, Council of State and

Territorial Epidemiologists, National Institutes of Health, American College of Physicians, American Academy of Pediatrics, and the Pharmaceutical Manufacturers of America; and a review of the licensed and new influenza antiviral agents.

Contact Person for More Information: Gloria A. Kovach, Committee Management Specialist, CDC (16–4346), 1600 Clifton Road, NE, Mailstop D50, Atlanta, Georgia 30333, telephone 404/639–7250.

Dated: July 30, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–21289 Filed 8–7–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Development Disabilities Protection & Advocacy Program Statement of Objectives and Priorities.

OMB No.: 0980–0270.

Description: This information collection is a reporting by Protection & Advocacy (P&A) Systems in each State. Using this reporting format, the P&A systems describe their Statement of Objectives and Priorities for the coming fiscal year in the pursuit of their effort under Part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C., 6000 et seq.) to protect the civil and human rights of persons with developmental disabilities. This Statement of Objectives and Priorities (SOP) is required by Section 142(a)(2) (paragraphs C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C., 6000 et seq.). Each P&A System is required to develop an SOP and to submit it to public comment.

The final version of the SOP is submitted by each P&A System to the Department of Health and Human Services, which will use the data in the SOP to monitor compliance of P&As with the Developmental Disabilities Assistance and Bill of Rights Act, and will also provide a management tool for necessary program stewardship and grasp of prospective program direction.

Respondents: State, Local or Tribal Government.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Statement of Objectives and Priorities	56	1	44	2,464

Estimated Total Annual Burden Hours: 2,464.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W. Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: August 4, 1998.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 98–21364 Filed 8–7–98; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–R–237]

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: New Collection; *Title of Information Collection:* Multi-State Evaluation of Dual Eligibles Demonstration; *Form No.:* HCFA–R–237 OMB #0938–NEW; *Use:* This survey provides information needed to evaluate dual eligible demonstrations on issues of satisfaction and gather health and functional status to be used in other analyses. Dual eligible demonstrations provide HCFA the opportunity to determine whether changes in payment and reimbursement and alternative ways to provide health services results in better coordination, increased satisfaction, and improved outcomes of those eligible for both Medicare and Medicaid. Respondents to the survey include demonstration enrollees both living in the community and in institutions, their families, disenrollees and corresponding comparison groups. *Frequency:* One time submission; *Affected Public:* Individuals or Households; *Number of Respondents:* 7,840; *Total Annual Responses:* 7,840; *Total Annual Hours:* 5,580.

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 23, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–21275 Filed 8–7–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Development of Policy for the Use of Permits as Conservation Tools; Request for Public Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Scoping notice.

SUMMARY: The Fish and Wildlife Service is responsible for the implementation of a number of wildlife laws and treaties, including the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Migratory Bird Treaty Act (MBTA), Lacey Act, Bald and Golden Eagle Protection Act (BGEPA), Wild Bird Conservation Act (WBCA), Endangered Species Act (ESA), and Marine Mammal Protection Act (MMPA). Each of these laws and treaties provides for permits to be issued for otherwise prohibited activities under specific circumstances. We are reviewing our current permitting programs and solicit information and comments from all interested parties on the development of a policy that would approach permits as a conservation tool and provide a more efficient permit process that is consistently implemented Service-wide, with a focus on scientific research and scientific and conservation institutions that meet certain standards. We will publish any draft policy developed as a result of this review in the **Federal Register** for public review and comment.

DATES: Send public comments on this notice by September 24, 1998. We will consider any comments in developing a policy.

ADDRESSES: Send comments to the Chief, Office of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Teiko Saito, Chief, Office of Management Authority, at the above address, telephone (703) 358–2093, extension 2; fax (703) 358–2280.

SUPPLEMENTARY INFORMATION:

Background

Permits are a means of regulating human activities that can have an impact on populations of protected wildlife and plants, thereby conserving them for future generations. Our goal in administering the permits programs is to foster conservation of protected species and their habitat, while imposing the least possible burden on the affected public.

Current Service Permits Programs

All of our programs follow the General Permit Procedures in the regulations at 50 CFR Part 13. These regulations lay the foundation for the uniform processing of permit applications, including application procedures, general information requirements, permit administration (i.e., issuance, renewal, amendment, and appeal procedures), and general permit conditions. In addition, we have permit regulations specific to the implementation of each law or treaty. Any person intending to conduct an activity that requires a permit must apply for a permit in accordance with the General Permit Procedure regulations and the specific regulations under the laws and treaties by which the wildlife or plant is protected. If the species is listed under more than one law or treaty, we will, to the extent practical, accept one application and issue a single permit authorizing the activity. We currently have four programs that issue wildlife permits, as briefly summarized below.

Office of Management Authority (OMA)

OMA issues permits for the international movement of Federally regulated animals and plants, interstate commerce or movement of exotic species, and take of marine mammals under our jurisdiction. A number of these permits involve multiple authorities (e.g., the import of an Amazonian manatee would require permitting decisions under CITES, ESA, and MMPA). OMA works closely with the Office of Scientific Authority, who makes certain required scientific determinations. OMA coordinates with other offices to add authorizations to use nondesignated ports and to import or export MBTA-listed migratory birds that are also protected under CITES and/or the ESA. Specifically, OMA processes applications under the following laws and treaties:

Cites: CITES (50 CFR Part 23) is a treaty that protects many species of animals and plants to ensure that commercial demand does not threaten their survival in the wild. International shipments of CITES-listed specimens, including captive-born wildlife, artificially propagated plants, and pre-Convention and scientific exchange specimens, must be accompanied by CITES documentation. The Division of Law Enforcement also issues CITES permits for specific categories of wildlife as outlined in the following section on Law Enforcement.

Lacey Act: The injurious wildlife regulations (50 CFR Part 16) were promulgated under the Lacey Act to help prevent accidental or intentional introduction to the United States and its territories of any exotic species deemed injurious or potentially injurious to native species and their habitats, to the health and welfare of human beings, and to the interest of forestry, agriculture, and horticulture. OMA issues permits for import, transport, and acquisition of listed exotic species for zoological, educational, medical, or scientific purposes.

WBCA: Congress enacted the WBCA (implemented by regulations codified at 50 CFR Part 15) to ensure that exotic bird species are not harmed by international trade and to encourage wild bird conservation programs in countries of origin. OMA issues import permits for scientific research, zoological breeding or display, cooperative breeding when part of an approved program, and personal pet purposes. The WBCA also provides for the import of species that are placed on a list approved by us based on certain criteria or from an approved foreign captive-breeding facility or scientifically based management plan for the species.

ESA: The ESA (implemented by regulations codified at 50 CFR Part 17) helps prevent the extinction of endangered and threatened animals and plants by providing measures to protect those species and their habitats. OMA issues permits for all regulated activities that involve foreign species and for import, export, or foreign commerce that involves native species. Endangered species staff in the Service's Regional Offices issue permits for other activities affecting native species as outlined

below. We issue endangered species permits for scientific research and enhancement of propagation or survival of species and threatened species permits for these same activities as well as for zoological, horticultural, or botanical exhibition, educational purposes, and special purposes consistent with the purposes and policy of the ESA.

MMPA: The purposes of the MMPA (implemented by regulations codified at 50 CFR Part 18) are to maintain marine mammal populations at, or return them to, optimum sustainable population levels and to maintain the ecosystems upon which these species depend. We have jurisdiction for polar bears, sea otters, walrus, dugongs, marine otters, and manatees. OMA issues permits for the take and import of marine mammals for scientific research, public display, or enhancing the survival or recovery of a species or stock; take of marine mammals in the course of education or commercial photography; and the import of personal sport-hunted trophies of polar bears taken in Canada. Permits are also available for the permanent placement of beached and stranded marine mammals that are determined to be non-releasable. Permission can be granted for scientific research under a General Authorization.

Division of Law Enforcement

The Law Enforcement Offices (LE) in each of the seven Regional Offices of the Service issue Import/Export licenses and Designated Port Exception Permits. Under the authority of the ESA, any person who engages in business as an importer or exporter of wildlife must acquire an Import/Export License, with a few exceptions (see applicable regulations at 50 CFR Part 14). These regulations also require that wildlife be imported into or exported from the United States at a designated port or at a nondesignated port only under certain circumstances. Currently, we have designated 13 customs ports of entry for wildlife shipments. LE issues Designated Port Exception Permits for scientific purposes, to minimize deterioration or loss, or to alleviate undue economic hardship.

LE staff also issue two categories of CITES permits at certain regional offices and designated ports across the Nation. Such permits authorize the re-export of specimens of CITES Appendix II and III wildlife and the export of tagged skins for the following native species that have approved State management programs: American alligator, Alaskan brown bear, Alaskan gray wolf, bobcat, lynx, and river otter.

Division of Endangered Species

The Regional Endangered Species Offices (TE) issue permits for recovery actions, incidental take, and interstate commerce of native endangered and threatened species listed under the ESA and coordinate with our other offices when appropriate to address other applicable statutes.

Recovery Permits are issued for a number of activities described previously (e.g., scientific research, enhancement of propagation or survival) when the proposed activity will benefit species conservation. They are used as conservation tools to aid in conducting recovery actions and are generally coordinated with species recovery plans or outlines. Interstate Commerce Permits allow transport and sale of listed species across State lines as part of recovery actions. For example, this activity would be allowed as part of breeding programs enhancing the survival or propagation of a species.

The Service published in the **Federal Register** a proposed rule for Enhancement of Survival Permits on June 12, 1997. These permits are part of voluntary cooperative programs, which includes Safe Harbor and Candidate Conservation Agreements with Assurances developed by us for the proactive management of non-Federal lands for the benefit of species. We provide participating non-Federal property owners with technical assistance in the development of these Agreements. Under Safe Harbor Agreements, if the agreement provides a net conservation benefit to the covered listed species and the property owner meets all the terms of the Agreement, TE staff will authorize the incidental taking of the covered listed species that enables the property owner to return the enrolled property back to agreed upon baseline conditions. Under Candidate Conservation Agreements, property owners voluntarily undertake conservation measures to conserve species that are proposed for listing, candidates for listing, or species that are likely to become candidates or proposed in the near future.

Incidental Take Permits allow for the incidental take of listed, proposed, and candidate species in the course of otherwise lawful, non-Federal actions (e.g., private land development). In order for a permit to be issued, the ESA requires the development of a Habitat Conservation Plan that details anticipated incidental take, describes the proposed activities that will conserve listed species, and outlines how the effects on a listed species of the authorized project will be minimized and mitigated. We use the HCP process to allow economic development by private interests to proceed while promoting the conservation of species and their ecosystems.

Office of Migratory Bird Management

The Migratory Bird Management Program (MB) issues permits at the regional level for the take and possession of migratory birds and eagles, and for the international movement of migratory birds. MB staff issue these permits under the MBTA (50 CFR Part 21) and the BGEPA (50 CFR Part 22), which were passed to protect migratory bird populations by prohibiting the take of birds, nests, and eggs, unless authorized by regulation. Other offices in consultation with this program add the MBTA authorization to permits issued for activities with migratory bird species listed under CITES and/or the ESA.

MB issues permits under the MBTA for a variety of purposes. Permits that authorize the direct take of birds from the wild include special purpose, depredation, scientific collecting, falconry, and raptor propagation. Bird banding permits, which also authorize the direct take of migratory birds for temporary banding purposes, are issued by the Bird Banding Laboratory, U.S. Geological Survey. Other permits issued by the regional migratory bird programs (e.g., taxidermy, waterfowl sale and disposal, and import or export) authorize only the acquisition or disposition of previously acquired, wild or captive-bred migratory birds.

Under the BGEPA, MB issues permits for similar, although fewer, purposes. Permits issued under this Act can authorize the direct take of eagles and nests from the wild for scientific and education purposes, Indian religious purposes, and depredation. In addition, permits can authorize the possession and transportation of golden eagles for falconry purposes.

Permit Concerns

Recently, we established a Permits Work Group consisting of Service staff under the direction of the Assistant Director for International Affairs and including Service and Department of Interior staff to review concerns about our permitting programs raised over the past several years by scientific and conservation organizations and to make recommendations on how to address the concerns. The concerns centered on the need for a better approach to programmatic permitting and the need to recognize scientific and conservation organizations conducting work with protected species as partners in resource

conservation. These organizations believe that our current wildlife permitting system serves as a disincentive to working with protected species, and at times even impedes scientific investigation, conservation, and endangered and threatened species recovery efforts. Specific issues raised include the apparent fragmentation of the current permits processes for CITES, endangered species, migratory birds, and other regulated taxa; slow response time and delays in permit issuance; regional inconsistencies in interpreting permit issuance criteria; the public's unfamiliarity with the multitude and complexity of the different permit application requirements and issuance criteria used by different offices and programs; and the perceived intimidation of permittees by permit processing and law enforcement personnel.

Current Ongoing Improvements

We recognize the need to continuously improve the permit process and have over the past few years undertaken a number of initiatives designed to improve the programs and provide better customer service while ensuring species conservation. These initiatives are in various stages of development and implementation. We will be evaluating their effectiveness over time. They include efforts to:

Make the Process More Efficient and User Friendly

- A detailed review of permit application forms under the OMB approval process was completed on January 31, 1998, resulting in redesigned, simplified forms that are tailored, where possible, to a particular type of activity or species.
- Development of a new computer system, Servicewide Permit Issuance and Tracking System (SPITS), to be online nationwide for permit issuance July of this year and for species tracking by the end of the year, which will allow for more efficient tracking and issuance of permits and compilation of data on cumulative effects;
- Better access to permit information through the development of new fact sheets, a faxback system that allows application forms to be ordered using a fax machine, and the internet (our Homepage Web site—http://www.fws.gov).
- Increase the number of ports designated for the import and export of wildlife and the number of wildlife inspectors to clear shipments, including an increase in inspectors at the Canadian and Mexican border ports.

Ensure Consistent and Fair Implementation

- Development of permit handbooks to assist in training and ensure consistency in interpretation of laws and treaties and the processing of permit applications.
- Drafting of new policies and permit regulations.
- Sharing of data and improved coordination between offices within programs and between programs through SPITS.

Foster Partnerships for Wildlife Conservation

- Increase outreach through conferences and meetings.
- Use of program-based permits to expedite the issuance of specific import or export permits for recovery activities.
- Lessening of import and export requirements for accredited scientific institutions by eliminating the requirement to obtain an Import/Export License and allowing the use of U.S. Customs ports and international mail for shipment of most scientific specimens.

Focus on Risk Management and Conservation

- Development of SPITS to track and analyze cumulative wildlife and plant data for species management.
- Shifting of law enforcement wildlife inspectors to ports with high numbers of shipments.

New Policy Development

Recognizing the need to make additional improvements, the Permits Work Group has recommended the development of a policy that acknowledges permits as a conservation tool and seeks to provide a more efficient permit process that is consistently implemented Service-wide, with a focus on scientific research and conservation activities by institutions that meet certain standards. We see this as an opportunity to continue to develop new approaches to permitting that foster partnerships and provide incentives for greater involvement by cooperating institutions in the conservation of protected wildlife. Any new approach must incorporate conservation risk management to ensure that our limited resources are directed toward those species considered to be at the greatest conservation risk and that can benefit from our enhanced attention. Among the approaches which we may consider, where consistent with all of the laws and treaties discussed above, are:

- Development of standardized criteria for scientific and conservation institutions which seek to become our cooperators, focussing on evaluation of their scientific and conservation expertise and their past history of successfully implementing activities under previous permits;
- Development of standardized permit conditions for each category of activity and species or related group of species to be covered by permits;
- Pre-approval of cooperating institutions to receive permits from our designated issuing offices on a streamlined basis under all authorities for which they qualify to carry out approved conservation activities; and/or
- Issuance of general permits to cooperating institutions which would cover all appropriate authorities and conservation activities for which they qualify.

Any of these new approaches we select for further consideration would complement the ongoing initiatives discussed previously in this notice, and we would implement it using the new capability for standardization and efficiency of permits issuance provided by the Servicewide Permits Issuance and Tracking System (SPITS).

Public Comments Solicited

We intend to complete the review and development of any necessary new policy as quickly as possible. We invite interested organizations and the public to comment on the need for a policy for wildlife permits as a conservation tool and to suggest new approaches to permitting that could make the process more efficient and user friendly; ensure consistent and fair implementation; foster partnerships for wildlife conservation; and focus on risk management and conservation of protected animals and plants. Any suggested new approach needs to be consistent with our basic statutory responsibilities for the conservation of wildlife and plants; balance the benefits to the user with the risks of potentially harmful activities affecting protected species; and be capable of being applied in a consistent and fair manner to all affected persons.

Required Determinations

This notice is merely a scoping document seeking public input on the development of a policy that would approach permits as a conservation tool and provide a more efficient permit process. It complies with all applicable administrative requirements, and is not a significant regulatory action subject to the Office of Management and Budget review under Executive Order 12866.

Authority: The authority for this action is the Convention on International Trade in Endangered Species of Wild Fauna and Flora

(27 U.S.T. 1087); Migratory Bird Treaty Act (16 U.S.C. 703–712); Lacey Act (18 U.S.C. 42); Bald and Golden Eagle Protection Act (16 U.S.C. 668a); Wild Bird Conservation Act (16 U.S.C. 4901–4916); Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*); and Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: July 31, 1998.

Jamie Rapport Clark,

Director.

[FR Doc. 98–21368 Filed 8–7–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–5700–10; Closure Notice No. NV–030–98–003]

Temporary Closure of Public Lands; Washoe County, NV

AGENCY: Bureau of Land Management, Nevada.

SUMMARY: The Carson City District Manager announces the temporary closure of selected public lands under his administration. This action is being taken to provide for public safety during the 1998 Reno National Championship Air Races.

EFFECTIVE DATES: September 14 through September 20, 1998.

FOR FURTHER INFORMATION CONTACT: Charles P. Pope, Acting Assistant Manager, Nonrenewable Resources, Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701. Telephone (702) 885–6100.

SUPPLEMENTARY INFORMATION: This closure applies to all the public, on foot or in vehicles. The public lands affected by this closure are described as follows:

Mt. Diablo Meridian

T. 21 N., R. 19 E.,
Sec. 8, N½NE¼, SE¼NE¼ and E½SE¼;
Sec. 16, N½ and SW¼.

Aggregating approximately 680 acres.

The above restrictions do not apply to emergency or law enforcement personnel or event officials. The authority for this closure is 43 CFR 8364.1. Persons who violate this closure order are subject to arrest and, upon conviction, may be fined not more than $1,000 and/or imprisoned for not more than 12 months.

A map of the closed area is posted in the Carson City District Office of the Bureau of Land Management.

Dated: August 8, 1998.

Charles P. Pope,

Acting Assistant Manager, Nonrenewable Resources, Carson City Field Office.

[FR Doc. 98–21357 Filed 8–7–98; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–910–0777–61–241A]

State of Arizona Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Arizona Resource Advisory Council Meeting, notice of meeting.

SUMMARY: This notice announces a meeting of the Arizona Resource Advisory Council. The meeting will be held September 10, 1998, beginning at 8:30 a.m. in the New Mexico Room at the BLM National Training Center, 9828 North 31st Avenue, Phoenix, Arizona. The agenda items to be covered at the one-day business meeting include review of previous meeting minutes; BLM State Director's Update on legislation, regulations and other statewide issues; U.S. Fish and Wildlife Service Presentation on the Endangered Species Act and Section 7 Consultation Process; General Presentation by Forest Service on rangeland management issues; BLM Presentation on the National Environmental Policy Act; Updates on the Barry Goldwater Range EIS and the Vermillion Cliffs Project; Proposed Field Office Rangeland Resource Teams; and Reports by the Standards and Guidelines, Recreation and Public Relations, Wild Horse and Burro Working Groups; Reports from BLM Field Office Managers; Reports from RAC members; and Discussion on future meetings. A public comment period will take place at 11:30 a.m. on September 10, 1998, for any interested publics who wish to address the Council.

FOR FURTHER INFORMATION CONTACT: Deborah E. Stevens, Bureau of Land Management, Arizona State Office, 222 North Central Avenue, Phoenix, Arizona 85004–2203, (602) 417–9215.

John Christensen,

Acting State Director.

[FR Doc. 98–21290 Filed 8–7–98; 8:45 am]

BILLING CODE 4310–32–P

NUCLEAR REGULATORY COMMISSION

[Docket 70–7002]

Notice of Amendment to Certificate of Compliance GDP–2 for the U.S. Enrichment Corporation Portsmouth Gaseous Diffusion Plant Portsmouth, OH

The Director, Office of Nuclear Material Safety and Safeguards, has made a determination that the following amendment request is not significant in accordance with 10 CFR 76.45. In making that determination, the staff concluded that: (1) there is no change in the types or significant increase in the amounts of any effluents that may be released offsite; (2) there is no significant increase in individual or cumulative occupational radiation exposure; (3) there is no significant construction impact; (4) there is no significant increase in the potential for, or radiological or chemical consequences from, previously analyzed accidents; (5) the proposed changes do not result in the possibility of a new or different kind of accident; (6) there is no significant reduction in any margin of safety; and (7) the proposed changes will not result in an overall decrease in the effectiveness of the plant's safety, safeguards, or security programs. The basis for this determination for the amendment request is described below.

The NRC staff has reviewed the certificate amendment application and concluded that it provides reasonable assurance of adequate safety, safeguards, and security and compliance with NRC requirements. Therefore, the Director, Office of Nuclear Material Safety and Safeguards, is prepared to issue an amendment to the Certificate of Compliance for the Portsmouth Gaseous Diffusion Plant (PORTS). The staff has prepared a Compliance Evaluation Report which provides details of the staff's evaluation.

The NRC staff has determined that this amendment satisfies the criteria for a categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for this amendment.

USEC or any person whose interest may be affected may file a petition, not exceeding 30 pages, requesting review of the Director's Decision. The petition must be filed with the Commission not later than 15 days after publication of this **Federal Register** Notice. A petition for review of the Director's Decision shall set forth with particularity the interest of the petitioner and how that interest may be affected by the results of the decision. The petition should specifically explain the reasons why review of the Decision should be permitted with particular reference to the following factors: (1) the interest of the petitioner; (2) how that interest may be affected by the Decision, including the reasons why the petitioner should be permitted a review of the Decision; and (3) the petitioner's areas of concern about the activity that is the subject

matter of the Decision. Any person described in this paragraph (USEC or any person who filed a petition) may file a response to any petition for review, not to exceed 30 pages, within 10 days after filing of the petition. If no petition is received within the designated 15-day period, the Director will issue the final amendment to the Certificate of Compliance without further delay. If a petition for review is received, the decision on the amendment application will become final in 60 days, unless the Commission grants the petition for review or otherwise acts within 60 days after publication of this **Federal Register** Notice.

A petition for review must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, by the above date.

For further details with respect to the action see: (1) the application for amendment and (2) the Commission's Compliance Evaluation Report. These items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and at the Local Public Document Room.

Date of amendment request: July 30, 1997.

Brief description of amendment: On July 30, 1997, the United States Enrichment Corporation (USEC) requested an amendment to the certificate of compliance for PORTS. The request is to clarify Technical Safety Requirement (TSR) 2.1.3.11 dealing with the minimum required number of operable smoke detector alarm circuits in the autoclave facilities at PORTS. Responding to an NRC request for additional information, the amendment request was modified by USEC on May 29, 1998.

USEC has proposed to revise the Limiting Condition for Operation (LCO) for TSR 2.1.3.11 from requiring fifty percent of the installed autoclave UF_6 smoke detection heads to be operable to simply requiring the autoclave UF_6 smoke detection systems to be operable. In addition to modifying the LCO, USEC has proposed to clarify TSR 2.1.3.11, Actions Statements, to normally require at least one operable smoke detector alarm circuit to cover an area above each autoclave in buildings X–342A (Feed Vaporization Facility) and X–344A (Toll Enrichment Services Facility) and above each autoclave pair in building X–343 (Feed Vaporization and Sampling Facility). USEC has also proposed to normally require at least four of the eight detector heads operable at all times in the X–343 facility. This is to alleviate any potential adverse effects on timely detection of a release in the event of winds inside the building when one or both crane doors or hatches are open. Changes were also made to Chapter 3, ''Facility and Process Description,'' of the Safety Analysis Report (SAR). These changes involve the addition of new sections 3.2.1.1.6, ''UF_6 Leak Detection System'' and 3.2.1.2.6, ''UF_6 Leak Detection System,'' and a new paragraph to section 3.2.1.3.6, ''UF_6 Leakage Detectors.'' The SAR changes describe the operations and locations of the UF_6 detection systems.

Basis for finding of no significance:

1. The proposed amendment will not result in a change in the types or significant increase in the amounts of any effluents that may be released offsite.

Clarifying the minimum number of smoke detector alarm circuits required to be operable in autoclave buildings X–342A, X–343, and X–344A will not result in an increase in the amounts of effluents that may be released offsite or result in any impact to the environment.

2. The proposed amendment will not result in a significant increase in individual or cumulative occupational radiation exposure.

The proposed clarification of identifying the minimum number of smoke detector alarm circuits required to be operable for autoclave buildings X–342A, X–343, and X–344A will not increase individual or cumulative occupational radiation exposure.

3. The proposed amendment will not result in a significant construction impact.

The proposed changes will not result in any construction, therefore, there will be no construction impacts.

4. The proposed amendment will not result in a significant increase in the potential for, or radiological or chemical consequences from, previously analyzed accidents.

The proposed changes which involve clarifying the minimum number of smoke detector alarm circuits required to be operable for autoclave buildings X–342A, X–343, and X–344A will not result in an increase in the potential for UF_6 releases. The proposed changes will also not result in an increase in the potential for, or radiological consequences from previously evaluated criticality accidents. Therefore, the proposed changes will not result in a significant increase in the potential for, or radiological or chemical consequences from, previously analyzed accidents.

5. The proposed amendment will not result in the possibility of a new or different kind of accident.

The proposed changes will not result in the possibility of a new or different kind of accident.

6. The proposed amendment will not result in a significant reduction in any margin of safety.

The proposed changes, clarifying the minimum number of smoke detector alarm circuits required to be operable in autoclave buildings X–342A, X–343 and X–344A, will not reduce the margin of safety as defined in the Technical Safety Requirement. In fact, an operable smoke detector directly above an autoclave (potential UF_6 release point) would enhance safety by likely providing a more timely detection capability as compared to an operable smoke detector that is not directly above the autoclave.

7. The proposed amendment will not result in an overall decrease in the effectiveness of the plant's safety, safeguards, or security programs.

Identifying the minimum number of smoke detector alarm circuits required to be operable in autoclave buildings X–342A, X–343 and X–344A will not result in a decrease in the overall effectiveness of the plant's safety program. The staff has also not identified any safeguards or security related implications from the proposed amendment.

Effective date: 30 days after issuance of amendment.

Certificate of Compliance No. GDP–2: Amendment will revise the Technical Safety Requirement.

Local Public Document Room location: Portsmouth Public Library, 1220 Gallia Street, Portsmouth, Ohio 45662.

Dated at Rockville, Maryland, this 31st day of July 1998.

For the Nuclear Regulatory Commission.

Malcolm R. Knapp,

Acting Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–21301 Filed 8–7–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Crownpoint Uranium Solution Mining Project; Establishment of Local Public Document Room

The Nuclear Regulatory Commission (NRC) has established a local public document room (LPDR) for the Hydro Resources, Inc., Crownpoint Uranium Solution Mining Project.

Members of the public may now inspect and copy documents related to the Crownpoint Uranium Solution Mining Project at the Dine College, Crownpoint, New Mexico. The hours of operation at the College Library are: Monday through Thursday 8:00 a.m. to 9:00 p.m. and Friday 8:00 a.m. to 5:00 p.m. Patrons should call ahead to confirm weekend hours.

For further information, interested parties in the Crownpoint, New Mexico, area may contact the LPDR directly through Ms. Jean Whitehorse, Librarian, telephone number (505) 786–7223. Parties outside the service area of the LPDR may address their requests for information and records to the NRC's Public Document Room, Washington, DC 20555–0001, or telephone toll-free 1–800–397–4209.

Dated at Rockville, Maryland, this 4th day of August, 1998.

For the Nuclear Regulatory Commission.

Russell A. Powell,

Chief, Information Services Branch, Information Management Division, Office of the Chief Information Officer.

[FR Doc. 98–21302 Filed 8–7–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability, and Notice of Public Meeting

The Nuclear Regulatory Commission has issued for public comment a draft of a guide planned for its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, DG–4005 (which should be mentioned in all correspondence concerning this draft guide), is titled ''Preparation of Supplemental Environmental Reports for Applications To Renew Nuclear Power Plant Operating Licenses.'' The guide is intended for Division 4, ''Environmental and Siting.'' This draft guide is being developed to provide guidance on the format and content of an environmental report to be submitted as part of an application for the renewal of a nuclear power plant operating license.

The draft guide has not received complete staff review and does not represent an official NRC staff position.

Public comments are being solicited on Draft Regulatory Guide DG–4005. Comments may be accompanied by additional relevant information or supporting data. Written comments may be submitted to the Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by October 23, 1998.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (http://www.nrc.gov). This site provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415–5905; e-mail CAG@nrc.gov.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

A public meeting will be held on Friday, September 25. 1998, to answer questions about DG–4005 and to take comments on how it may be improved. The meeting will begin at 9:00 AM and end at 5:00 PM or earlier. It will be held in the NRC Auditorium at Two White Flint North, 11545 Rockville Pike, Rockville, MD 20852–2738. Individuals wishing to comment at the meeting are encouraged to inform Mr. Donald Cleary by September 18, 1998. Individuals not preregistered to speak will be given the opportunity to do so as time permits. Mr. Cleary's telephone number is (301) 415–3903, his e-mail address is dpc@nrc.gov, and his mail address is U.S. Nuclear Regulatory Commission, O–11E1, Washington, DC 20555–0001.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Reproduction and Distribution Services Section; or by fax at (301) 415–2289; or by email to GRW1@NRC.GOV. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them. (5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 28th day of July 1998.

For the Nuclear Regulatory Commission.

John W. Craig,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 98–21303 Filed 8–7–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Source Material; Domestic Licensing: Domestic Uranium and Thorium Recovery Activities; Meetings

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of upcoming public meetings.

The Nuclear Regulatory Commission (NRC) is conducting an evaluation of the entire regulatory framework used by the NRC staff to license and regulate domestic uranium and thorium recovery activities. Additionally, NRC has received a White Paper from the National Mining Association (NMA) setting forth NMA's views and recommendations on four uranium recovery issues: (1) NRC and non-Agreement State concurrent jurisdiction at uranium mill sites, (2) NRC jurisdiction of groundwater protection at uranium in-situ leach facilities, (3) NRC's policy on the disposal of non-11e(2) byproduct material at uranium mill tailings sites, and (4) NRC's policy on the processing of alternate feed material at uranium mills. Copies of the White Paper can be obtained through the NRC's public document room (PDR). The PDR can be contacted at (202) 634–3273.

In an effort to seek early public input in the process and public comments on the NMA recommendations, NRC has scheduled four public meetings in August of 1998 in states where uranium recovery activities are conducted. NRC staff intends to consider the information provided at these meetings in its development of recommendations on how best to proceed in the evaluation of the current uranium recovery regulatory framework and in its consideration of NMA's issues. In addition, NRC intends to use the meetings to provide scoping information for the Environmental Assessment or Environmental Impact Statement that will be issued in support of any rulemaking that could be undertaken.

The meetings will be held in the following locations and at the following times:

August 24, 1998—Austin, TX, Homer Thornbury Judicial Bldg., 903 San Jucinto—Rm. 116, Austin, TX 9:00 a.m.

August 25, 1998, Albuquerque, NM, Federal Bldg.—Rm 4031, 517 Gold S.W., Albuquerque, NM, 9:00 a.m.

August 26, 1998, Wyoming Oil and Gas Conservation Commission, Basco Bldg., 777 West 1st St., Casper, WY, 9:00 a.m.

August 27, 1998, Denver, CO, Federal Office Bldg., 1961 Stout St., Conference Rm. 1083, Denver, CO, 9:00 a.m.

NRC staff will make a short presentation at these meetings providing background on the purpose and issues identified to date. The primary purpose of these meetings is to obtain public comment. Anyone wishing to speak at any of these meetings should contact Anne Ramirez on (301) 415–6631 or at e-mail AEG@nrc.gov by August 14, 1998, to assure being scheduled. Other speakers will be accommodated as time permits.

FOR FURTHER INFORMATION CONTACT: Joseph Holonich, Chief, Uranium Recovery Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415–7238; e-mail JJH1@nrc.gov.

Dated at Rockville, Maryland, this 31st day of July 1998.

Joseph J. Holonich,

Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–21167 Filed 8–7–98; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

RIN 0348–AB44

OMB Circular A–110, Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Final revision.

SUMMARY: The Office of Management and Budget (OMB) is adopting final conforming amendments to Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.''

DATES: Effective September 9, 1998.

FOR FURTHER INFORMATION CONTACT: F. James Charney, Policy Analyst, Office of Management and Budget, at (202) 395–3993. The revised Circular is available on the OMB Home Page at http://www.whitehouse.gov/WH/EOP/omb, as well as from the EOP Publications Office at (202) 395–7332.

SUPPLEMENTARY INFORMATION: On August 29, 1997 (62 FR 45933), the Office of Management and Budget (OMB) issued interim final conforming amendments to Circular A–110 to update references to reflect the enactment of the Single Audit Act Amendments of 1996 (Public Law 104–156, 110 Stat. 1396), the rescission of Circular A–128, ''Audits of State and Local Governments'' (Circular A–128 was consolidated into Circular A–133), and revisions to OMB Circular A–133 (62 FR 35278, June 30, 1997). Only one comment was received in response to the interim final conforming amendments; the commenter stated its general agreement with the substance of the revisions.

Accordingly, OMB is adopting in final form, without change, the interim final conforming amendments to Circular A–110 which were published at 62 FR 45933 on August 29, 1997.

Issued in Washington, D.C., July 31, 1998.

Jacob J. Lew,

Acting Director.

OMB hereby amends paragraphs (a), (b) and (c) of Section _____.26 of OMB Circular A–110 to read as follows:

_____.26 Non-Federal audits.

(a) Recipients and subrecipients that are institutions of higher education or other non-profit organizations (including hospitals) shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 U.S.C. 7501–7507) and revised OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.''

(b) State and local governments shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 U.S.C. 7501–7507) and revised OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.''

(c) For-profit hospitals not covered by the audit provisions of revised OMB Circular A–133 shall be subject to the audit requirements of the Federal awarding agencies.

[FR Doc. 98–21369 Filed 8–7–98; 8:45 am]

BILLING CODE 3110–01–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Annual Financial and Actuarial Information Reporting

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intention to request extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (''PBGC'') intends to request that the Office of Management and Budget (''OMB'') extend approval, under the Paperwork Reduction Act, of the collection of information under its regulation on Annual Financial and Actuarial Information Reporting, 29 CFR Part 4010 (OMB control number 1212–0049; expires December 31, 1998). This notice informs the public of the PBGC's intent and solicits public comment on the collection of information.

DATES: Comments should be submitted by October 9, 1998.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or delivered to that address between 9 a.m. and 4 p.m. on business days. Written comments will be available for public inspection at the PBGC's Communications and Public Affairs Department, suite 240 at the same address, between 9 a.m. and 4 p.m. on business days.

Copies of the collection of information may be obtained without charge by writing to the PBGC's Communications and Public Affairs Department at the address given above or calling 202–326–4040. (For TTY and TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.) The regulation on Annual Financial and Actuarial Information Reporting can be accessed on the PBGC's web site at http://www.pbgc.gov.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Deborah C. Murphy, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY and TDD, call the Federal relay service toll-free at 1–800–877–8339 and request connection to 202–326–4024).

SUPPLEMENTARY INFORMATION: Section 4010 of the Employee Retirement Income Security Act of 1974 (ERISA) requires each member of a corporate

controlled group to submit identifying, financial, and actuarial information to the PBGC in certain circumstances. Reporting is required (1) if the aggregate unfunded vested benefits of all defined benefit pension plans maintained by the controlled group exceed $50 million, (2) if the controlled group maintains any plan with missed contributions (unless paid within a ten-day grace period), or (3) if the controlled group maintains any plan with funding waivers in excess of $1 million and any portion is still outstanding (taking into account certain credit balances in the funding standard account). The PBGC's regulation on Annual Financial and Actuarial Information Reporting (29 CFR Part 4010) implements section 4010.

The regulation requires the controlled group to file certain identifying information, certain financial information, each plan's actuarial valuation report, certain participant information, and a determination of the amount of each plan's benefit liabilities. The information submitted under the regulation allows the PBGC (1) to detect and monitor financial problems with the contributing sponsors that maintain severely underfunded pension plans and their controlled group members and (2) to respond quickly when it learns that a controlled group with severely underfunded pension plans intends to engage in a transaction that may significantly reduce the assets available to pay plan liabilities.

The collection of information under the regulation has been approved by OMB under control number 1212–0049 through December 31, 1998. The PBGC intends to request that OMB extend its approval for another three years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The PBGC estimates that an average of 60 controlled groups per year respond to this collection of information. The PBGC further estimates that the average annual burden of this collection of information is 9.2 hours and $7,500 per controlled group, for a total burden of 552 hours and $450,000.

The PBGC is soliciting public comments to—

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Issued in Washington, D.C., this 5th day of August, 1998.

Stuart Sirkin,

Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation.

[FR Doc. 98–21311 Filed 8–7–98; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23371; File No. 812–11170]

Janus Aspen Series, et al.; Notice of Application

July 31, 1998.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order under Section 26(b) of the Investment Company Act of 1940 (''Act'') approving the proposed substitution of securities.

SUMMARY OF APPLICATION: Applicants request an order approving the proposed substitution of shares of certain money market funds organized as portfolios of open-end management investment companies (''Money Market Funds'') for the shares of Short-Term Bond Portfolio of Janus Aspen Series (''Short-Term Bond Portfolio'') held by the Separate Accounts in connection with certain variable annuity contacts and variable life insurance policies (the ''Contracts'') issued by the Insurance Companies.

APPLICANTS: (1) Janus Aspen Series, (2) Annuity Investors Life Insurance Company, Kemper Investors Life Insurance Company, Southland Life Insurance Company, and Western Reserve Life Assurance Co. of Ohio (each an ''Insurance Company,'' and collectively, the ''Insurance Companies''), and (3) Annuity Investors Variable Account A, KILICO Variable Annuity Separate Account, Southland Separate Account L1, Southland Separate Account A1, and WRL Series Annuity Account B (each a ''Separate Account,'' and collectively, the ''Separate Accounts'').

FILING DATES: The application was filed on June 11, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, in person or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 25, 1998, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, Bonnie M. Howe, Esq., 100 Fillmore Street, Denver, Colorado 80206–4928.

FOR FURTHER INFORMATION CONTACT: Michael Koffler, Attorney, or Mark Amorosi, Branch Chief, Office of Insurance Products (Division of Investment Management), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch, 450 Fifth St., NW., Washington, DC 20549 (tel. (202) 942–8090).

Applicant's Representations

1. Janus Aspen Series (''JAS''), a Delaware business trust, is registered under the Act as an open-end management investment company (File No. 811–07736). JAS currently issues shares in twelve investment portfolios, including Short-Term Bond Portfolio. Each portfolio, including Short-Term Bond Portfolio, consists of two classes of shares. Both classes of shares of each portfolio are registered under the Securities Act of 1933 (''1933 Act'') (File No. 33–63212). Institutional Shares are currently sold only to insurance company separate accounts as investment vehicles for variable life insurance policies and variable annuity contracts. Retirement Shares are offered to certain participant directed qualified retirement plans. The Separate Accounts of the Insurance Companies all invest in Institutional Shares of Short-Term Bond Portfolio.

2. Janus Capital Corporation (''Janus Capital'') serves as investment adviser to each portfolio of JAS. The investment

objective of Short-Term Bond Portfolio is to seek as high a level of current income as is consistent with preservation of capital. The portfolio pursues its objective by investing primarily in short and intermediate term fixed-income securities. Under normal circumstances, it is expected that the portfolio's dollar-weighted portfolio effective maturity will not exceed three years.

3. Annuity Investors Life Insurance Company (''Annuity Investors'') is a stock life insurance company and is principally engaged in the sale of fixed and variable annuity policies. Annuity Investors is a wholly-owned subsidiary of Great American Life Insurance Company which is a wholly-owned subsidiary of American Annuity Group, Inc., a publicly-traded insurance holding company. That company is, in turn, indirectly controlled by American Financial Group, Inc., a publicly-traded holding company.

4. Kemper Investors Life Insurance Company (''Kemper Investors'') is a stock life insurance company that offers life insurance and annuity products. Kemper Investors is a wholly-owned subsidiary of Kemper Corporation, a non-operating holding company. Kemper Corporation is a wholly-owned subsidiary of Zurich Holding Company of America, which is a wholly-owned subsidiary of Zurich Insurance Company.

5. Southland Life Insurance Company (''Southland Life'') is a stock life insurance company that offers variable life insurance policies and variable annuity contracts. Southland Life is a wholly-owned indirect subsidiary of ING Group, a publicly traded Netherlands corporation.

6. Western Reserve Life Assurance Co. of Ohio (''Western Reserve'') is a stock life insurance company and is engaged in the business of writing life insurance policies and unity contracts. Western Reserve is wholly-owned by First AUSA Life Insurance Company, a stock life insurance company which is wholly-owned by AEGON USA, Inc. (''AEGON USA''), a financial services holding company. AEGON USA is a wholly-owned indirect subsidiary of AEGON nv, a Netherlands corporation, which is a publicly traded international insurance group.

7. Annuity Investors Variable Account A is a separate account established by Annuity Investors to support individual and group variable annuity contracts including certain Contracts (''Annuity Investors Contracts''). The Annuity Investors Contracts currently permit allocations of purchase payments and transfers of Contract values between and among 17 sub-accounts corresponding to different investment companies or portfolios thereof (excluding Short-Term Bond Portfolio). Short-Term Bond Portfolio was eliminated as an option for new Contract owners and new allocations under existing Contracts on May 1, 1997. Annuity Investors Variable Account A is registered as a unit investment trust under the Act (File No. 811–07299) and the Annuity Investors Contracts are registered as securities under the 1933 Act (File Dos. 33–59861 and 33–65409).

8. KILICO Variable Annuity Separate Account is a separate account established by Kemper Investors to support variable annuity contracts, including certain Contracts (''Kemper VA Contracts''). The Kemper VA Contracts currently permit allocations of purchase payments and transfers of Contract values between and among 25 sub-accounts corresponding to different investment companies or portfolios thereof (excluding Short-Term Bond Portfolio). Short-Term Bond Portfolio is no longer an allocation option under Kemper VA Contracts issued after May 1, 1998. KILICO Variable Annuity Separate Account is registered as a unit investment trust under the Act (File No. 811–3199) and interests in KILICO Variable Annuity Separate Account are registered as securities under the 1933 Act (File No. 2–72671).

9. Southland Separate Account L1 is a separate account established by Southland Life to support variable life insurance policies, including certain Contracts (''Southland VLI Contracts''). The Southland VLI Contracts currently permit allocations of purchase payments and transfers of Contract values between and among 20 sub-accounts corresponding to different investment companies or portfolios thereof (excluding Short-Term Bond Portfolio). Short-Term Bond Portfolio is no longer an allocation option under Southland VLI Contracts issued after May 1, 1998. Southland Separate Account L1 is registered as a unit investment trust under the Act (File No. 811–9106) and interests in the Southland Separate Account L1 are registered as securities under the 1933 Act (File No. 33–97852.

10. Southland Separate Account A1 is a separate account established by Southland Life to support variable annuity contracts, including certain Contracts (''Southland VA Contracts''). Southland VA Contracts currently permit allocations of purchase payments and transfers of Contract values between and among 20 sub-accounts corresponding to different investment companies or portfolios thereof (excluding Short-Term Bond Portfolio). Short-Term Bond Portfolio is no longer an allocation option under Southland VA Contracts issued after May 1, 1998. Southland Separate Account A1 is registered as a unit investment trust under the Act (File No. 811–8976) and interests in the Southland Separate Account A1 are registered as securities under the 1933 Act (File No. 33–89574).

11. WRL Series Annuity Account B is a separate account established by Western Reserve to support variable annuity contracts, including certain Contracts (''Western Reserve VA Contracts''). The Western Reserve VA Contracts currently permit allocation of purchase payments and transfers of Contract values among and between 11 sub-accounts corresponding to different portfolios of JAS (excluding Short-Term Bond Portfolio). Short-Term Bond Portfolio is no longer an allocation option under Western Reserve VA Contracts issued after May 1, 1998. WRL Series Annuity Account B is registered as a unit investment trust under the Act (File No. 811–7754) and interests in the WRL Series Annuity Account B are registered as securities under the 1933 Act (File No. 33–63246).

12. Janus Capital states that Short-Term Bond Portfolio has not grown to a size to allow it to operate efficiently and that the Short-Term Portfolio has not been a success with Contract owners. Furthermore, Janus Capital maintains that the introduction of Janus Aspen Money Market Portfolio on May 1, 1995, has eliminated the need for Short-Term Portfolio, which was originally designed as a short-term investment option for variable annuity contracts and variable life insurance policies using JAS as an investment vehicle.

13. On March 23, 1998, Janus Capital and JAS notified each Insurance Company by letter that Janus Capital and JAS intended to cease offering shares of Short-Term Bond Portfolio for inclusion as allocation options under the Contracts effective on or about May 1, 1998, and planned a liquidate Short-Term Portfolio as soon as possible thereafter. Applicants state that it was agreed that the most appropriate method of liquidating Short-Term Bond Portfolio would be to have Insurance Company substitute shares of another fund for those of Short-Term Bond Portfolio currently held by their Separate Accounts.

14. If the requested substitution order is granted, the following substitutions will take place. Western Reserve, on behalf of WRL Series Annuity Account B, will substitute Institutional Shares of Money Market Portfolio of JAS (''Janus Aspen Money Market Portfolio'') for

shares of Short-Term Bond Portfolio. Janus Aspen Money Market Portfolio is another investment portfolio of JAS. The portfolio's investment objective is to seek maximum current income to the extent consistent with stability of capital. The portfolio seeks to maintain a stable net asset value of $1.00 per share.

15. Annuity Investors, on behalf of Annuity Investors Variable Account A, will substitute shares of Class A Common Stock of Domestic Money Market Fund of Merrill Lynch Variable Series Funds, Inc. (''Merrill Lynch Domestic Money Market Fund'') for shares of Short-Term Bond Portfolio. Merrill Lynch Variable Series Funds, Inc. is registered under the Act as an open-end management investment company and shares of Merrill Lynch Domestic Money Market Fund are registered as securities under the 1933 Act (File Nos. 811–03290 and 2–74452). The portfolio's investment objectives are to preserve capital, maintain liquidity and achieve the highest possible current income consistent with the foregoing objectives by investing in short-term domestic money market securities. The portfolio seeks to maintain a stable net asset value of $1.00 per share. Merrill Lynch Asset Management, L.P. serves as the investment adviser to the portfolio.

16. Kemper Life, on behalf of KILICO Variable Annuity Separate Account, will substitute Kemper Money Market Portfolio of Investors Fund Series (''Kemper Money Market Portfolio'') for shares of Short-Term Bond Portfolio. Investors Fund Series is registered under the Act as an open-end management investment company and shares of Kemper Money Market Portfolio are registered as securities under the 1933 Act (File Nos. 811–5002 and 33–11802). The portfolio seeks maximum current income to the extent consistent with stability of principal from a portfolio of high quality money market instruments. The portfolio seeks to maintain a stable net asset value of $1.00 per share. Scudder Kemper Investments, Inc. serves as investment manager for the portfolio.

17. Southland Life, on behalf of Southland Separate Account L1 and Southland Separate Account A1, will substitute Institutional Shares of Money Market Portfolio of Variable Insurance Products Fund (''Fidelity VIP Money Market Portfolio'') for shares of Short-Term Bond Portfolio. Variable Insurance Products Fund is registered under the Act as an open-end management investment company and shares of Fidelity VIP Money Market Portfolio are registered as securities under the 1933 Act (File Nos. 811–3329 and 2–75010). The portfolio seeks to obtain as high a level of current income as is consistent with preserving capital and providing liquidity. The portfolio seeks to maintain a stable $1.00 share price. Fidelity Management & Research Company serves as investment manager to the portfolio.

18. Applicants state that each of the Contracts gives the respective Insurance Company the right to eliminate or add sub-accounts, combine two or more sub-accounts, or substitute one or more underlying mutual funds or portfolios for others in which one or more sub-accounts are invested. Applicants assert that these contractual provisions also have been disclosed in the prospectuses or statements of additional information relating to the Contracts.

19. Applicants state that, as of the effective date of the substitutions, each Insurance Company will redeem shares of Short-Term Bond Portfolio for cash. Simultaneously, each Insurance Company will use these proceeds to purchase the appropriate number of shares of the Money Market Fund proposed to be substituted. The substitutions will take place at relative net asset values of the portfolios with no change in the amount of any Contract owner's account values or death benefit.

20. Applicants represent that Janus Capital and the Insurance Companies will pay all expenses and transaction costs of the substitutions, including legal, accounting and other fees and that none of these costs will be borne by Contract owners. Applicants state that affected Contract owners will not incur any fees or charges as a result of the substitutions, nor will the rights or obligations of the Insurance Companies under the Contracts be altered in any way. Applicants also represent that the proposed substitutions will not have any adverse tax consequences to Contract owners and that the proposed substitutions will not cause Contract fees and charges currently being paid by existing Contract owners to be greater after the proposed substitutions than before the proposed substitutions.

21. Applicants state that the proposed substitutions will not be treated as transfers for the purpose of assessing transfer charges or for determining the number of remaining transfers that may be made by a Contract owner in any period without a transfer charge. Applicants state that no Insurance Company will, with respect to shares substituted, exercise its right that it may have under its Contracts to impose additional restrictions on transfers for a period of at least 30 days following the proposed substitutions. Each Contract owner will be allowed one transfer of Contract value with respect to shares substituted, for a period of 30 days following the proposed substitutions, without that transfer counting toward any limit on free transfers under a Contract.

22. Applicants state that affected Contract owners have been notified of the proposed elimination of Short-Term Bond Portfolio. In addition, Applicants further state that each Insurance Company will send affected Contract owners a prospectus supplement (or notice, in the case of Annuity Investors) which informs them that the Insurance Company and other applicants have filed an application for an order allowing the Insurance Companies to undertake the substitutions described in the application and that affected Contract owners may elect at any time prior to the closing date of the substitutions to transfer their interest in the sub-account corresponding to Short-term Bond Portfolio to any other sub-account, without such transfer counting toward any limits on free transfers under a Contract. Applicants also state that with this supplement, affected Contract owners will also receive a current prospectus relating to the Money Market Fund proposed to be substituted (unless such Money Market Fund is already an allocation option under the particular Contract, in which case the affected Contract owners would have already received such a prospectus).

23. Applicants state that once the proposed substitutions are completed. a confirmation will be mailed to the Contract owners reflecting the transfer of the Contract values from the sub-accounts investing in Short-Term Bond Portfolio to the sub-accounts investing in the substituted Money Market Fund. Applicants state that this confirmation will be sent within five days of the completion of the substitution. Applicants also state that, following the proposed substitutions, Janus Capital, as the sole remaining shareholder of Short-Term Bond Portfolio, will approve the final liquidation of Short-Term Bond Portfolio.

Applicants' Legal Analysis

1. Applicants request that the Commission issue an order pursuant to Section 26(b) of the Act approving the substitutions by the Insurance Companies of shares held by their Separate Accounts in Short-Term Bond Portfolio as follows: (1) Annuity Investors seeks approval for the substitution of shares of Merrill Lynch Domestic Money Market Fund for shares of Short-Term Bond Porfolio; (2) Kemper Life seeks approval for the

substitution of shares of Kemper Money Market Portfolio for shares for shares of Short-Term Bond Portfolio; (3) Southland Life seeks approval for the substitution of shares of Fidelity VIP Money Market Portfolio for shares of Short-Term Bond Portfolio; and (4) Western Reserve seeks approval for the substitution of shares of Janus Aspen Money Market Portfolio for shares of Short-Term Bond Portfolio.

2. Section 26(b) of the Act requires the depositor of a registered unit investment trust holding the securities of a single issuer to receive Commission approval before substituting the securities held by the trust. Section 26(b) also states that the Commission shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicants state that each Insurance Company has reserved the right to substitute shares of another open-end management investment company in the Contracts and disclosed this reserved right in the prospectuses or statements of additional information for the Contracts.

4. Applicants note that, with regard to each of the proposed substitutions, the corresponding sub-accounts would become invested in substantially larger funds that those in which each sub-account is currently invested, and that the expenses of each of the Money Market Funds are lower than those of Short-Term Bond Portfolio, even with the current expense limitation in place for Short-Term Bond Portfolio. Applicants state, moreover, that the current expense limitation for Short-Term Bond Portfolio may be terminated upon 90 days' notice to the Trustees of JAS, and there is no assurance this arrangement will continue in the future.

5. Applicants also maintain that the Money Market Funds are an appropriate substitute investment vehicle with regard to Contract owner intersts held in Short-Term Bond Portfolio. Short-Term Bond Portfolio was designed to serve as a short-term investment option for Contract owners who desire income and protection of all or portion of Contract values from risks associated with investments in an equity fund or longer term bond fund. Applicants represent that the Money Market Funds are entirely consistent with these objectives as they generally seek to provide the highest level of income consistent with preservation of principal. In light of this, Applicants believe Contract owners that have allocated values to Short-Term Bond Portfolio will find the Money Market Funds to be a suitable alternative for purposes of short-term investments.

6. Applicants maintain that the purposes, terms and conditions of the substitutions are consistent with the principles and purposes of Section 26(b) and do not entail any of the abuses that Section 26(b) is designed to prevent. Applicants note that each of the Contracts provides each Contract owner with the right to exercise his or her own judgment and transfer account values into other allocation options. Moreover, each Contract will offer Contract owners the opportunity to transfer amounts out of the sub-account corresponding to Short-Term Bond Portfolio into any of the remaining sub-accounts without cost or other disadvantage.

Conclusion

Applicants submit that, for all of the reasons summarized above, the proposed substitutions are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Jonathan Katz,

Secretary.

[FR Doc. 98–21276 Filed 8–7–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40287; File No. SR–CBOE–98–26]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Quarterly Closing Rotations

July 31, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 16, 1998, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add an interpretation to Rule 6.2 to provide for a closing rotation in Exchange-traded options on the last trading day of each calendar quarter. The text of the proposed rule change follows. (Italicizing indicates material to be added.)

Trading Rotations

Rule 6.2

No change.

* * * *Interpretations and Policies:*

.01–.04 No change.

.05A closing rotation shall be employed for each series of options traded on the Exchange on the last business day of each calendar quarter. Unless otherwise directed by Floor Officials or the appropriate Floor Procedure Committee the only orders which may participate in the closing rotation are those that are received before the normal close of the trading day, i.e., generally 3:02 p.m. for equity and narrow-based index options and 3:15 p.m. for broad-based index options. The Exchange's Retail Automatic Execution System (''RAES'') will not be available during the closing rotation. The appropriate Floor Procedure Committee may determine not to hold a closing rotation for a particular class of options for a calendar quarter, in which case prior notice will be provided to the Exchange's membership. The Order Book Official, with the approval of two Floor Officials, may deviate from the rotation policy or procedures for quarterly closing rotations as provided for in this Rule.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The CBOE is proposing to add Interpretation .05 under Rule 6.2 that would provide for a closing rotation to be held in options traded on the CBOE floor on the last trading day of each calendar quarter. Also, the Exchange is setting forth the procedures to be

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

followed in holding these closing rotations. As with other trading rotations that are provided for currently under Rule 6.2, the Order Book Official, with the approval of two Floor Officials, may deviate from these procedures in handling a closing rotation. In addition, the appropriate Floor Procedure Committee may determine not to hold a closing rotation for a particular class of options for a calendar quarter, in which case prior notice will be provided to the Exchange's membership.

The Exchange has noticed recently that on the last trading day of each calendar quarter there is increased order flow in Exchange-traded options and in the underlying securities, particularly at the end of that trading day. Many large money managers adjust their positions at the end of the calendar quarter because of tax considerations and reporting requirements. As a result of this activity in both the underlying and options markets at the end of the calendar quarter, the last sale print for many stocks is often delayed, sometimes much beyond the close of the options market. To account for late prints and increased order flow at the end of the day, the Exchange believes it is important to provide for a closing rotation in Exchange-traded options at the end of each calendar quarter. These rotations will allow Exchange members to adjust the options prices in line with the prices of the underlying securities; thus, avoiding potential capital and/or margin deficiencies for traders with hedged positions involving the options and the underlying securities. The closing rotation will also give investors and other interested parties more accurate closing prices for CBOE options on these high volume days. Although the Exchange has the authority now under Rule 6.2 to call for closing rotations any time the circumstances warrant, it determined to add this interpretation to the Rule so Floor Officials do not have to make the determination of whether to order a closing rotation each quarter in many different options classes. Also, by adding this Interpretation to its Rules it will give member firms and customers advance notice of the Exchange's intention of holding closing rotations on these four days each year so they can act accordingly.

For quarterly closing rotations, unless otherwise directed by Floor Officials or the appropriate Floor Procedures Committee, the only orders that may participate in the closing rotation are those that are received before the normal close of the trading day, *i.e.*, generally 3:02 p.m. for equity and narrow-based index options and 3:15 p.m. or broad-based index options. The Exchange's Retail Automatic Execution System (''RAES'')[3] will not be available during the closing rotation.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b)(5) of the Act[4] in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange.

All submissions should refer to File No. SR–CBOE–98–26 and should be submitted by August 31, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–21278 Filed 8–7–98; 8:45 am]

BILLING CODE 8010–01–M

[3] RAES is the Exchange's automatic execution system for small public customer market or marketable limit orders.

[4] 15 U.S.C. 78f(b).

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40300; File No. SR–DTC–98–15]

Self-Regulatory Organizations; The Depository Trust Company; Notice of a Proposed Rule Change to Incorporate the Rules and Procedures of Participants Trust Company, To Increase the Size of the Board of Directors, and To Amend the Rules Regarding the Use of the Participants Fund

August 3, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 13, 1998, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') and on July 30, 1998, amended the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Under the proposed rule change, in connection with the proposed merger of Participants Trust Company (''PTC'') and DTC,[2] DTC will incorporate the rules and procedures of PTC into its rules and procedures and will increase the size of its Board of Directors. DTC is also proposing to amend its rules

[1] 15 U.S.C. 78s(b)(1).

[2] For a description of the proposed merger, refer to Securities Exchange Act Release No. 40121 (June 24, 1998), 63 FR 35631 [File Nos. SR–DTC–98–12, SR–PTC–98–02] (notice of proposed rule change relating to proposed merger between DTC and PTC).

regarding the use of its participating fund.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DTC and PTC have entered into a merger agreement under which PTC will merge with and into DTC. DTC will form a mortgage-backed securities division (''MBS Division'') to deliver the depository services currently provided by PTC to its participants with respect to PTC-eligible securities. Under the merger agreement, the MBS Division will remain in place until at least September 30, 2000. Current PTC participants will be given the opportunity to become participants and limited purpose participants in the MBS Division. The cash and securities presently constituting the PTC participants fund will be transferred to a new MBS Division participants fund.

Under the proposed rule change, DTC will adopt PTC's rules and procedures, with certain modifications, as the rules and procedures of the MBS Division.[4] DTC intends to incorporate PTC's rules without altering the rights and responsibilities of either PTC participants or DTC participants.

The merger agreement also provides that as of the effective date of the merger a person initially nominated by PTC's Board shall become a member of DTC's Board. This new director position is to remain in place at least until September 30, 2000. In order to accommodate the new director position, the proposed rule change will amend DTC's By-Laws to increase the number of directors on its Board from seventeen to eighteen.

Virtually all of PTC's participants are also DTC participants.[5] DTC participants are entitled to acquire DTC stock based upon their use of DTC's services. The amount of each DTC participant's entitlement is recalculated each year, and participants that purchase DTC's stock are permitted to vote in the election of DTC's Board of Directors. After DTC and PTC merge, the calculation of each participant's entitlement to acquire DTC stock will take full account of its use of services provided through the MBS Division. DTC believes that expansion of the Board in this manner should provide additional assurances to current PTC participants that DTC's Board will be aware of their service needs.

In addition to the amendments regarding the creation of the MBS Division, DTC is amending the rules relating to the use of its participants fund. Under the proposed rule change, DTC's Rule 4 will be amended to make clear that if DTC were to cease providing some or all of its services, it could use the participants fund to cover wind-down costs that are not covered by service fee revenues or other available resources.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[6] and the rules and regulations thereunder. DTC believes that the proposal should assure the continued availability to PTC users of efficient and cost-effective depository services and thereby should facilitate the prompt and accurate clearance and settlement of transactions in PTC-eligible securities. In addition, DTC believes that its governance procedures should continue to allow its participants to have a fair opportunity to acquire DTC voting stock in proportion to their use of DTC's services.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

DTC has not solicited or received comments on the proposed rule change. Informally, a number of participants have expressed support of the subject proposals.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which DTC consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–98–15 and should be submitted by August 31, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–21304 Filed 8–7–98; 8:45 am]

BILLING CODE 8010–01–M

[3] The Commission has modified the text of the summaries prepared by DTC.

[4] The full text of the proposed rules of the MBS Division is included in DTC's proposed rule filing which is available for inspection and copying at the Commission's public reference room and through DTC.

[5] The only exceptions are Federal Home Loan Mortgage Corporation (a limited purpose participant), Federal National Mortgage Association, and The Federal Reserve Bank of Cleveland.

[6] 15 U.S.C. 78q–1.

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40289; File No. SR–NYSE–98–23]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc., Extending the Pilot Rules Governing the Reimbursement of Member Organizations for Costs Incurred in the Transmission of Proxy and Other Shareholder Communication Material

July 31, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 29, 1998, the New York Stock Exchange, Inc. (the ''Exchange'' or ''NYSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to extend the current pilot period regarding Exchange Rule 451, ''Transmission of Proxy Material,'' and Exchange Rule 465, ''Transmission of Interim Reports and Other Material'' (collectively the ''Rules''). The Rules establish guidelines for the reimbursement of expenses by NYSE issuers to NYSE member organizations for the processing and delivery of proxy materials and other issuer communications to security holders whose securities are held in street name. The present pilot period regarding the Rules is scheduled to expire on July 31, 1998. The Exchange proposes to extend the pilot period through October 31, 1998.

The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The ''Initial Filings'' [2] revised the Rules to lower certain reimbursement guidelines, create incentive fees to eliminate duplicative mailings, and establish a supplemental fee for intermediaries that coordinate multiple nominees. The Commission approved the Initial Filing as a one-year pilot, and designated May 13, 1998, as the date of expiration. In the ''February Filing,'' [3] the Exchange extended the pilot period through July 31, 1998, and lowered one rate of reimbursement.[4] This proposed rule change would extend the pilot period through the end of the current proxy season, October 31, 1998.

The extension of the pilot period would give the Commission additional time to consider the ''March Filing,'' [5] without a lapse in the current rules. In the March Filing, the Exchange proposed a change to the Rules regarding ''householding'' and proposed extending the pilot period through June 30, 2001. Thus, absent an extension of the pilot period, the fees in effect prior to the February Filing would return to effectiveness, creating confusion among NYSE member organizations and issuers. Furthermore, the extension will provide the Exchange's independent auditor with additional time to finish its review of the impact of the pilot fee structure and will provide the Commission with an opportunity to review that Audit Report.[6]

2. *Statutory Basis*

The Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act [7] in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Exchange further believes that the proposed rule change satisfies the requirement under Section 6(b)(5) [8] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices; promote just and equitable principles of trade; foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date; the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Exchange Act [9] and Rule 19b–4(e)(6) [10] thereunder.

A proposed rule change filed under Rule 19b–4(e)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(e)(6)(iii) [11] permits the Commission to designate such shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission designate such shorter time

[1] 15 U.S.C. 78s(b)(1)

[2] *See* Securities Exchange Act Release No. 38406 (Mar. 14, 1997), 62 FR 13922 (Mar. 24, 1997). The Initial Filing contains a detailed description regarding the background and history of the Rules.

[3] *See* Securities Exchange Act Release No. 39672 (Feb. 17, 1998), 63 FR 9034 (Feb. 23, 1998).

[4] The February Filing lowered the rate of reimbursement for mailing each set of initial proxies and annual reports from $.55 to $.50.

[5] *See* Securities Exchange Act Release No. 39774 (Mar. 19, 1998), 63 FR 14745 (Mar. 26, 1998).

[6] As noted in the March Filing, the Exchange committed to undertake an independent audit of the pilot fee structure during the 1998 proxy season.

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(e)(6).

[11] 17 CFR 240.19b–4(e)(6)(iii).

period so that the proposed rule change may take effect immediately upon its filing. The immediate effectiveness would: (i) make the fee reduction regarding the distribution of each set of initial proxies and annual reports available for the remainder of the 1998 proxy season; (ii) provide the Commission with sufficient time to complete its review of the March Filing, and analyze the Audit Report concerning the pilot fee structure that will be prepared by the Exchange's independent auditor; and (iii) allow the current pilot fee structure to continue uninterrupted.

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change effective immediately upon filing for the following reasons. The proposed rule change would make the fee reduction regarding the distribution of each set of initial proxies and annual reports available for the remainder of the 1998 proxy season. This fee reduction should continue to benefit NYSE issuers and public investors in the form of lower costs and expenses. As the Commission noted in the March Filing, the fee reduction is based upon the Exchange's experience with the reimbursement guidelines and better reflects the actual costs incurred by NYSE member organizations.

The proposed rule change also extends the expiration date of the pilot period from July 31, 1998, through October 31, 1998. The extension of the pilot will provide the Commission with additional time to complete its review of the March Filing [12] and the opportunity to further evaluate the proposal. Furthermore, the current pilot period is due to expire before the estimated date on which the Exchange hopes to deliver to the Commission the Audit Report examining the proxy distribution process with respect to securities held in street name.

The Commission also notes that the current pilot period's expiration date falls within the time period when proxy materials traditionally are distributed to shareholders. As a result, NYSE member organizations would potentially be reimbursed at two different rates—the rates established by the Initial Filing, and the rates in effect prior to the implementation of the Initial Filing (the default rates)—if the expiration date were not extended. The Commission believes it is reasonable that the proposed rule change become immediately effective upon the date of filing, July 29, 1998.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–98–23 and should be submitted by August 31, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–21277 Filed 8–7–98; 8:45 am]

BILLING CODE 8010–01–M

[12] The Commission received approximately 42 comment letters on the March Filing. As part of its review of the March Filing, the Commission will consider the substance of those comment letters.

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40295; File No. SR–OCC–98–05]

Self-Regulatory Organizations; The Options Clearing Corporations; Notice of Filing of a Proposed Rule Change Authorizing the Designation of Sunday as a Business Day and Clarifying the Rules for Margining Exercised and Assigned Positions in Currency Options

July 31, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on June 5, 1998. The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items, I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice is solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change (1) will provide OCC with the flexibility to designated Sunday as a business day for the purposes of calculating the exercise settlement date for foreign currency options and for cross-rate foreign currency options (collectively ''currency options'') and (2) will clarify the rules governing the calculation of margin of exercised and assigned currency options.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comment it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by OCC.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The principal purpose of the proposed rule change is to provide OCC with the flexibility to designate Sunday as a business day for the purpose of determining the exercise settlement date for foreign currency and cross-rate foreign currency options. The secondary purpose of the proposed rule change is to clarify the rule governing the calculation of margin with respect to positions in cross-rate foreign currency options following their exercise and assignment.

Sunday as a Business Day

In 1986, OCC amended its Rules to provide that the Sunday following an expiration would be deemed to be a business day for the purposes of determining the exercise settlement date for expiring foreign currency options.[3] According to OCC, the reason for this change was to permit expiring foreign currency options to settle on the same day as the foreign currency futures contracts traded on he International Monetary Market (''IMM'') and to a lesser degree on the Philadelphia Board of Trade (''PBOT''). IMM futures contracts expire on a quarterly basis, and the coordination of exercise settlement dates among OCC-cleared options, IMM-trades futures contracts, and PBOT-traded futures contracts created hedging opportunities and settlement efficiencies for OCC's membership.

While the use of Sunday as a business day aligned the exercise settlement dates for the above-described contracts, OCC believes that it also resulted in certain operational issues. For example, non-expiring foreign currency options that were exercised on the same date as expiring foreign currency options were settled on a different exercise settlement date than the expiring options. According to OCC, he operational issues were nonetheless manageable at the time the change was made. However, the addition of end-of-the-month options, serial month (i.e., non-quarterly), and flexibly structured options on currencies have made the management of these operational issues increasingly difficult for OCC and the membership alike.

OCC believes that it is not always necessary to use Sunday as a business day for determining the settlement date for currency options. The opportunity to hedge with the IMM of PBOT futures realistically only occurs four times a year. For twenty other expirations, the benefits derived from using Sunday as a business day are not fully achieved. Yet, OCC and the membership still bear the costs for staffing those Sundays in order to complete DVP processing so that exercised currency options settle on the correct date. Accordingly, OCC is proposing to resolve these operational issues by amending its Rules to allow OCC to designate when Sunday will be a business day for purposes of calculating exercise settlement dates.

In addition, OCC desires to coordinate the date on which exercise settlement occurs for expiring options exercised on Friday and non-expiring options also exercised on Friday. As such, OCC proposes to amend its Rules to provide that if Sunday is used as a business day for determining the exercise settlement date of exercised expiring options, it will also be used as a business day for exercised non-expiring options.

OCC believes that several advantages would be achieved from implementing the foregoing changes. Staffing costs would be reduced for OCC and the membership as DVPs would only need to be processed on Sunday four times a year as opposed to twenty-four times a year as is now the case. When Sunday is not designated as a business day, DVP processing would occur on Monday. Coordination of settlement dates for options (expiring and non-expiring) exercised on the same date will increase settlement efficiencies, reduce the complexity of the settlement cycle, and limit confusion regarding when exercise settlement is to occur. The membership, through their representatives on the Roundtable, have concurred with the foregoing proposals. Under the proposed rule, OCC would notify the membership in advance of when Sunday would be used as a business day for determining an exercise settlement date.

Changes are being made to Rules 602, 1602, 1604, 1605, 1606, 1606, 2102, 2104, 2105 and 2106 (either in the text or in the Interpretations and Policies thereto) to conform them to the proposed changes for the reasons stated above.[4]

Margin Change

Two amendments are being proposed to Rule 602(f) which concerns the calculation of margin on currency option contracts following their exercise and assignment. The first change is to clarify Rule 602(f)(2)(i) to state that margin calculations are performed separately on positions in foreign currency options and cross-rate foreign currency options and that a clearing member's positions in cross-rate currency options which generate a net margin credit can be used to offset the clearing member's margin requirement arising from other positions. According to OCC, the credit generated from cross-rate foreign currency options is not necessary to protect OCC against the risk of DVP bank default as exercises of cross-rate foreign currency options do not settle via OCC's DVP System. Accordingly, OCC believes that permitting a clearing member's net margin credit from exercised cross-rate currency options to offset any other margin requirement is consistent with its net margining philosophy and does not create any undue risk to OCC. The second purpose is to conform Rule 602 to the changes relating to the designation of Sunday as a business day.

OCC believes the proposed rule change is consistent with Section 17A of the Act because it facilitates coordination of settlement across markets and promotes settlement efficiencies without adversely affecting the securities or funds for which OCC is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which OCC consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

[3] Securities Exchange Act Release No. 23781 (November 17, 1986) 51 FR 41556 [File No. SR–OCC–86–20]

[4] The complete text of the proposed changes to the Rules is included in OCC's filing, which is available for inspection and copying at the Commission's public reference room and through OCC.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–98–05 and should be submitted by August 31, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–21305 Filed 8–7–98; 8:45 am]

BILLING CODE 8010–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Advisory Committee for Trade Policy and Negotiations

AGENCY: Office of the United States Trade Representative.

ACTION: Notice that the September 24, 1998, meeting of the Advisory Committee for Trade Policy and Negotiations will be held from 10:00 a.m. to 2:00 p.m. The meeting will be closed to the public from 10:00 a.m. to 1:30 p.m. and open to the public from 1:30 p.m. to 2:00 p.m.

SUMMARY: The Advisory Committee for Trade Policy and Negotiation will hold a meeting on September 24, 1998 from 10:00 a.m. to 2:00 p.m. The meeting will be closed to the public from 10:00 a.m. to 1:30 p.m. The meeting will include a review and discussion of current issues which influence U.S. trade policy. Pursuant to Section 2155(f)(2) of Title 19 of the United States Code, I have determined that this meeting will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to the operation of any trade agreement and other matters arising in connection with the development, implementation and administration of the trade policy of the United States. The meeting will be open to the public and press from 1:30 p.m. to 2:00 p.m. when trade policy issues will be discussed. Attendance during this part of the meeting is for observation only. Individuals who are not members of the committee will not be invited to comment.

DATES: The meeting is scheduled for September 24, 1998, unless otherwise notified.

ADDRESSES: The meeting will be held at the Office of the U.S. Trade Representative in Conference Room 2, located at 1724 F Street, Washington, DC, unless otherwise notified.

FOR FURTHER INFORMATION CONTACT: Bill Daley, Office of the United States Trade Representative, (202) 395–6120.

Charlene Barshefsky,

United States Trade Representative.

[FR Doc. 98–21307 Filed 8–7–98; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aircraft Flight Recorder and Cockpit Voice Recorder

AGENCY: Federal Aviation Administration.

ACTION: Cancellation of Technical Standard Order (TSO) C123 and C124.

SUMMARY: This is a confirmation notice of cancellation of TSO–C123, Cockpit Voice Recorder System, and TSO–C124, Flight Data Recorder Systems. TSO–C123, prescribed the minimum performance standards for cockpit voice recorders that were required to be identified with marking ''TSO–C123.'' TSO–C124 prescribed the minimum performance standards for flight data recorder systems that were required to be identified with marking ''TSO–C124.'' This cancellation will ensure that future cockpit voice recorder systems and flight data recorder designs are produced under TSO–C123a, Cockpit Voice Recorder System, and TSO–C124a, Flight Data Recorder Systems, respectively.

EFFECTIVE DATE: August 2, 1998.

FOR FURTHER INFORMATION CONTACT: Mrs. Michelle Swearingen, Avionics Systems Branch, AIR–130, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, FAX No. (202) 267–5340.

SUPPLEMENTARY INFORMATION:

Background

On September 26, 1996, the Federal Aviation Administration (FAA) published in the **Federal Register** a Notice, Volume 61, Page 50531, that canceled TSO–C123, Cockpit Voice Recorder Systems, and TSO–C124, Flight Data Recorder Systems and requested comments on the cancellations. TSO–C123 prescribed the minimum performance standards for cockpit voice recorders that were required to be identified with marking ''TSO–C123.'' TSO–C124 prescribed the minimum performance standards for flight data recorder systems that were required to be identified with marking ''TSO–C124.'' The cancellation will ensure that future cockpit voice recorder systems and flight data recorder designs are produced under TSO–C123a, Cockpit Voice Recorder System, dated 08/2/96, and TSO–C124a, Flight Data Recorder Systems, dated 08/1/96, respectively.

The National Transportation Safety Board reported that seven flight recorder media destroyed by postimpact fire in six accidents prompted concern about the adequacy of the performance standards for flight recorders. Minimum performance standards for impact and fire protection are outlined in four Technical Standard Orders (TSOs): TSO–C84 and TSO–C123 addressed CVRs, and TSO–C51a and TSO–C124 addressed FDRs. TSO–C84 and TSO–C51a were canceled May 18, 1996.

The FAA Technical Center released a report on its study of flight recorder fire test requirements. The study determined that the high intensity, 30-minute fire test specified in the European Organisation for Civil Aviation Equipment (EUROCAE), ED–56A, ''Minimum Operational Requirements for Cockpit Voice Recorder System,'' and European Organisation for Civil Aviation Electronics (EUROCAE), ED–55, ''Minimum Operational Specification for Flight Data Recorder Systems,'' (and TSO–C124) is not as severe as a 30-minute jet fuel pool fire that the test is intended to replicate. The Technical Center found that doubling

[5] 17 CFR 200.30–3(a)(12).

the exposure time from 30 to 60 minutes on the fire test produced a total heat that is equivalent to the heat experienced in a 30-minute postimpact jet fuel pool fire. The study also determined that flight records meeting the 10-hour low-intensity fire test conditions described in ED–36A would survive postimpact smoldering fires involving natural materials.

The Safety Board recommended that the FAA should revise TSO–C123 and TSO–C124 to reflect the findings of the FAA fire test study by (a) incorporating the long-term, low-intensity fire test requirements described in ED–56A, and (b) incorporating the high-intensity fire test requirements described in ED–55, and ED–56A, with the exception of extending the duration of the high-intensity fire test from 30 minutes, as specified in the EUROCAE documents, to 60 minutes. To improve the fire requirements for flight recorder certification and to upgrade the standards in the TSOs, the Board recommended that the FAA cancel the original TSO–C123 and TSO–C124 within 2 years after issuing the revised versions.

The FAA received two comments in response to the Federal Register Notice canceling TSO–C123 and TSO–C124. The first commenter, Allied Signal Inc., expressed concern that canceling the TSOs would affect the approval status of ancillary equipment used with the recorders and produced under the canceled TSOs. The ancillary equipment approved under TSO–C123 and TSO–C124 meets the functional and environmental requirements of the TSOs, but it is not subject to the same crash protection requirements intended to preserve the recording medium. Accordingly, the subject ancillary equipment, i.e., associated control panels, microphones, speakers, underwater locators, etc., can continue to be approved and manufactured under TSO–C123 and TSO–C124 authorizations as long as the applicable requirements of 14 CFR Part 21 are met. Major design changes of this ancillary equipment will be approved under the latest TSOs. After the effective date of this cancellation, applicants for design approval of the primary recorders (black boxes) must comply with TSO–C123a and TSO–C124a.

The second commenter, the Air Transportation Association (ATA), expressed concern that canceling the TSOs would require a supplemental type certificate or amended type certificate to retrofit equipment approved under the new TSOs. ATA feels that this additional certification activity would be particularly onerous for aircraft that are out of production. ATA suggests amending the language of the TSO to include the following statements:

> The intent of this TSO is to increase the recorder survivability over those manufactured under previous TSOs (C84, C123, C51a, or C124, as applicable) and is not meant to require further aircraft certification efforts. Units built to this new TSO can directly replace those built to the previous TSO(s) in certified installations without further certification activity.

ATA is correct in its assertions that the intent of these TSOs is to increase recorder survivability, and it is not the FAA's intent to require STCs or amended type certificates to retrofit equipment produced under the new TSOs. Advisory Circular 20–41A, Substitute Technical Standard Order (TSO) Equipment, provides an acceptable means of compliance with the rules governing aircraft equipment installation in cases involving the substitution and installation of functionally similar TSO approved equipment. If it is determined that the equipment is a line replaceable unit, one that is similar in form, fit, and function and does not affect the aircraft's flight characteristics or flight controls, the substitution of that equipment will not require a supplemental or amended type certificate for installation. However, a grant of TSO approval is not a tacit grant of installation approval. The applicable requirements of 14 CFR Part 21, and of 14 CFR Part 43, Maintenance, Preventive Maintenance, Rebuilding, and Alteration, must still be met.

Based on the finding of the NTSB and the FAA Technical Center study, TSO–C123 and TSO–C124 are canceled August 2, 1998. TSO–C123a, Cockpit Voice Recorder Systems, and TSO–C124a, Flight Data Recorder Systems were issued 8/2/96 and 8/1/96, respectively. TSO–C123a and TSO–C124a incorporate the long-term, low-intensity fire test requirement, and the high-intensity fire test requirements, with the exception of extending the duration of the high-intensity fire test from 30 minutes to 60 minutes, as specified in the EUROCAE documents.

Issued in Washington, DC, on July 31, 1998.

James C. Jones,

Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 98–21300 Filed 8–7–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Discretionary Cooperative Agreement to Support Biomechanical Research

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Announcement of discretionary cooperative agreement to support biomechanical research.

SUMMARY: This notice announces a discretionary cooperative agreement program to support research studies to evaluate the biomechanical response of human surrogates to impact, and solicits applications for projects under this program.

DATE: Applications must be received on or before September 30, 1998.

ADDRESS: Applications must be submitted to the National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30), ATTN: Rose Watson, 400 Seventh Street, S.W., Room 5301, Washington, D.C. 20590, USA. All applications submitted must include a reference to NHTSA Cooperative Agreement Program No. NRD–01–8–07346. Interested applicants are advised that no separate application package exists beyond the contents of this announcement.

FOR FURTHER INFORMATION CONTACT: General administrative questions may be directed to Rose Watson, Office of Contracts and Procurement, at (202) 366–9557. Programmatic questions relating to this cooperative agreement program should be directed to Emily A. Sun, National Transportation Biomechanics Research Center (NRD–51), 400 Seventh Street, S.W., Room 6221E, Washington, D.C. 20590, USA, at (202) 366–4722.

SUPPLEMENTARY INFORMATION:

Background and Objectives

The National Highway Traffic Safety Administration (NHTSA) is responsible for devising strategies to save lives and reduce injuries from motor vehicle crashes. The purpose of this cooperative agreement program is to promote the improvement of traffic safety for the public through the support of research studies designed to evaluate the biomechanical response of human surrogates to impact, as a means of expanding the base of scientific knowledge in this field and to provide for the coordinated exchange of scientific information collected as a result of the studies conducted.

Impact trauma research employs the principles of mechanics to discover the physical response and physiological results of impacts to the human body. Generally, the teams doing the research are comprised of individuals from different disciplines: engineering, physiology, medicine, biology, and anatomy. The team studies the physical response of the body to impact by measuring and recording engineering parameters defining the event, such as force, accelerations, displacements, surface contours, strains, pressure, etc., and observing the physiological consequences in terms of physical or functional alterations to the body.

One of the major research materials used to simulate injury to the living human is the human cadaver, or human surrogate, exposed to impact and detailed response measurement.

The focus of this cooperative research effort is the study of human surrogate response and injury to physical impacts simulating some significant aspect of automotive impact injury e.g., head, neck, torso, or lower extremity injury produced in drivers and passengers restrained by various safety devices and exposed to either a frontal, lateral, or rear impact. The specific objectives of this cooperative research effort are to perform human surrogate impact tests to: (1) delineate the mechanism of injury, (2) develop functional relationships between the measurable engineering parameters and the extent and severity of injury, and (3) quantify the impact response of the body in such a way as to allow the development of mechanical analogs of the human body. NHTSA will consider applications which propose the use of human surrogates, such as human cadavers or other innovative techniques, to achieve these objectives.

NHTSA Involvement

The NHTSA National Transportation Biomechanics Research Center will be involved in all activities undertaken as part of the cooperative agreement program and will:

1. Provide, on an as-needed basis, one professional staff person, to be designated as the Contracting Officer's Technical Representative (COTR), to participate in the planning and management of the cooperative agreement and coordinate activities between the organization and the NHTSA;

2. Make available information and technical assistance from government sources, within available resources and as determined appropriate by the COTR;

3. Provide liaison with other government agencies and organizations as appropriate; and

4. Stimulate the exchange of ideas among cooperative agreement recipients, and, if appropriate, NHTSA contractors and other interested parties

Involvement for Recipient of an Award

Any recipient of an award will:

1. Perform an effort in accordance with the application proposal and any incorporated revisions;

2. Contribute any in-kind resources that might have been specified by the recipient in the application, for the performance of the effort under the agreement;

3. Meet periodically with the NHTSA COTR to promote the exchange of information so as to assure coordination of the cooperative effort and related projects; and

4. Provide the NHTSA COTR with following required deliverables:

a. *Data Package:* The dynamic and other data measured in each human surrogate impact test will be provided by the recipient(s) within four (4) weeks after the test is run. For each and every test performed with a human surrogate, a data package shall be submitted to the COTR. For example, where a human subject to be impacted by pendulum to the right femur and later to be impacted by pendulum to the thorax, the two (2) impacts are separate tests even though there was only one (1) human surrogate.

A data package consists of (1) high speed film or an equivalent digitally-captured video, (2) two copies of the test report, and (3) test data stored on magnetic tape, CD–ROM, or floppy disk complying with the NHTSA Data Tape Reference Guide. The NHTSA National Transportation Biomechanics Research Center maintains a Biomechanics Data Base which provides information, upon request, to the public, including educational institutions and other research organizations.

To facilitate the input of data as well as the exchange of information, any recipient of a cooperative agreement awarded as a result of this notice must provide the magnetic tape in the format specified in the ''NHTSA Data Tape Reference Guide.'' A copy of this document may be obtained from the programmatic information contact designated in this notice.

b. *Performance Reports:* The recipient shall present one (1) hour semiannual technical performance briefings at the NHTSA headquarters building (at 400 Seventh Street, S.W., Washington, D.C. 20590) which shall be due 30 days after the reporting period and a final performance report within 90 days after the completion of the research effort. An original and two copies of the final performance report shall be submitted to the COTR.

Period of Support

The research effort described in this notice will be supported through the award of at least one cooperative agreement. NHTSA reserves the right to make multiple awards depending upon the merit of the applications received.

Contingent upon the availability of funds and satisfactory performance, a cooperative agreement(s) will be awarded to an eligible organization(s) for project periods of up to five years. No cooperative agreement awarded as a result of this notice shall exceed $550,000 per year or $2,750,000 for five years.

Eligibility Requirements

In order to be eligible to participate in this cooperative agreement program, an applicant must be an educational institution or other nonprofit research organization. For-profit research organizations may apply; however, no fee or profit will be allowed:

Application Procedure

Each applicant must submit one original and two copies of their application package to: Cooperative Agreement Program No. NRD–01–8–07346, Office of Contracts and Procurement (NAD–30), NHTSA, 400 Seventh Street, S.W., Room 5301, Washington, D.C. 20590, USA. Only complete application packages received on or before the due date identified above will be considered. Submission of three additional copies will expedite processing but is not required.

Application Contents

The application package must be submitted with OMB Standard Form 424 (Rev, 4–88, including 424A and 242B), Application for Federal Assistance, with the required information filled in and the certified assurances included. While the Form 424–a deals with budget information, and section B identifies Budget Categories, the available space does not permit a level of detail which is sufficient to provide for a meaningful evaluation of the proposed costs. A supplemental sheet should be provided which represents a detailed breakdown of the proposed costs, as well as any costs which the applicant proposes to contribute in support of this effort.

Applications shall include a program narrative statement which addresses the following:

1. The objectives, goals, and anticipated outcomes of the proposed research effort;

2. The method or methods that will be used:

3. The source of the human surrogates to be used;

4. The number, quality, and anticipated ages at death of the human surrogates the applicant expects to use for this research effort along with documentation that provides evidence that the applicant has access to the proposed quantity, quality, and projected ages of the experimental material (because NHTSA has interest in obtaining knowledge of the impact injury process and its effect on the total automotive-population-at-risk, an experimental human subject pool with ages representative of this population is highly desirable);

5. The proposed program director and other key personnel identified for participation in the proposed research effort, including a description of their qualifications and their respective organizational responsibilities;

6. A description of the general, as well as specialized impact simulation, test facilities and equipment (including sled impact systems, component test systems, and data acquisition systems with high channel capabilities) currently available or to be obtained for use in the conduct of the proposed research effort; and

7. A description of the applicant's previous experience or on-going research program that is related to this proposed research effort.

Review Process and Criteria

Initially, all applications will be reviewed to confirm that the applicant is an eligible recipient and to assure that the applicant contains all of the information required by the Application Contents section of this notice. Each complete application from an eligible recipient will then be evaluated by a Technical Evaluation Committee. The applications will be evaluated using the following criteria:

1. The applicant's understanding of the purpose and unique problems represented by the research objectives of this cooperative agreement program as evidenced in the description of their proposed research effort. Specific attention shall be placed upon the applicant's stated means for obtaining the quantity of experimental material necessary to conduct the proposed research effort.

2. The potential of the proposed research effort accomplishments to make an innovative and/or significant contribution to the base of biomechanical knowledge as it may be applied to saving lives and reducing injuries resulting from motor vehicle crashes.

3. The technical merit of the proposed research effort, including the feasibility of the approach, planned methodology, and anticipated results.

4. The adequacy of test facilities and equipment identified to accomplish the proposed research effort, including impact simulation.

5. The adequacy of the organizational plan for accomplishing the proposed research effort, including the qualifications and experience of the research team, the various disciplines represented, and the relative level of effort proposed for professional, technical, and support staff.

Award Selection Factors

The award selection may not be based solely on the evaluation results. Award preference may be given to an innovative or creative approach that offers a potentially significant contribution to achieve the specific objectives of this cooperative research effort. Award preference may be given to a proposal with a larger percentage of cost sharing.

Terms and Conditions of the Award

1. The protection of the rights and welfare of human subjects and the ethical use of human surrogates in NHTSA-sponsored research is governed by NHTSA Orders 700–1 through 700–4. Any recipient must satisfy the requirements and guidelines of these NHTSA Orders prior to award of the cooperative agreement. A copy of NHTSA Orders 700–1 through 700–4 may be obtained from the programmatic information contact designated in this notice.

2. Prior to award, each recipient must comply with the certification requirements of 49 CFR Part 29—Department of Transportation Government-wide Department and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants), as well as 49 CFR Part 20—Department of Transportation New Restrictions on Lobbying.

3. During the effective period of the cooperative agreement(s) awarded as a result of this notice, each agreement shall be subject to the general administrative requirements of the requirements of 49 CFR Parts 190, 20 and 29, the cost principles of OMB Circular A–21, A–122, or FAR 31.2 as applicable to the recipient, and the NHTSA General Provisions for Assistance Agreements.

Issued: July 27, 1998.

Raymond P. Owings,

Associate Administrator for Research Development.

[FR Doc. 98–21274 Filed 8–7–98; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–4103]

Notice of Receipt of Petition for Decision That Nonconforming 1994–1997 Mercedes-Benz S420 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1994–1997 Mercedes-Benz S420 passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1994–1997 Mercedes-Benz S420 passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATE: The closing date for comments on the petition is October 9, 1998.

ADDRESS: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States,

certified under 49 U.S.C. § 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas (''Wallace'') (Registered Importer 90–005) has petitioned NHTSA to decide whether 1994–1997 Mercedes-Benz S420 passenger cars are eligible for importation into the United States. The vehicles which Wallace believes are substantially similar are 1994–1997 Mercedes-Benz S420 that were manufactured for importation into, and sale in, the United States and certified by their manufacturer, Daimler Benz, A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1994–1997 Mercedes-Benz S420 passenger cars to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Wallace submitted information with its petition intended to demonstrate that non-U.S. certified 1994–1997 Mercedes-Benz S420 passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1994–1997 Mercedes-Benz S420 passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that non-U.S. certified 1994–1997 Mercedes-Benz S420 passenger cars comply with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) substitution of a lens marked ''Brake'' for a lens with an ECE symbol on the brake failure indicator lamp; (b) recalibration of the speedometer/odometer from kilometers to miles per hour or its replacement with one already so calibrated.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlight and sidemarker assemblies; (b) installation of U.S.-model taillight and sidemarker assemblies; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* inscription of the required warning statement on the passenger side rearview mirror.

Standard No. 114 *Theft Protection:* installation of a warning buzzer in the steering lock assembly. The petitioner states that the vehicle is already equipped with a warning buzzer microswitch.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 206 *Door Locks and Door Retention Components:* replacement of the rear door locks and rear door lock buttons with U.S. model components.

Standard No. 208 *Occupant Crash Protection:* (a) installation of a safety belt warning system through replacement of the driver's seat belt latch and the addition of a seat belt warning buzzer system; (b) replacement of the driver's and passenger's side air bags and knee bolsters with U.S.-model components on vehicles that are not already so equipped. The petitioner states that the vehicles are equipped with Type II at both front and rear outboard designated seating positions, and with a lap belt in the rear center designated seating position.

Standard No. 214 *Side Impact Protection:* installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Additionally, the petitioner states that all vehicles will be inspected prior to importation to assure compliance with the Theft Prevention Standard found in 49 CFR Part 541.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicles to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. *Comments should refer to the docket number and be submitted to:* Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 pm]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued: August 4, 1998.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 98–21286 Filed 8–7–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–4104]

Notice of Receipt of Petition for Decision That Nonconforming 1992–1995 Hyundai Elantra Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1992–1995 Hyundai Elantra passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1992–1995 Hyundai Elantra passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATE: The closing date for comments on the petition is October 9, 1998.

ADDRESS: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports of Lansdale, Pennsylvania (''Champagne'') (Registered Importer 90–009) has petitioned NHTSA to decide whether 1992–1995 Hyundai Elantra passenger cars are eligible for importation into the United States. The vehicles which Champagne believes are substantially similar are 1992–1995 Hyundai Elantra passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1992–1995 Hyundai Elantra passenger cars to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that non-U.S. certified 1992–1995 Hyundai Elantra passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1992–1995 Hyundai Elantra passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104, *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion, and* 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that non-U.S. certified 1992–1995 Hyundai Elantra passenger cars comply with the Bumper Standard found in 49 CFR Part 581 and with the Theft Prevention Standard found in 49 CFR Part 541.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) substitution of a lens marked ''Brake'' for a lens with a noncomplying symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp that displays the appropriate symbol; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlamp assemblies that incorporate headlamps with DOT markings; (b) installation of U.S.-model front and rear sidemarker/reflector assemblies; (c) installation of U.S.-model taillamp assemblies.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* installation of a warning buzzer microswitch in the steering lock assembly and a warning buzzer.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) installation of a U.S.-model seat belt in the driver's position, or a belt webbing-actuated microswitch inside the driver's seat belt retractor; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer; (c) replacement of the driver's and passenger's side air bags and knee bolsters with U.S.-model components. The petitioner states that the vehicles are equipped with combination lap and shoulder restraints that adjust by means of an automatic retractor and release by means of a single push button at both front designated seating positions, with combination lap and shoulder restraints that release by means of a single push button at both rear outboard designated seating positions, and with a lap belt in the rear center designated seating position.

Standard No. 214 *Side Impact Protection:* installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicles to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested

but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued: August 4, 1998.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 98–21287 Filed 8–7–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 98–4275; Notice 1]

American Honda Motor Company, Inc.; Application for Renewal of Temporary Exemption From Federal Motor Vehicle Safety Standard No. 122

American Honda Motor Co., Inc., of Torrance, California (''Honda''), has applied for a renewal of its temporary exemption from the fade and water recovery requirements of Federal Motor Vehicle Safety Standard No. 122, *Motorcycle Brake Systems.* The basis of the application for renewal is that an exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard.

This notice of receipt of an application is published in accordance with the requirements of 49 U.S.C. 30113(b)(2) and does not represent any judgment of the agency on the merits of the application.

The agency previously granted Honda NHTSA Temporary Exemption No. 97–1, expiring September 1, 1998, from the following requirements of 49 CFR 571.122 Standard No. 122 *Motorcycle Brake Systems:* S5.4.1 Baseline check—minimum and maximum pedal forces, S5.4.2 Fade, S5.4.3 Fade recovery, S5.7.2 Water recovery test, and S6.10 Brake actuation forces (62 FR 52372, October 7, 1997). This exemption covered Honda's 1998 CBR1100XX motorcycle. Honda has applied for an extension of its exemption to September 1, 1999, to cover the 1999 model CBR1100XX motorcycle, and ''all unsold 1998 model year'' CBR1100XX vehicles. However, it was unnecessary for Honda to have included unsold vehicles in its request. NHTSA's temporary exemptions apply as of the date of manufacture and certification of an exempted vehicle, and continue to cover that vehicle even if it is sold after the expiration date of the exemption.

Honda's original and renewed request concerned exemption ''from the requirement of the minimum hand-lever force of five pounds in the base line check for the fade and water recovery tests.'' It is evaluating the marketability of an ''improved'' motorcycle brake system setting which is currently applied to the model sold in Europe. The difference in setting is limited to a softer master cylinder return spring in the European version. Using the softer spring results in a ''more predictable (linear) feeling during initial brake lever application.'' Although ''the change allows a more predictable rise in brake gain, the on-set of braking occurs at lever forces slightly below the five pound minimum'' specified in Standard No. 122. Honda considers that motorcycle brake systems have continued to evolve and improve since Standard No. 122 was adopted in 1972, and that one area of improvement is brake lever force which has gradually been reduced. However, the five-pound minimum specification ''is preventing further development and improvement'' of brake system characteristics. This limit, when applied to the CBR1100XX ''results in an imprecise feeling when the rider applies low-level front brake lever inputs.'' On November 5, 1997, Honda submitted a petition for rulemaking to amend Standard No. 122 to eliminate the minimum brake actuation force requirement. As of June 19, 1998, when Honda applied for a renewal of its application, NHTSA had not yet decided whether to grant the petition. The agency notes that it anticipates granting the petition and commencing a rulemaking proceeding this fall.

The 1999 model of the CBR1100XX ''will be nearly identical'' to the 1998 model ''with two notable exceptions: the engine air/fuel delivery system will change from carburetors to electronic fuel injection, and the brake system will also have a minor change.'' This change involves characteristics of the pressure control valve, but is ''limited to high input force range, and it will not affect the baseline check result nor other test results in FMVSS 122.''

The CBR1100XX is equipped with Honda's Linked Brake System (LBS) which is designed to engage both front and rear brakes when either the front brake lever or the rear brake pedal is used. The LBS differs from other integrated systems in that it allows the rider to choose which wheel gets the majority of braking force, depending on which brake control the rider uses.

According to Honda, the overall braking performance remains unchanged from a conforming motorcycle. Exempted CBR1100XX vehicles meet ''the stopping distance requirement but at lever forces slightly below the minimum.''

Honda argued in 1997 that granting an exemption would be in the public interest and consistent with objectives of traffic safety because it

> * * * should improve a rider's ability to precisely modulate the brake force at low-level brake lever input forces. Improving the predictability, even at very low-level brake lever input, increases the rider's confidence in the motorcycle's brake system.

This year Honda repeats those arguments and submits that a renewal allows further refinement and development of the LBS. It believes that the LBS has ''many desirable characteristics—especially during emergency braking—that could reduce the number of rear brake lock-up crashes.'' Honda has produced about 1200 motorcycles under Exemption 97–1, and anticipates that it will produce about 1,500 vehicles under a renewal.

Interested persons are invited to submit comments on the application described above. Comments should refer to the docket number and the notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the application will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: September 9, 1998.

(49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8)

Issued on August 4, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–21299 Filed 8–7–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 31, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before September 9, 1998 to be assured of consideration.

Departmental Offices/Treasury International Capital Reporting System

OMB Number: 1505–0017.

Form Number: Treasury International Capital Form BC.

Type of Review: Extension.

Title: Reporting Bank's Own Claims and Selected Claims of Broker or Dealer, on Foreigners, Denominated in Dollars.

Description: This form is required by law (22 USC 95a, 286f and 3101) for timely and accurate information on U.S. international capital movements including data on the dollar claims of banks, other depository institutions, brokers and dealers vs. foreigners.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 825.

Estimated Burden Hours Per Respondent: 7 hours.

Frequency of Response: Monthly.

Estimated Total Reporting Burden: 69,300 hours.

OMB Number: 1505–0019.

Form Number: Treasury International Capital Forms BL–1 and BL–1(SA).

Type of Review: Extension.

Title: Reporting Bank's Own Liabilities and Selected Liabilities of Broker or Dealer, on Foreigners, Denominated in Dollars.

Description: This form is required by law (22 USC 95a, 286f and 3101) for timely and accurate information on U.S. international capital movements including data on the dollar liabilities of banks, other depository institutions, brokers and dealers to foreigners.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 900.

Estimated Burden Hours Per Respondent: 7 hours.

Frequency of Response: Monthly.

Estimated Total Reporting Burden: 75,600 hours.

Clearance Officer: Lois K. Holland (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, N.W., Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–21308 Filed 8–7–98; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 30, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before September 9, 1998 to be assured of consideration.

U.S. Customs Service (CUS)

OMB Number: 1515–0085.

Form Number: Customs Form 247.

Type of Review: Extension.

Title: Cost Submission.

Description: The Cost Submissions, Customs Form 247, are used by importers to furnish cost information to Customs which serves as the basis to establish the compliance with Customs laws.

Respondents: Business or other for-profit, Individuals or households. Not-for-profit institutions.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Per Respondent: 52 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 50,000 hours.

OMB Number: 1515–0104.

Form Number: None.

Type of Review: Extension.

Title: Declaration of Ultimate Consignee That Articles Were Exported for Temporary Scientific or Education Purposes.

Description: The ''Declaration of Ultimate Consignee That Articles Were Exported for Temporary Scientific or Education Purposes'' is used to provide duty free entry under conditions when articles are temporarily exported solely for scientific or educational purposes.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 55.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 27 hours.

OMB Number: 1515–0110.

Form Number: None.

Type of Review: Extension.

Title: Declaration by the Person Who Performed the Processing of Goods Abroad.

Description: This declaration, prepared by the foreign processor, submitted by the filer with each entry, provides details on the processing performed abroad and is necessary to assist Customs in determining whether the declared value of the processing is accurate.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 730.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,880 hours.

OMB Number: 1515–0144.

Form Number: Customs Forms 301 and 5297.

Type of Review: Extension.

Title: Importation Bond Structure.

Description: The bond is used to assure that duties, taxes, charges, penalties, and reimbursable expenses owed to the Government are paid; to facilitate the movement of merchandise through Customs; and to provide legal recourse for the Government for noncompliance with Customs laws and regulations and the laws and regulations of other agencies which are enforced by Customs.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 590,250.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 147,596 hours.

OMB Number: 1515–0192.
Form Number: None.
Type of Review: Extension.
Title: U.S./Israel Free Trade Agreement.
Description: This collection is used to ensure conformance with the provisions of the U.S./Israel Free Trade Agreement for duty free entry status.
Respondents: Business or other for-profit, Not-for-profit institutions.
Estimated Number of Respondents: 34,500.
Estimated Burden Hours Per Respondent: 10 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 7,505 hours.
Estimated Burden Hours Per Respondent:
Frequency of Response: On occasion.
Estimated Total Reporting Burden: Hours.
Clearance Officer: J. Edgar Nichols (202) 927–1426, U.S. Customs Service, Printing and Records Management Branch, Ronald Reagan Building, 1300 Pennsylvania Avenue, N.W., Room 3.2.C, Washington, DC 20229.
OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–21309 Filed 8–7–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

July 31, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before September 9, 1998, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0121.
Form Number: IRS Form 1116.
Type of Review: Revision.
Title: Foreign Tax Credit (Individual, Estate, Trust, or Nonresident Alien Individual).
Description: Form 1116 is used by individuals (including nonresident aliens), estates or trusts who paid foreign income taxes on U.S. taxable income, to compute the foreign tax credit. This information is used by IRS to verify the foreign tax credit.
Respondents: Individuals or households.
Estimated Number of Respondents/ Recordkeepers: 442,425.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—2 hr., 50 min.
Learning about the law or the form—58 min.
Preparing the form the—2 hr., 41 min.
Copying, assembling, and sending the form to the IRS—1 hr., 1 min.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 2,687,621 hours.
OMB Number: 1545–0172.
Form Number: IRS Form 4562.
Type of Review: Extension.
Title: Depreciation and Amortization (Including Information on Listed Property).
Description: Taxpayers use Form 4562: (1) to claim a deduction for depreciation and/or amortization; (2) make a section 179 election to expense depreciable assets; and (3) answer questions regarding the use of automobiles and other listed property to substantiate the business use under section 274(d).
Respondents: Business or other for-profit, individuals or households, farms.
Estimated Number of Respondents/ Recordkeepers: 6,500,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—37 hr., 19 min.
Learning about the law or the form—5 hr., 10 min.
Preparing and sending the form to the IRS—5 hr., 59 min.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 298,367, 500
OMB Number: 1545–0188.
Form Number: IRS Form 4868.
Type of Review: Extension.
Title: Application for Automatic Extension of Time To File U.S. Individual Income Tax Return.
Description: Form 4868 is used by taxpayers to apply for an automatic 4-month extension of time to file Form 1040, Form 1040A, or Form 1040EZ. This form contains data used by the Service to determine if a taxpayer qualifies for the extension.
Respondents: Individuals or households.
Estimated Number of Respondents/ Recordkeepers: 5,572,999.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—26 minutes.
Learning about the law or the form—12 minutes.
Preparing the form—17 minutes.
Copying, assembling, and sending the form to the IRS 10 minutes.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 6,074,569 hours.
OMB Number: 1545–0936.
Form Number: IRS Form 8453.
Type of Review: Extension.
Title: U.S. Individual Income Tax Declaration for Electronic Filing.
Description: This form will be used to secure taxpayers' signatures and declarations in conjunction with the Electronic Filing program. This form, together with the electronic transmission, will comprise the taxpayer's income tax return.
Respondents: Individuals or households.
Estimated Number of Respondents/ Recordkeepers: 12,300,000.
Estimated Burden Hours Per Respondent/Recordkeeper: 15 minutes.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 3,075,000 hours.
OMB Number: 1545–1058.
Form Number: IRS Form 8655.
Type of Review: Revision.
Title: Reporting Agent Authorization for Magnetic Tape/Electronic Filers.
Description: Form 8655 allows a taxpayer to designate a reporting agent to file certain employment tax returns electronically or on magnetic tape, and to submit Federal tax deposits. This form allows IRS to disclose tax account information and to provide duplicate copies of taxpayer correspondence to authorized agents. Reporting agents are persons or organizations preparing and filing magnetic tape of electronic equivalents of federal tax returns and/or submitting federal tax deposits.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 110,000.
Estimated Burden Hours Per Respondent: 10 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 11,000 hours.
OMB Number: 1545–1181.
Form Number: IRS Form 8752.
Type of Review: Extension.
Title: Required Payment or Refund Under Section 7519.
Description: This form is used to verify that partnerships and S

corporations that made a section 444 election have correctly reported the payment required under section 7519.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 72,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—5 hr., 16 min.
Learning about the law or the form—1 hr., 5 min.
Preparing, copying, assembling and sending the form to the IRS—1 hr., 13 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 545,040 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224,

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–21310 Filed 8–7–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Agency Information Collection: Emergency Submission for OMB Review; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration, Department of Veterans Affairs (VA), has submitted to the Office of Management and Budget (OMB) the following emergency proposal for the collection of information under the Provisions of the Paperwork Reduction Act (PRA, 44 U.S.C. 3507(j)(1)). This collection of information is needed prior to the expiration of the time periods contained in 5 CFR 1320. This emergency clearance request is essential to satisfying the requirements of Public Law 103–446 and the VA's mission of caring for veterans and their families. If the Veterans Health Administration uses normal clearance procedures, the collection of information would be disrupted. Public harm may result if formal clearance procedures are followed since many Gulf War veterans and their families are awaiting the results of the survey to aid in the diagnosis and treatment of symptoms. VA had expected the research survey to be exempt from the definition of information pursuant to 5 CFR 1320.3(h)(5); a different standard was applied to this research survey resulting in an unanticipated situation. OMB has been requested to act on this emergency clearance request by August 21, 1998.

Title: National Health Survey of Gulf War Era Veterans and their Families: Phase III Physical Examinations.

OMB Control Number: None assigned.

Type of Review: New Collection.

Abstract: In November of 1994 the Secretary of Veterans Affairs was directed by the ''Persian Gulf War Veterans' Benefits Act,'' Title I of the ''Veterans' Benefits Improvements Act of 1994,'' Public Law 103–446, to conduct a health survey of Persian Gulf veterans and their spouses and children. In response to the legislative mandate, the Veterans Health Administration initiated a survey entitled ''National Health Survey of Gulf War Era Veterans and their Families.'' The present survey protocol represents Phase III of the study, clinical examinations of a sample of 1,000 Gulf War Veterans and their spouses and children and 1,000 Gulf War era nondeployed veterans and their spouses and children. The Cooperative Studies Evaluation Committee approved this study in September of 1997. Physicians within and outside the Department of Veterans Affairs hospital system will use the information collected during Phase III to aid in diagnosing and treating Gulf War veterans. Researcher will also use the information to further identify any possible illnesses associated with the myriad of symptoms presented by Gulf War veterans.

Affected Public: Individuals or households.

Estimated Annual Burden: 54,920 hours.

Estimated Average Burden Per Respondent: 10 hours.

Frequency of Response: The forms will be completed by the clinical staff once during at two-day battery of examinations; there will be no follow-up visits.

Estimated Number of Respondents: 5,492 study participants. (A total 2,000 veterans, 1,520 spouses, and 1,972 children will be examined during Phase III.)

ADDRESSES: A copy of this submission may be obtained from Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 8l0 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015.

Comments and recommendations concerning this submission should be directed to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650.

DATES: Written comments on the collection of information should be directed and received by the VA's OMB Desk Office on or before August 24, 1998.

FOR FURTHER INFORMATION CONTACT: Ron Taylor, VA Clearance Officer (045A4), (202) 273–8015.

Dated: July 29, 1998.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 98–21252 Filed 8–7–98; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 63, No. 153

Monday, August 10, 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.

FEDERAL TRADE COMMISSION

Submission for OMB Review; Comment Request

Correction

In notice document 98–20298 beginning on page 40713, in the issue of Thursday, July 30, 1998, make the following correction:

On page 40714, in the second column, in the 21st line from the bottom, ''17.5'' should read ''37.5''.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–32]

Modifications of Class E Airspace; Prairie Du Chien, WI

Correction

In rule document 98–19582 beginning on page 39497 in the issue of Thursday, July 23, 1998, make the following correction:

§ 71.1 [Corrected]

1. On page 39498, in the first column, under **AGL WI E5 Prairie Du Chien, WI [Revised]**, in the seventh line ''Prairier'' should read ''Prairie''.

2. On the same page, in the same column, under **AGL WI E5 Prairie Du Chien, WI [Revised]**, in the ninth line, ''teh'' should read ''the''.

BILLING CODE 1505-01-D

federal register

Monday
August 10, 1998

Part II

Department of the Treasury

Office of the Comptroller of the Currency
12 CFR Parts 3 and 6

Federal Reserve System

12 CFR Parts 208 and 225

Federal Deposit Insurance Corporation

12 CFR Part 325

Department of the Treasury

Office of Thrift Supervision
12 CFR Parts 565 and 567

Risk-Based Capital Guidelines; Capital Adequacy Guidelines, and Capital Maintenance: Servicing Assets; Final Rule

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 3 and 6

[Docket No. 98–10]

RIN 1557–AB14

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulations H and Y; Docket No. R–0976]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064–AC07

DEPARTMENT OF THE TREASURY

Office Of Thrift Supervision

12 CFR Parts 565 and 567

[Docket No. 98–68]

RIN 1550–AB11

Capital; Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Servicing Assets

AGENCIES: Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; and Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC); the Board of Governors of the Federal Reserve System (Board); the Federal Deposit Insurance Corporation (FDIC); and the Office of Thrift Supervision (OTS) (collectively, the Agencies) are amending their capital adequacy standards for banks, bank holding companies, and savings associations (collectively, institutions or banking organizations) to address the regulatory capital treatment of servicing assets on both mortgage assets and financial assets other than mortgages (nonmortgages). This rule increases the maximum amount of servicing assets (when combined with purchased credit card relationships (PCCRs)) that are includable in regulatory capital from 50 percent to 100 percent of Tier 1 capital. Servicing assets include the aggregate amount of mortgage servicing assets (MSAs) and nonmortgage servicing assets (NMSAs). It also applies a further sublimit of 25 percent of Tier 1 capital to the aggregate amount of NMSAs and PCCRs. The rule also subjects the valuation of MSAs, NMSAs, and PCCRs to a 10 percent discount. The final rule also modifies certain terms used in the Agencies' capital rules to be more consistent with the terminology found in accounting standards recently prescribed by the Financial Accounting Standards Board (FASB) for the reporting of these assets.

DATES: This final rule is effective October 1, 1998. The Agencies will not object if an institution wishes to apply the provisions of this final rule beginning on August 10, 1998.

FOR FURTHER INFORMATION CONTACT:

OCC: Gene Green, Deputy Chief Accountant (202/874–5180); Roger Tufts, Senior Economic Adviser, or Tom Rollo, National Bank Examiner, Capital Policy Division (202/874–5070); Mitchell Stengel, Senior Financial Economist, Risk Analysis Division (202/874–5431); Saumya Bhavsar, Attorney or Ronald Shimabukuro, Senior Attorney (202/874–5090), Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, D.C. 20219.

Board: Arleen Lustig, Supervisory Financial Analyst (202/452–2987), Arthur W. Lindo, Supervisory Financial Analyst, (202/452–2695) or Thomas R. Boemio, Senior Supervisory Financial Analyst, (202/452–2982), Division of Banking Supervision and Regulation. For the hearing impaired *only*, Telecommunication Device for the Deaf (TDD), Diane Jenkins (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

FDIC: For supervisory issues, Stephen G. Pfeifer, Examination Specialist, (202/898–8904), Accounting Section, Division of Supervision; for legal issues, Marc J. Goldstom, Counsel, (202/898–8807), Legal Division.

OTS: Michael D. Solomon, Senior Program Manager for Capital Policy, (202/906–5654), Christine Smith, Capital and Accounting Policy Analyst, (202/906–5740), or Timothy J. Stier, Chief Accountant, (202/906–5699), Vern McKinley, Senior Attorney, Regulations and Legislation Division (202/906–6241), Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

I. Background

This section describes the changes in accounting guidance that have prompted the Agencies to amend their risk-based and leverage capital rules with respect to servicing assets.

FAS 122

In May 1995, FASB issued Statement of Financial Accounting Standards No. 122, ''Accounting for Mortgage Servicing Rights'' (FAS 122), which eliminated the distinction in generally accepted accounting principles (GAAP) between originated mortgage servicing rights (OMSRs) and purchased mortgage servicing rights (PMSRs). FAS 122 required that these assets, together known as mortgage servicing rights (MSRs), be treated as a single class of assets for financial statement purposes, regardless of how the servicing rights were acquired.[1] This change allowed OMSRs to be reported as balance sheet assets for the first time. Under FAS 122, OMSRs and PMSRs were treated the same for reporting, valuation, and disclosure purposes. Among other things, FAS 122 imposed valuation and impairment criteria based on the stratification of MSRs by their predominant risk characteristics. In addition, prior to FAS 122, GAAP treated MSRs as intangible assets. FAS 122 eliminated this characterization as unnecessary because similar characterizations as tangible or intangible are not applied to most other assets.

The Agencies adopted FAS 122 for regulatory reporting purposes and then issued a joint interim rule on the regulatory capital treatment of MSRs with a request for public comment on August 1, 1995 (60 FR 39226). The interim rule, which became effective upon publication, amended the Agencies' capital adequacy standards for mortgage servicing rights and intangible assets. It treated OMSRs in the same manner as PMSRs for regulatory capital purposes. The interim rule permitted banking organizations to include MSRs plus PCCRs in regulatory capital up to a limit of 50 percent of Tier 1 capital.[2] In addition, the interim rule applied a 10 percent valuation discount (or ''haircut'') to all MSRs and PCCRs. This haircut is statutorily required for PMSRs.[3] The interim rule did not

[1] Mortgage servicing rights represent the contractual obligations undertaken by an institution to provide the servicing for mortgage loans owned by others, typically for a fee. Mortgage servicing rights generally have value to the servicing institution due to the present value of the expected net future cash flows for servicing mortgage assets. PMSRs are mortgage servicing rights that are purchased from other parties. The purchaser is not the originator of the mortgages. OMSRs, on the other hand, generally represent the servicing rights created when an institution originates mortgage loans and subsequently sells the loans but retains the servicing rights.

[2] For OTS purposes, Tier 1 capital is the same as core capital.

[3] This 10 percent haircut is required by section 475 of the Federal Deposit Insurance Corporation

amend any other elements of the Agencies' capital rules.

FAS 125

In June 1996, FASB issued Statement of Financial Accounting Standards No. 125, ''Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities' (FAS 125), the servicing related provisions of which became effective on January 1, 1997. FAS 125, which superseded FAS 122, requires organizations to recognize separate servicing assets (or liabilities) for the contractual obligation to service financial assets (e.g., mortgage loans, credit card receivables) that the entities have either sold or securitized with servicing retained. Furthermore, servicing assets (or liabilities) that are purchased (or assumed) as part of a separate transaction must also be recognized under FAS 125.

FAS 125 also eliminates the previous distinction in GAAP between normal servicing fees and excess servicing fees.[4] FAS 125 reclassifies these cash flows into two assets: (a) servicing assets, which are measured based on contractually specified servicing fees; and (b) interest-only (I/O) strips receivable, which reflect rights to future interest income from the serviced assets in excess of the contractually specified servicing fees. In addition, FAS 125 generally requires I/O strips and other financial assets (including loans, other receivables, and retained interests in securitizations) to be measured at fair value if they can be contractually prepaid or otherwise settled in such a way that the holder would not recover substantially all of its recorded investment.[5] However, under FAS 125, no servicing asset (or liability) need be recognized when a banking organization securitizes assets, retains all of the resulting securities, and classifies the securities as held-to-maturity in accordance with FAS 115.

FAS 125 also adopts the valuation approach established in FAS 122 for determining the impairment of mortgage servicing assets (MSAs) and extends this approach to all other servicing assets (i.e., servicing assets on financial assets other than mortgages). Thus, impairment should be assessed based on the stratification of servicing assets by their predominant risk characteristics.

The Agencies issued interim guidance to banking organizations on December 18, 1996, to ensure banking organizations' compliance with FAS 125 for reporting purposes when the servicing-related provisions became effective on January 1, 1997. Under the interim guidance, the Agencies also clarified that their existing rules on mortgage servicing applied to all MSAs. Furthermore, consistent with their existing rules, the OCC, FDIC, and the Board did not allow the inclusion of NMSAs for regulatory capital purposes. The OTS included NMSAs in regulatory capital, subject to the same 50 percent of Tier 1 capital aggregate limit, 25 percent sublimit, and 10 percent haircut applicable to PCCRs.

II. Description of the Proposal

The Agencies issued a joint proposed rule on August 4, 1997 (62 FR 42006). The proposal raised three main questions: (1) Should the Agencies continue to retain a limitation on the amount of mortgage servicing assets that may be included in regulatory capital; (2) should the Agencies continue to deduct NMSAs for regulatory capital purposes; and, (3) should the Agencies impose regulatory capital limits on I/O strips receivable not in the form of a security or on certain other nonsecurity financial instruments subject to prepayment risk (collectively, I/O strips receivable)?

Specifically, with respect to the first issue, the Agencies proposed to increase the aggregate amount of MSAs and PCCRs that banking organizations could include in regulatory capital from 50 to 100 percent of Tier 1 capital. In addition, they proposed to apply the 10 percent haircut to all MSAs. The proposal also continued to subject PCCRs to a 10 percent haircut and a 25 percent of Tier 1 capital sublimit.

With respect to the second issue, the Agencies proposed to exclude from regulatory capital the amount of banking organizations' NMSAs. Prior to the adoption of FAS 125, NMSAs generally were not recognized as balance sheet assets for GAAP or regulatory reporting purposes.

With respect to the third issue, the Agencies requested comment on two options for the capital treatment of I/O strips receivable. Under Alternative A, I/O strips receivable, whether or not in the form of a security, would be included in Tier 1 capital on an unlimited basis; that is, they would not be subject to any Tier 1 capital deduction. Under Alternative B, I/O strips receivable not in the form of a security would be combined with the corresponding type of servicing assets and subject to the same capital limitation and 10 percent haircut (or capital deduction) that are applied to the related servicing assets.

In addition, the Agencies specifically requested public comment on a number of topics related to the proposal. The topics included the reliability of the fair values of servicing assets, the appropriate Tier 1 capital limitation for mortgage and NMSAs, and whether servicing assets that are disallowed for regulatory capital purposes should be deducted on a basis that is net of any associated deferred tax liability.

III. Summary of Comments and Description of the Final Rule

Final Rule

After considering the public comments received and discussed below, the Agencies have decided to amend their respective risk-based and leverage capital rules as follows:

(a) All servicing assets and PCCRs that are includable in capital are each subject to a 90 percent of fair value limitation (also known as a ''10 percent haircut'').[6]

(b) The aggregate amount of all servicing assets and PCCRs included in capital cannot exceed 100% of Tier 1 capital.

(c) The aggregate amount of NMSAs and PCCRs included in capital cannot exceed 25% of Tier 1 capital.

(d) All other intangible assets (other than qualifying PCCRs) must be deducted from Tier 1 capital.

Amounts of servicing assets and PCCRs in excess of the amounts allowable must be deducted in determining Tier 1 capital. Furthermore, I/O strips receivable, whether or not in security form, are not subject to any regulatory capital limitations under this rule.

Improvement Act of 1991 (FDICIA) (12 U.S.C. 1828 note). Also see the Financial Institutions Recovery, Reform, and Enforcement Act (FIRREA) (12 U.S.C. 1464(t)) for the statute applicable to thrifts. It applies to the fair value of the MSRs so that the amount of MSRs recognized for regulatory capital purposes does not exceed 90 percent of the fair value.

[4] Prior to FAS 125, excess servicing fees arose only when an organization sold loans but retained the servicing and received a servicing fee that was in excess of a normal servicing fee. Excess servicing fees receivable (ESFRs) represented the present value of the excess servicing fees and were reported as a separate asset on an institution's balance sheet.

[5] These assets are to be measured at fair value like debt securities that are classified as available-for-sale or trading securities under FASB Statement No. 115, ''Accounting for Certain Investments in Debt and Equity Securities'' (FAS 115).

[6] The Agencies have chosen to use FAS 125 terminology when referring to servicing assets and financial assets. The Agencies' regulatory reports (Reports of Condition and Income for commercial banks and FDIC-supervised savings banks, Thrift Financial Report (TFR) for savings associations, and Consolidated Financial Statements (FR Y–9C) for bank holding companies) also reflect FAS 125 definitions for the reporting of servicing assets. Consistent with the foregoing, the FDIC has made an additional technical clarification to its definition of ''mortgage servicing assets'' in 12 CFR 325.2(n) that conforms this definition more closely to the definitions used in the Agencies' regulatory reports.

Summary of Comments

The Agencies collectively received 35 comment letters on the proposal during the comment period, which ended on October 3, 1997. The commenters represented a diverse group of organizations that included: Six banks, seven bank holding companies, seven Federal Reserve Banks, seven thrifts, seven trade associations, and one government sponsored enterprise. This final rule is similar in most respects to the Agencies' proposal, but incorporates several changes in response to comments received. The following analysis identifies and discusses the major issues raised in the comments and the Agencies' responses to these issues.

Capital Limitation for Mortgage Servicing Assets

The Agencies solicited comment on a proposal to increase the 50 percent of Tier 1 capital limit for MSAs and PCCRs to 100 percent of Tier 1 capital and to retain a 25 percent sublimit for PCCRs. The Agencies also requested comment on what the aggregate limit, if any, should be for the inclusion of MSAs and PCCRs in regulatory capital. The Agencies received 29 comments on this issue. Twenty-five of the 29 commenters supported increasing the 50 percent limit. Some of these commenters supported the proposal's increase to 100 percent of Tier 1 capital. Others recommended a higher Tier 1 capital limitation (*e.g.*, 200 percent of capital), while still others recommended the complete elimination of any limitation on the amount of MSAs included in Tier 1 capital.

Those commenters supporting an increase in, or elimination of, the Tier 1 capital limit argued that the GAAP valuation and impairment requirements for MSAs under FAS 125, which are based on the lower of cost or market (LOCOM), are conservative. Therefore, they argued that these standards provide safeguards against the risks associated with these assets and preclude the need for regulatory capital limitations. They further reasoned that the fair value of MSAs is readily available in the active, mature market for MSAs. This information, in turn, allows market participants to use market-based data on prepayment speeds and discount rates to model the present values of MSAs using discounted cash flow valuation techniques. Furthermore, they argued that the use of the market-based data on prepayments, loan balances, delinquencies, and servicing costs helps reduce the volatility of reported values of servicing assets. Some of these commenters also noted that software packages used to determine fair values of MSAs enable servicers to more accurately value MSAs.

Several commenters who were in favor of eliminating the regulatory capital limit on MSAs believed that the Agencies' capital guidelines should focus on institutions' overall risk profiles rather than on limitations for specific types of assets, such as MSAs which are often hedged.

Furthermore, most commenters believed that the requirement to deduct from Tier 1 capital all amounts of MSAs exceeding the percent of Tier 1 capital limitation would continue to put insured institutions at a competitive disadvantage vis-a-vis non-regulated/nonbank entities. Such uninsured entities are not subject to the cost of this capital limitation, which increases insured institutions' costs for performing servicing and, in turn, limits the growth of their portion of the servicing and securitization markets.

Other commenters noted that the Tier 1 capital limit should be increased because the limit is considerably more constraining now than it was prior to the issuance of FAS 122 and FAS 125 because FAS 122 required the capitalization of OMSRs and FAS 125 redefined MSAs to include the bulk of ESFRs. The 50 percent limit was originally intended only for PMSRs, but is now applied to OMSRs and the large majority of what were formerly classified as ESFRs.

Four commenters opposed the increase of MSAs to 100 percent of Tier 1 capital noting problems in estimating their value, including difficulty in making assumptions regarding future loan repayments, credit quality, and interest rates. In addition, these commenters pointed out that a weak economy or significant changes in interest rates could exacerbate problems of uncertainty in valuing MSAs, due, in part, to changes in mortgage prepayment rates. One commenter noted that despite continued growth in the market, it is concerned that community banks holding relatively small amounts of these assets still face significant difficulties in obtaining accurate valuations. These commenters do not believe that, for their banking organizations, adequate information is available overall to make appropriate assumptions in calculating valuations and impairment.

The Agencies believe that increasing the limit of MSAs allowable in Tier 1 capital from 50 to 100 percent is appropriate and that the application of more rigorous valuation and impairment standards for servicing assets pursuant to FAS 125 has improved the valuation of these assets.[7] FAS 125 has significantly changed the treatment of mortgage servicing from when Congress through FIRREA imposed PMSR limits on thrifts in 1989 and FDICIA imposed valuation criteria on all banks' and thrifts' PMSRs in 1991.[8] Furthermore, the volume of servicing assets that is traded regularly in the market has greatly increased, making market-based data more readily available and information on prepayment rates, delinquency rates, and other servicing costs more accessible. However, the Agencies also believe that more experience with institutions' application of the valuation standard under FAS 125, as well as with the volatility of these assets, is needed before considering the removal, or further easing, of the Tier 1 capital limits. Therefore, as a result of development of the mortgage servicing markets and the improved valuation and impairment standards under FAS 122 and 125, the Agencies are increasing the Tier 1 capital limit for MSAs from 50 to 100 percent of Tier 1 capital.

Purchased Credit Card Relationships

The Agencies proposed no changes to the current regulatory capital treatment of PCCRs, which are subject to the 100 percent of Tier 1 limit, to a 25 percent of Tier 1 capital sublimit, and to a 10 percent haircut. Although the Agencies did not specifically request comment on the capital treatment of PCCRs, except in the context of an aggregate limit when combined with servicing assets, the Agencies received six comments on the regulatory capital limitation of PCCRs. Generally, these commenters supported removing all regulatory capital limits on PCCRs, although a few supported some type of limitation. Since the Agencies did not solicit comments, they are not taking any action at this time.[9]

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[7] Among other things, FAS 125 requires banking organizations to stratify their servicing assets based on one or more of their predominant risk characteristics. Thus, declines in fair market value of a particular stratum of servicing assets below cost must be recognized under GAAP, while gains in the value of another stratum of servicing assets may not offset losses experienced in other strata. This methodology discourages banking organizations from overvaluing their servicing portfolios because they will be required to recognize larger declines if prepayments occur.

[8] The current 50 percent of Tier 1 capital limit applies to the aggregate amount of MSAs and PCCRs only. The final rule will apply the 100 percent of Tier 1 capital limit to the aggregate amount of MSAs, NMSAs, and PCCRs.

[9] Under the existing rules, only PCCRs are subject to the sublimit of 25 percent of Tier 1 capital. Under the final rule, the sublimit will apply to the aggregate amount of PCCRs and NMSAs.

Nonmortgage Servicing Assets

The Agencies requested comment on whether servicing assets on nonmortgage financial assets should be recognized in Tier 1 capital. The Agencies received 18 comments addressing this issue. Five commenters supported the proposal's full deduction of NMSAs from regulatory capital because of valuation and market liquidity concerns. The other commenters recommended that the Agencies place either no limit on NMSAs or apply the proposed treatment for MSAs (*i.e.*, 100 percent of Tier 1 capital).

The commenters opposing the proposal acknowledged that the market for NMSAs is less developed than for MSAs, but believed that the Agencies should not prevent the development of markets for NMSAs by excluding these assets from regulatory capital. These commenters argued that: (1) The rigorous valuation and impairment criteria of FAS 125 are conservative and provide sufficient protection against overvaluation of NMSAs; (2) NMSAs have less potential for volatility than MSAs because they typically have shorter lives than MSAs and are not as sensitive to changes in market interest rates; (3) fair values are obtainable for NMSAs using discounted cash flow models or market surveys of similar pricing arrangements; (4) excluding NMSAs from regulatory capital would put financial institutions at a serious competitive disadvantage with non-regulated entities; and (5) there is sufficient experience with contractual servicing fees related to securitizations to enable examiners to evaluate the appropriateness of such fees. Finally, these commenters argued that, under FAS 125, the majority of banks with substantial amounts of servicing assets and other nonsecurity financial instruments related to securitizations generally have sophisticated cost accounting systems and can clearly track their cost associated with servicing the securitized receivables. Therefore, these commenters contended that a fully developed public market in trading these servicing portfolios is not necessary in determining their fair value.[10]

The proposal also requested comment on what types of nonmortgage financial assets (other than loans secured by first liens on 1- to 4-family residential properties) banking organizations currently book as servicing assets or I/O strips receivable. Seven commenters responded to this question. These commenters noted the following types of servicing assets: Commercial loans, automobile loans, credit card receivables, unsecured installment loans, student loans, Small Business Administration loans, home equity loans, commercial mortgages, recreational vehicle loans, and marine loans.

After careful consideration of these comments, the Agencies have decided to allow banking organizations to include NMSAs in Tier 1 capital, but subject the aggregate of NMSAs and PCCRs to the 25 percent of Tier 1 sublimit and to the 10 percent haircut. The Agencies believe that a conservative regulatory capital limit is appropriate until the depth and maturity of this market develops further. This approach allows banking organizations to include some prudently valued NMSAs in Tier 1 capital calculations, while retaining the supervisory safeguards that the Agencies believe are warranted in light of their concerns about the potential valuation, liquidity, and volatility of these assets.[11]

Discounted Valuation (''Haircut'')

The final rule retains the interim rule's application of the required 10 percent discount in valuing MSAs and PCCRs. Although the Agencies did not specifically request comment on this issue, nine commenters recommended elimination of the haircut. These commenters acknowledged that the valuation discount is required by statute for PMSRs, but advocated its elimination by legislative change.[12] At a minimum, some commenters recommended that the haircut apply only to PMSRs, even though the application of the haircut to PMSRs could be difficult because PMSRs are not reported as separate assets under GAAP. These commenters argued that the haircut is an arbitrary and ineffective way to protect against prepayment and other risks. Instead, they believed that it is preferable to measure risks associated with MSAs and PCCRs as part of banking organizations' overall interest rate risk analyses. One commenter, however, supported retaining the ten percent haircut because it injects an element of conservatism into the regulatory capital measure. The final rule retains the 10 percent haircut for MSAs and PCCRs and extends it to NMSAs. The Agencies, however, may revisit this issue if Congress revises the current statutory requirement.

Interest-Only Strips Receivable

The Agencies proposed, and requested public comment on, two options for the capital treatment of I/O strips receivable. Under Alternative A, I/O strips receivable, whether or not in the form of a security, would be included in Tier 1 capital on an unlimited basis, that is, they would not be deducted from Tier 1 capital regardless of the amount of such holdings. Under Alternative B, I/O strips receivable not in the form of a security would be subject to the same capital limitations and 10 percent haircut that are applied to the related type of servicing assets. The Agencies also asked for comment on whether the definition of I/O strips receivable that could be subject to such capital limitations under Alternative B should be expanded to include certain other financial assets not in security form that have substantial prepayment risks (as defined in FAS 125).

The Agencies received 19 comments on the treatment of I/O strips receivable. Fourteen commenters supported Alternative A, contending that I/O strips receivable should not be subject to a Tier 1 capital limit. They asserted that I/O strips receivable associated with servicing assets are indistinguishable from I/O strip securities and should be treated consistently with other I/O strip securities, which are not subject to Tier 1 capital limitations. In addition, these commenters believed that, because the income stream of I/O strips receivable is not dependent on a banking organization servicing the underlying loans, I/O strips receivable should not necessarily be subject to the same capital requirement applied to the servicing assets on the same type of loans. Some commenters noted that banking organizations' interest rate risk models currently measure and assess the risk of I/O strips, which provide a better analytical foundation for establishing capital requirements than imposing rigid percentage-of-capital limitations. Other commenters stated

[10] One commenter noted that OTS-regulated institutions are currently allowed to include NMSAs in Tier 1 capital, subject to the same haircut and 25 percent sublimit as PCCRs. Therefore, they recommended a grandfathering provision for transactions that occurred prior to any change in the regulatory capital treatment of NMSAs. Under today's final rule, these grandfathering provisions are unnecessary.

[11] While savings associations may include NMSAs in core (Tier 1) capital, they may not include such assets in tangible capital under 12 U.S.C. 1464(t)(9)(C). See OTS final rule at 12 CFR 567.12(b)(2). In addition, OTS has revised its definition of tangible equity under the prompt corrective action rule at 12 CFR 565.2(f). The revised rule reflects the fact that NMSAs are deducted from tangible equity and other minor technical changes.

[12] Section 115 of S. 1405, the Financial Regulatory Relief and Economic Efficiency Act, currently pending, could, among other things, provide discretion for the Agencies to reduce or eliminate the ten percent haircut for PMSRs.

that I/O strips receivable often serve as a credit enhancement to securities holders and therefore already are subject to the capital treatment for recourse obligations and direct credit substitutes.

Five commenters supported Alternative B. The reasons cited by these commenters included the difficulty of valuing I/O strips receivable because they are not securities, not rated, and not registered. These commenters also cited the lack of an active, liquid market because these assets are relatively new financial assets. One commenter argued that if I/O strips receivable are not subject to the same capital limitation as their related servicing assets, banking organizations may be inclined to avoid capital limitations by negotiating contracts that classify more of the cash flows as I/O strips receivable instead of servicing assets.

Based on the comments received and a further analysis of the issues, the Agencies have decided to adopt Alternative A. The Agencies agree that I/O strips receivable associated with servicing assets are sufficiently similar to I/O strip securities, which are not subject to a capital deduction requirement under current rules, to warrant consistent treatment. Furthermore, the agencies also recognize the prudential effects of banking organizations' relying on their own risk assessment and valuation tools, particularly their interest-rate risk, market risk, and other analytical models. Accordingly, the Agencies will not apply a regulatory capital limitation to I/O strips receivable or non-security financial instruments under the final rule. Nevertheless, the Agencies will continue to review banking organizations' valuation of I/O strips receivable, evaluate concentrations of these assets relative to the organizations' regulatory capital levels, and determine whether cash flows are being correctly classified as either I/O strips receivable or servicing assets. As with other assets, the Agencies may, on a case-by-case basis, require banking organizations that the Agencies determine have high concentrations of these assets relative to their capital, or are otherwise at risk from these assets, to hold additional capital commensurate with their risk exposure.

In addition, the Agencies will continue to apply the capital treatment for assets sold with recourse to those arrangements where I/O strips receivable are used as a credit enhancement to absorb credit risk on the underlying loans that have been sold.

Other Issues

Excess Servicing Fees Receivables

The proposal requested comment on the appropriate capital treatment for amounts previously designated as ESFRs if a banking organization still maintains this breakdown for income tax or other purposes. The Agencies requested comment on ESFRs because, for tax purposes, banking organizations may continue to report ESFRs separately from servicing assets. The agencies were exploring whether any banking organizations that report ESFRs for tax purposes would similarly want to report ESFRs separately for regulatory capital purposes.

The Agencies received nine comments on this question. The commenters generally supported according ESFRs the same capital treatment as I/O strips receivable, because both ESFRs and I/O strips receivable can be sold separately from the servicing asset, or treating ESFRs like other servicing assets. If ESFRs are treated like I/O strips receivable, the commenters thought that they should not be subject to any regulatory capital limitations or valuation discounts. Other commenters noted that the Agencies' proposed increase of servicing assets to 100 percent is a meaningful liberalization because more assets, including many ESFRs, may fall within the scope of the limit. One commenter, however, recommended a 200 percent capital limit.

Under this final capital rule, banking organizations should follow FAS 125 in reporting cash flows as either servicing assets or I/O strips receivable. Some cash flows that were previously categorized as ESFRs, particularly ESFRs not related to residential mortgage loans, will be classified as I/O strips receivable. On the other hand, some excess servicing fees may become part of the contractually specified servicing fees under FAS 125. The Agencies' decision to increase the Tier 1 capital limitation from 50 to 100 percent should mitigate the capital effects of including such ESFRs in servicing assets.

Hedging the Servicing Assets Portfolio

The proposal requested comment on what effect efforts to hedge the MSA portfolio should have on the application of capital limitations to various types of servicing assets. Thirteen commenters addressed this question. Two commenters believed that efforts to hedge the mortgage servicing asset portfolio should not impact the capital limitations for these assets. Alternatively, six commenters supported the incorporation of hedging into banking organizations' capital computations. Two of these commenters recommended a method of incorporating hedging into the capital calculation by allowing institutions to include directly hedged servicing assets in Tier 1 capital without any regulatory capital limitation. One commenter noted that the Agencies should defer a decision on this issue until FASB completes its guidance on hedging.

The Agencies recognize the important function of hedging servicing assets due to the inherent volatility of these assets. Banking organizations with substantial portfolios of servicing assets generally should hedge these portfolios. However, because the Agencies have not had sufficient experience with institutions' hedging of servicing and other assets covered by FAS 125, the Agencies are not adjusting the capital limitations in this final rule to adjust for hedging. The Agencies may revisit this issue when they evaluate any changes that FASB may make to hedge accounting under GAAP.

Net of Tax

The proposal asked for comment on whether servicing assets that are disallowed for regulatory capital purposes should be deducted on a basis that is net of any associated deferred tax liability. Several commenters addressed this issue. Those commenters unanimously agreed that servicing assets and PCCRs deducted from Tier 1 capital under this rule should be deducted on a basis that is net of any associated deferred tax liability. Thus, this final rule gives banking organizations the option to deduct otherwise disallowed servicing assets on a basis that is net of any associated deferred tax liability.[13] Any deferred tax liability used in this manner would not be available for the organization to use in determining the amount of net deferred tax assets that may be included for the purposes of Tier 1 capital calculations.

Tangible Equity

No comments were received on conforming the terminology in the definition of tangible equity found in each Agency's regulation for Prompt Corrective Action to reflect the FAS 125 conceptual changes for measuring servicing assets. Therefore, the term ''mortgage servicing assets'' will replace ''mortgage servicing rights'' in the

[13] The OTS' current rule addresses the net of tax issue and the OTS has made minor technical changes to its final rule text. The OTS is also reviewing its TFR instructions implementing this provision to better accord with this rulemaking.

definition of tangible equity in each Agency's Prompt Corrective Action regulation.[14]

III. Regulatory Flexibility Act Analysis

OCC Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Comptroller of the Currency certifies that this final rule would not have a significant economic impact on a substantial number of small entities in accord with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Accordingly, a regulatory flexibility analysis is not required. The adoption of this final rule would reduce the regulatory burden of small businesses by aligning the terminology in the capital adequacy standards more closely to newly-issued generally accepted accounting principles and by relaxing the capital limitation on servicing assets. The economic impact of this final rule on banks, regardless of size, is expected to be minimal.

Board Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Board certifies that this final rule would not have a significant economic impact on a substantial number of small entities in accord with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Accordingly, a regulatory flexibility analysis is not required. The effect of this final rule would be to reduce the regulatory burden of banks and bank holding companies by aligning the terminology in the capital adequacy guidelines more closely to newly-issued generally accepted accounting principles and by relaxing the capital limitation on servicing assets. In addition, because the risk-based and leverage capital guidelines generally do not apply to bank holding companies with consolidated assets of less than $150 million, this final rule will not affect such companies.

FDIC Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), it is certified that this final rule would not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. The amendment concerns capital requirements for servicing assets held by depository institutions of any size. More specifically, it changes the current capital treatment of servicing assets by allowing depository institutions to include more of their servicing assets in Tier 1 capital. It would also reduce regulatory burden on the depository institutions (including small businesses) by aligning the terminology used in the capital adequacy guidelines more closely to newly-issued generally accepted accounting principles. The economic impact of this final rule on banks, regardless of size, is expected to be minimal.

OTS Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OTS certifies that this final rule would not have a significant economic impact on a substantial number of small entities. The amendment concerns capital requirements for servicing assets which may be entered into by depository institutions of any size. The effect of the final rule would be to reduce regulatory burden on depository institutions by aligning the terminology used in the capital adequacy standards more closely to newly-issued generally accepted accounting principles and by relaxing the capital limitation on servicing assets. The economic impact of this final rule on savings associations, regardless of size, is expected to be minimal.

IV. Early Compliance

Subject to certain exceptions, 12 U.S.C. 4802(b) provides that new regulations and amendments to regulations prescribed by a Federal banking agency which impose additional reporting, disclosures, or other new requirements on an insured depository institution shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form. However, section 4802(b) also permits persons who are subject to such regulations to comply with the regulation before its effective date. Accordingly, the Agencies will not object if an institution wishes to apply the provisions of this final rule beginning with the date it is published in the **Federal Register**.

V. Paperwork Reduction Act

The Agencies have determined that this final rule would not create or change any collection of information pursuant to the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

VI. OCC and OTS Executive Order 12866 Statement

The Comptroller of the Currency and the Director of the OTS have determined that this final rule is not a significant regulatory action under Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

VII. OCC and OTS Unfunded Mandates Act Statement

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. As discussed in the preamble, this amendment to the capital adequacy standards would relax the capital limitation on servicing assets and PCCRs. Further, the amendment moves toward greater consistency with FAS 125 in an effort to reduce the burden of complying with two different standards. Thus, no additional cost of $100 million or more, to State, local, or tribal governments or to the private sector will result from this final rule. Accordingly, the OCC and the OTS have not prepared a budgetary impact statement nor specifically addressed any regulatory alternatives.

List of Subjects

12 CFR Part 3

Administrative practice and procedure, Capital, National banks, Reporting and recordkeeping requirements, Risk.

12 CFR Part 6

National banks, Prompt corrective action.

12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Crime, Currency, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

12 CFR Part 325

Administrative practice and procedure, Banks, banking, Capital

[14] *See* OTS changes to tangible equity at footnote number 11.

adequacy, Reporting and recordkeeping requirements, Savings associations, State non-member banks.

12 CFR Part 565

Administrative practice and procedure, Capital, Savings associations.

12 CFR Part 567

Capital, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

Office of the Comptroller of the Currency

12 CFR Chapter I

For the reasons set out in the joint preamble, parts 3 and 6 of chapter I of title 12 of the Code of Federal Regulations are amended as set forth below:

PART 3—MINIMUM CAPITAL RATIOS; ISSUANCE OF DIRECTIVES

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

Authority: 12 U.S.C. 93a, 161, 1818, 1828(n), 1828 note, 1831n note, 1835, 3907, and 3909.

2. Section 3.100 is amended by revising paragraph (c)(2) and by removing the words ''mortgage servicing rights'' in paragraphs (e)(7) and (g)(2) and adding ''mortgage servicing assets'' in their place to read as follows:

§ 3.100 Capital and surplus.

* * * * *

(c) * * *

(2) Mortgage servicing assets;

* * * * *

3. In appendix A to part 3, paragraph (c)(14) of section 1. is revised to read as follows:

Appendix A to Part 3—Risk-Based Capital Guidelines

Section 1. Purpose, Applicability of Guidelines, and Definitions

* * * * *

(c) * * *

(14) *Intangible assets* include mortgage and non-mortgage servicing assets (but exclude any interest only (IO) strips receivable related to these mortgage and nonmortgage servicing assets), purchased credit card relationships, goodwill, favorable leaseholds, and core deposit value.

* * * * *

4. In appendix A to part 3, paragraphs (c) introductory text, (c)(1), and (c)(2) of section 2 are revised to read as follows:

* * * * *

Section 2. Components of Capital.

* * * * *

(c) *Deductions from Capital.* The following items are deducted from the appropriate portion of a national bank's capital base when calculating its risk-based capital ratio:

(1) *Deductions from Tier 1 Capital.* The following items are deducted from Tier 1 capital before the Tier 2 portion of the calculation is made:

(i) Goodwill;

(ii) Other intangible assets, except as provided in section 2(c)(2) of this appendix A; and

(iii) Deferred tax assets, except as provided in section 2(c)(3) of this appendix A, that are dependent upon future taxable income, which exceed the lesser of either:

(A) The amount of deferred tax assets that the bank could reasonably expect to realize within one year of the quarter-end Call Report, based on its estimate of future taxable income for that year; or

(B) 10% of Tier 1 capital, net of goodwill and all intangible assets other than mortgage servicing assets, non-mortgage servicing assets, and purchased credit card relationships, and before any disallowed deferred tax assets are deducted.

(2) *Qualifying intangible assets.* Subject to the following conditions, mortgage servicing assets, nonmortgage servicing assets [6] and purchased credit card relationships need not be deducted from Tier 1 capital:

(i) The total of all intangible assets that are included in Tier 1 capital is limited to 100 percent of Tier 1 capital, of which no more than 25 percent of Tier 1 capital can consist of purchased credit card relationships and non-mortgage servicing assets in the aggregate. Calculation of these limitations must be based on Tier 1 capital net of goodwill and all identifiable intangible assets, other than mortgage servicing assets, nonmortgage servicing assets and purchased credit card relationships.

(ii) Banks must value each intangible asset included in Tier 1 capital at least quarterly at the lesser of:

(A) 90 percent of the fair value of each intangible asset, determined in accordance with section 2(c)(2)(iii) of this appendix A; or

(B) 100 percent of the remaining unamortized book value.

(iii) The quarterly determination of the current fair value of the intangible asset must include adjustments for any significant changes in original valuation assumptions, including changes in prepayment estimates.

(iv) Banks may elect to deduct disallowed servicing assets on a basis that is net of any associated deferred tax liability. Deferred tax liabilities netted in this manner cannot also be netted against deferred tax assets when determining the amount of deferred tax assets that are dependent upon future taxable income.

* * * * *

[6] Intangible assets are defined to exclude any IO strips receivable related to these mortgage and non-mortgage servicing assets. See section 1(c)(14) of this appendix A. Consequently, IO strips receivable related to mortgage and non-mortgage servicing assets are not required to be deducted under section 2(c)(2) of this appendix A. However, these IO strips receivable are subject to a 100 percent risk weight under section 3(a)(4) of this appendix A.

PART 6—PROMPT CORRECTIVE ACTION

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

Authority: 12 U.S.C. 93a, 1831o.

2. Section 6.2 is amended by revising paragraph (g) to read as follows:

§ 6.2 Definitions.

* * * * *

(g) *Tangible equity* means the amount of Tier 1 capital elements in the OCC's Risk-Based Capital Guidelines (appendix A to part 3 of this chapter) plus the amount of outstanding cumulative perpetual preferred stock (including related surplus) minus all intangible assets except mortgage servicing assets to the extent permitted in Tier 1 capital under section 2(c)(2) in appendix A to part 3 of this chapter.

* * * * *

Dated: July 17, 1998.

Julie L. Williams,

Acting Comptroller of the Currency.

Federal Reserve System

12 CFR Chapter II

For the reasons set forth in the joint preamble, the Board of Governors of the Federal Reserve System amends parts 208 and 225 of chapter II of title 12 of the Code of Federal Regulations as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for part 208 continues to read as follows:

Authority: 12 U.S.C. 24, 36, 92a, 93a, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1816, 1818, 1823(j), 1828(o), 1831o, 1831p–1, 1831r–1, 1835a, 1882, 2901–2907, 3105, 3310, 3331–3351 and 3906–3909; 15 U.S.C. 78b, 78l(b), 78l(g), 78l(i), 78o–4(c)(5), 78q, 78q–l, and 78w; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

2. Section 208.41, as revised at 63 FR 37652 effective October 1, 1998, is amended by revising paragraph (f) to read as follows:

§ 208.41 Definitions for purposes of this subpart.

* * * * *

(f) *Tangible equity* means the amount of core capital elements as defined in the Board's Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure (Appendix A to this part), plus the amount of outstanding cumulative perpetual preferred stock (including related surplus), minus all intangible assets except mortgage

servicing assets to the extent that the Board determines that mortgage servicing assets may be included in calculating the bank's Tier 1 capital.

* * * * *

3. In Appendix A to part 208, sections II.B.1.b.i. through II.B.1.b.v. are revised to read as follows:

Appendix A to Part 208—Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure

* * * * *

II. * * *

B. * * *

1. *Goodwill and other intangible assets*

* * *

b. *Other intangible assets.* i. All servicing assets, including servicing assets on assets other than mortgages (i.e., nonmortgage servicing assets) are included in this Appendix A as identifiable intangible assets. The only types of identifiable intangible assets that may be included in, that is, not deducted from, a bank's capital are readily marketable mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships. The total amount of these assets included in capital, in the aggregate, can not exceed 100 percent of Tier 1 capital. Nonmortgage servicing assets and purchased credit card relationships are subject to a separate sublimit of 25 percent of Tier 1 capital.[14]

ii. For purposes of calculating these limitations on mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships, Tier 1 capital is defined as the sum of core capital elements, net of goodwill, and net of all identifiable intangible assets other than mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships, regardless of the date acquired, but prior to the deduction of deferred tax assets.

iii. The amount of mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships that a bank may include in capital shall be the lesser of 90 percent of their fair value, as determined in accordance with this section, or 100 percent of their book value, as adjusted for capital purposes in accordance with the instructions in the commercial bank Consolidated Reports of Condition and Income (Call Reports). If both the application of the limits on mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships and the adjustment of the balance sheet amount for these assets would result in an amount being deducted from capital, the bank would deduct only the greater of the two amounts from its core capital elements in determining Tier 1 capital.

iv. Banks may elect to deduct disallowed servicing assets on a basis that is net of any associated deferred tax liability. Deferred tax liabilities netted in this manner cannot also be netted against deferred tax assets when determining the amount of deferred tax assets that are dependent upon future taxable income.

v. Banks must review the book value of all intangible assets at least quarterly and make adjustments to these values as necessary. The fair value of mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships also must be determined at least quarterly. This determination shall include adjustments for any significant changes in original valuation assumptions, including changes in prepayment estimates or account attrition rates. Examiners will review both the book value and the fair value assigned to these assets, together with supporting documentation, during the examination process. In addition, the Federal Reserve may require, on a case-by-case basis, an independent valuation of a bank's intangible assets.

* * * * *

4. In Appendix A to part 208, section II.B.4. is revised to read as follows:

* * * * *

II. * * *

B. * * *

4. *Deferred tax assets.* The amount of deferred tax assets that is dependent upon future taxable income, net of the valuation allowance for deferred tax assets, that may be included in, that is, not deducted from, a bank's capital may not exceed the lesser of (i) the amount of these deferred tax assets that the bank is expected to realize within one year of the calendar quarter-end date, based on its projections of future taxable income for that year,[20] or (ii) 10 percent of Tier 1 capital. The reported amount of deferred tax assets, net of any valuation allowance for deferred tax assets, in excess of the lesser of these two amounts is to be deducted from a bank's core capital elements in determining Tier 1 capital. For purposes of calculating the 10 percent limitation, Tier 1 capital is defined as the sum of core capital elements, net of goodwill, and net of all other identifiable intangible assets other than mortgage and nonmortgage servicing assets and purchased credit card relationships, before any disallowed deferred tax assets are deducted. There generally is no limit in Tier 1 capital on the amount of deferred tax assets that can be realized from taxes paid in prior carry-back years or from future reversals of existing taxable temporary differences, but, for banks that have a parent, this may not exceed the amount the bank could reasonably expect its parent to refund.

* * * * *

5. In Appendix B to part 208, section II.b. is revised to read as follows:

Appendix B to Part 208—Capital Adequacy Guidelines for State Member Banks: Tier 1 Leverage Measure

* * * * *

II. * * *

b. A bank's Tier 1 leverage ratio is calculated by dividing its Tier 1 capital (the numerator of the ratio) by its average total consolidated assets (the denominator of the ratio). The ratio will also be calculated using period-end assets whenever necessary, on a case-by-case basis. For the purpose of this leverage ratio, the definition of Tier 1 capital as set forth in the risk-based capital guidelines contained in Appendix A of this part will be used.[2] As a general matter, average total consolidated assets are defined as the quarterly average total assets (defined net of the allowance for loan and lease losses) reported on the bank's Reports of Condition and Income (Call Reports), less goodwill; amounts of mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships that, in the aggregate, are in excess of 100 percent of Tier 1 capital; amounts of nonmortgage servicing assets and purchased credit card relationships that, in the aggregate, are in excess of 25 percent of Tier 1 capital; all other identifiable intangible assets; any investments in subsidiaries or associated companies that the Federal Reserve determines should be deducted from Tier 1 capital; and deferred tax assets that are dependent upon future taxable income, net of their valuation allowance, in excess of the limitation set forth in section II.B.4 of Appendix A of this part.[3]

* * * * *

[14] Amounts of servicing assets and purchased credit card relationships in excess of these limitations, as well as identifiable intangible assets, including core deposit intangibles, including favorable leaseholds, are to be deducted from a bank's core capital elements in determining Tier 1 capital. However, identifiable intangible assets (other than mortgage servicing assets and purchased credit card relationships) acquired on or before February 19, 1992, generally will not be deducted from capital for supervisory purposes, although they will continue to be deducted for applications purposes.

[20] To determine the amount of expected deferred-tax assets realizable in the next 12 months, an institution should assume that all existing temporary differences fully reverse as of the report date. Projected future taxable income should not include net operating-loss carry-forwards to be used during that year or the amount of existing temporary differences a bank expects to reverse within the year. Such projections should include the estimated effect of tax-planning strategies that the organization expects to implement to realize net operating losses or tax-credit carry-forwards that would otherwise expire during the year. Institutions do not have to prepare a new 12-month projection each quarter. Rather, on interim report dates, institutions may use the future-taxable-income projections for their current fiscal year, adjusted for any significant changes that have occurred or are expected to occur.

[2] Tier 1 capital for state member banks includes common equity, minority interest in the equity accounts of consolidated subsidiaries, and qualifying noncumulative perpetual preferred stock. In addition, as a general matter, Tier 1 capital excludes goodwill; amounts of mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships that, in the aggregate, exceed 100 percent of Tier 1 capital; nonmortgage servicing assets and purchased credit card relationships that, in the aggregate, exceed 25 percent of Tier 1 capital; other identifiable intangible assets; and deferred tax assets that are dependent upon future taxable income, net of their valuation allowance, in excess of certain limitations. The Federal Reserve may exclude certain investments in subsidiaries or associated companies as appropriate.

[3] Deductions from Tier 1 capital and other adjustments are discussed more fully in section II.B. in Appendix A of this part.

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(l), 3106, 3108, 3310, 3331–3351, 3907, and 3909.

2. In Appendix A to part 225, sections II.B.1.b.i. through II.B.1.B.v. are revised to read as follows:

Appendix A to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Risk-Based Measure

* * * * *

II. * * *

B. * * *

1. *Goodwill and other intangible assets*

* * *

b. *Other intangible assets.* i. All servicing assets, including servicing assets on assets other than mortgages (i.e., nonmortgage servicing assets) are included in this Appendix A as identifiable intangible assets. The only types of identifiable intangible assets that may be included in, that is, not deducted from, an organization's capital are readily marketable mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships. The total amount of these assets included in capital, in the aggregate, cannot exceed 100 percent of Tier 1 capital. Nonmortgage servicing assets and purchased credit card relationships are subject, in the aggregate, to a sublimit of 25 percent of Tier 1 capital.[15]

ii. For purposes of calculating these limitations on mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships, Tier 1 capital is defined as the sum of core capital elements, net of goodwill, and net of all identifiable intangible assets and similar assets other than mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships, regardless of the date acquired, but prior to the deduction of deferred tax assets.

iii. The amount of mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships that a bank holding company may include in capital shall be the lesser of 90 percent of their fair value, as determined in accordance with this section, or 100 percent of their book value, as adjusted for capital purposes in accordance with the instructions to the Consolidated Financial Statements for Bank Holding Companies (FR Y–9C Report). If both the application of the limits on mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships and the adjustment of the balance sheet amount for these intangibles would result in an amount being deducted from capital, the bank holding company would deduct only the greater of the two amounts from its core capital elements in determining Tier 1 capital.

iv. Bank holding companies may elect to deduct disallowed servicing assets on a basis that is net of any associated deferred tax liability. Deferred tax liabilities netted in this manner cannot also be netted against deferred tax assets when determining the amount of deferred tax assets that are dependent upon future taxable income.

v. Bank holding companies must review the book value of all intangible assets at least quarterly and make adjustments to these values as necessary. The fair value of mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships also must be determined at least quarterly. This determination shall include adjustments for any significant changes in original valuation assumptions, including changes in prepayment estimates or account attrition rates. Examiners will review both the book value and the fair value assigned to these assets, together with supporting documentation, during the inspection process. In addition, the Federal Reserve may require, on a case-by-case basis, an independent valuation of an organization's intangible assets or similar assets.

* * * * *

3. In Appendix A to part 225, section II.B.4. is revised to read as follows:

* * * * *

II. * * *

B. * * *

4. *Deferred tax assets.* The amount of deferred tax assets that is dependent upon future taxable income, net of the valuation allowance for deferred tax assets, that may be included in, that is, not deducted from, a banking organization's capital may not exceed the lesser of (i) the amount of these deferred tax assets that the banking organization is expected to realize within one year of the calendar quarter-end date, based on its projections of future taxable income for that year,[23] or (ii) 10 percent of Tier 1 capital. The reported amount of deferred tax assets, net of any valuation allowance for deferred tax assets, in excess of the lesser of these two amounts is to be deducted from a banking organization's core capital elements in determining Tier 1 capital. For purposes of calculating the 10 percent limitation, Tier 1 capital is defined as the sum of core capital elements, net of goodwill, and net of all identifiable intangible assets other than mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships, before any disallowed deferred tax assets are deducted. There generally is no limit in Tier 1 capital on the amount of deferred tax assets that can be realized from taxes paid in prior carryback years or from future reversals of existing taxable temporary differences.

* * * * *

4. In Appendix D to part 225, section II.b. is revised to read as follows:

Appendix D to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Tier 1 Leverage Measure

* * * * *

II. * * *

b. A banking organization's Tier 1 leverage ratio is calculated by dividing its Tier 1 capital (the numerator of the ratio) by its average total consolidated assets (the denominator of the ratio). The ratio will also be calculated using period-end assets whenever necessary, on a case-by-case basis. For the purpose of this leverage ratio, the definition of Tier 1 capital as set forth in the risk-based capital guidelines contained in Appendix A of this part will be used.[3] As a general matter, average total consolidated assets are defined as the quarterly average total assets (defined net of the allowance for loan and lease losses) reported on the organization's Consolidated Financial Statements (FR Y–9C Report), less goodwill; amounts of mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships that, in the aggregate, are in excess of 100 percent of Tier 1 capital; amounts of nonmortgage servicing assets and purchased credit card relationships that, in the aggregate, are in excess of 25 percent of Tier 1 capital; all other identifiable intangible assets; any investments in subsidiaries or associated companies that the Federal Reserve determines should be deducted from Tier 1

[15] Amounts of mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships in excess of these limitations, as well as all other identifiable intangible assets, including core deposit intangibles and favorable leaseholds, are to be deducted from an organization's core capital elements in determining Tier 1 capital. However, identifiable intangible assets (other than mortgage servicing assets, and purchased credit card relationships) acquired on or before February 19, 1992, generally will not be deducted from capital for supervisory purposes, although they will continue to be deducted for applications purposes.

[23] To determine the amount of expected deferred tax assets realizable in the next 12 months, an institution should assume that all existing temporary differences fully reverse as of the report date. Projected future taxable income should not include net operating loss carryforwards to be used during that year or the amount of existing temporary differences a bank holding company expects to reverse within the year. Such projections should include the estimated effect of tax planning strategies that the organization expects to implement to realize net operating losses or tax credit carryforwards that would otherwise expire during the year. Institutions do not have to prepare a new 12 month projection each quarter. Rather, on interim report dates, institutions may use the future taxable income projections for their current fiscal year, adjusted for any significant changes that have occurred or are expected to occur.

[3] Tier 1 capital for banking organizations includes common equity, minority interest in the equity accounts of consolidated subsidiaries, qualifying noncumulative perpetual preferred stock, and qualifying cumulative perpetual preferred stock. (Cumulative perpetual preferred stock is limited to 25 percent of Tier 1 capital.) In addition, as a general matter, Tier 1 capital excludes goodwill; amounts of mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships that, in the aggregate, exceed 100 percent of Tier 1 capital; nonmortgage servicing assets and purchased credit card relationships that, in the aggregate, exceed 25 percent of Tier 1 capital; all other identifiable intangible assets; and deferred tax assets that are dependent upon future taxable income, net of their valuation allowance, in excess of certain limitations. The Federal Reserve may exclude certain investments in subsidiaries or associated companies as appropriate.

capital; and deferred tax assets that are dependent upon future taxable income, net of their valuation allowance, in excess of the limitation set forth in section II.B.4 of Appendix A of this part.[4]

* * * * *

By order of the Board of Governors of the Federal Reserve System, August 3, 1998.

Jennifer J. Johnson,

Secretary of the Board.

Federal Deposit Insurance Corporation

12 CFR Chapter III

For the reasons set forth in the joint preamble, part 325 of Chapter III of Title 12 of the Code of Federal Regulations is amended as follows:

PART 325—CAPITAL MAINTENANCE

1. The authority citation for part 325 is revised to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 1835, 3907, 3909, 4808; Pub. L. 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102–242, 105 Stat. 2236, 2355, as amended by Pub. L. 103–325, 108 Stat. 2160, 2233 (12 U.S.C. 1828 note); Pub. L. 102–242, 105 Stat. 2236, 2386, as amended by Pub. L. 102–550, 106 Stat. 3672, 4089 (12 U.S.C. 1828 note).

2. In § 325.2, paragraph (n) is revised to read as follows:

§ 325.2 Definitions.

* * * * *

(n) *Mortgage servicing assets* means those assets (net of any related valuation allowances) that result from contracts to service loans secured by real estate (that have been securitized or are owned by others) for which the benefits of servicing are expected to more than adequately compensate the servicer for performing the servicing. For purposes of determining regulatory capital under this part, mortgage servicing assets will be recognized only to the extent that the assets meet the conditions, limitations, and restrictions described in § 325.5 (f).

* * * * *

§ 325.2 [Amended]

3. In § 325.2, paragraph (s) is amended by removing the words ''mortgage servicing rights'' and adding in their place the words ''mortgage servicing assets'' each time they appear.

4. In § 325.2, paragraphs (t) and (v) are amended by removing the words ''mortgage servicing rights'' and adding in their place the words ''mortgage servicing assets, nonmortgage servicing assets,'' each time they appear.

5. In § 325.5, paragraph (f) is revised to read as follows:

§ 325.5 Miscellaneous.

* * * * *

(f) *Treatment of mortgage servicing assets, purchased credit card relationships, and nonmortgage servicing assets.* For purposes of determining Tier 1 capital under this part, mortgage servicing assets, purchased credit card relationships, and nonmortgage servicing assets will be deducted from assets and from common stockholders' equity to the extent that these items do not meet the conditions, limitations, and restrictions described in this section. Banks may elect to deduct disallowed servicing assets on a basis that is net of any associated deferred tax liability. Any deferred tax liability netted in this manner cannot also be netted against deferred tax assets when determining the amount of deferred tax assets that are dependent upon future taxable income and calculating the maximum allowable amount of these assets under paragraph (g) of this section.

(1) *Valuation.* The fair value of mortgage servicing assets, purchased credit card relationships, and nonmortgage servicing assets shall be estimated at least quarterly. The quarterly fair value estimate shall include adjustments for any significant changes in the original valuation assumptions, including changes in prepayment estimates or attrition rates. The FDIC in its discretion may require independent fair value estimates on a case-by-case basis where it is deemed appropriate for safety and soundness purposes.

(2) *Fair value limitation.* For purposes of calculating Tier 1 capital under this part (but not for financial statement purposes), the balance sheet assets for mortgage servicing assets, purchased credit card relationships, and nonmortgage servicing assets will each be reduced to an amount equal to the lesser of:

(i) 90 percent of the fair value of these assets, determined in accordance with paragraph (f)(1) of this section; or

(ii) 100 percent of the remaining unamortized book value of these assets (net of any related valuation allowances), determined in accordance with the instructions for the preparation of the Consolidated Reports of Income and Condition (Call Reports).

(3) *Tier 1 capital limitation.* The maximum allowable amount of mortgage servicing assets, purchased credit card relationships, and nonmortgage servicing assets, in the aggregate, will be limited to the lesser of:

(i) 100 percent of the amount of Tier 1 capital that exists before the deduction of any disallowed mortgage servicing assets, any disallowed purchased credit card relationships, any disallowed nonmortgage servicing assets, and any disallowed deferred tax assets; or

(ii) The sum of the amounts of mortgage servicing assets, purchased credit card relationships, and nonmortgage servicing assets determined in accordance with paragraph (f)(2) of this section.

(4) *Tier 1 capital sublimit.* In addition to the aggregate limitation on mortgage servicing assets, purchased credit card relationships, and nonmortgage servicing assets set forth in paragraph (f)(3) of this section, a sublimit will apply to purchased credit card relationships and nonmortgage servicing assets. The maximum allowable amount of purchased credit card relationships and nonmortgage servicing assets, in the aggregate, will be limited to the lesser of:

(i) Twenty-five percent of the amount of Tier 1 capital that exists before the deduction of any disallowed mortgage servicing assets, any disallowed purchased credit card relationships, any disallowed nonmortgage servicing assets, and any disallowed deferred tax assets; or

(ii) The sum of the amounts of purchased credit card relationships and nonmortgage servicing assets, determined in accordance with paragraph (f)(2) of this section.

* * * * *

§ 325.5 [Amended]

6. In § 325.5, paragraph (g)(2)(i)(B) is amended by removing the words ''any disallowed mortgage servicing rights'' and adding in their place the words ''any disallowed mortgage servicing assets, any disallowed nonmortgage servicing assets''.

7. In § 325.5, paragraph (g)(5) is amended by removing the words ''mortgage servicing rights'' and adding in their place the words ''mortgage servicing assets, nonmortgage servicing assets''.

Appendix A to Part 325—[Amended]

8. In appendix A to part 325, the words ''mortgage servicing rights'' are removed and the words ''mortgage servicing assets, nonmortgage servicing assets'' are added each time they appear in section I.A.1., section I.B.(1) and footnote 8 to section I.B.(1), section II.C., and Table I—Definition of Qualifying Capital and footnote 2 to Table I.

[4] Deductions from Tier 1 capital and other adjustments are discussed more fully in section II.B. in Appendix A of this part.

Appendix B to Part 325—[Amended]

9. In appendix B to part 325, section IV.A. and footnote 1 to section IV.A. are amended by removing the words ''mortgage servicing rights'' and adding in their place the word ''mortgage servicing assets, nonmortgage servicing assets'' each time they appear.

Dated at Washington, D.C., this 7th day of July, 1998.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Office of Thrift Supervision

12 CFR Chapter V

For the reasons set forth in the joint preamble, the Office of Thrift Supervision amends parts 565 and 567 of chapter V of title 12 of the Code of Federal Regulations as follows:

PART 565—PROMPT CORRECTIVE ACTION

1. The authority citation for part 565 continues to read as follows:

Authority: 12 U.S.C. 1831o.

2. Section 565.2 is amended by revising paragraph (f) to read as follows:

§ 565.2 Definitions.

* * * * *

(f) *Tangible equity* means the amount of a savings association's core capital as computed in part 567 of this chapter plus the amount of its outstanding cumulative perpetual preferred stock (including related surplus), minus intangible assets as defined in § 567.1 of this chapter and nonmortgage servicing assets that have not been previously deducted in calculating core capital.

* * * * *

PART 567—CAPITAL

3. The authority citation for part 567 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1828 (note).

4. Section 567.1 is amended by revising the definition for Intangible assets to read as follows:

§ 567.1 Definitions.

* * * * *

Intangible assets. The term *intangible assets* means assets considered to be intangible assets under generally accepted accounting principles. These assets include, but are not limited to, goodwill, core deposit premiums, purchased credit card relationships, and favorable leaseholds. Servicing assets are not intangible assets, and interest-only strips receivable and other nonsecurity financial instruments are not intangible assets under this definition.

* * * * *

5. Section 567.5 is amended by revising paragraph (a)(2)(ii) to read as follows:

§ 567.5 Components of capital.

(a) * * *

(2) * * *

(ii) Servicing assets that are not includable in core capital pursuant to § 567.12 of this part are deducted from assets and capital in computing core capital.

* * * * *

6. Section 567.6 is amended by revising paragraphs (a)(1)(iv)(L) and (a)(1)(iv)(M) to read as follows:

§ 567.6 Risk-based capital credit risk-weight categories.

(a) * * *

(1) * * *

(iv) * * *

(L) Certain nonsecurity financial instruments including servicing assets and intangible assets includable in core capital under § 567.12 of this part;

(M) Interest-only strips receivable;

* * * * *

7. Section 567.9 is amended by revising paragraph (c)(1) to read as follows:

§ 567.9 Tangible capital requirement.

* * * * *

(c) * * *

(1) Intangible assets, as defined in § 567.1 of this part, and servicing assets not includable in tangible capital pursuant to § 567.12 of this part.

* * * * *

6. Section 567.12 is amended by revising the section heading and paragraphs (a) through (f) to read as follows:

§ 567.12 Intangible assets and servicing assets.

(a) *Scope.* This section prescribes the maximum amount of intangible assets and servicing assets that savings associations may include in calculating tangible and core capital.

(b) *Computation of core and tangible capital.* (1) Purchased credit card relationships may be included (that is, not deducted) in computing core capital in accordance with the restrictions in this section, but must be deducted in computing tangible capital.

(2) In accordance with the restrictions in this section, mortgage servicing assets may be included in computing core and tangible capital and nonmortgage servicing assets may be included in core capital.

(3) Intangible assets, as defined in § 567.1 of this part, other than purchased credit card relationships described in paragraph (b)(1) of this section and core deposit intangibles described in paragraph (g)(3) of this section, are deducted in computing tangible and core capital.

(c) *Market valuations.* The OTS reserves the authority to require any savings association to perform an independent market valuation of assets subject to this section on a case-by-case basis or through the issuance of policy guidance. An independent market valuation, if required, shall be conducted in accordance with any policy guidance issued by the OTS. A required valuation shall include adjustments for any significant changes in original valuation assumptions, including changes in prepayment estimates or attrition rates. The valuation shall determine the current fair value of assets subject to this section. This independent market valuation may be conducted by an independent valuation expert evaluating the reasonableness of the internal calculations and assumptions used by the association in conducting its internal analysis. The association shall calculate an estimated fair value for assets subject to this section at least quarterly regardless of whether an independent valuation expert is required to perform an independent market valuation

(d) *Value limitation.* For purposes of calculating core capital under this part (but not for financial statement purposes), purchased credit card relationships and servicing assets must be valued at the lesser of:

(1) 90 percent of their fair value determined in accordance with paragraph (c) of this section; or

(2) 100 percent of their remaining unamortized book value determined in accordance with the instructions for the Thrift Financial Report.

(e) *Core capital limitation*—(1) *Aggregate limit.* The maximum aggregate amount of servicing assets and purchased credit card relationships that may be included in core capital shall be limited to the lesser of:

(i) 100 percent of the amount of core capital computed before the deduction of any disallowed servicing assets and disallowed purchased credit card relationships; or

(ii) The amount of servicing assets and purchased credit card relationships determined in accordance with paragraph (d) of this section.

(2) *Reduction by deferred tax liability.* Associations may elect to deduct disallowed servicing assets on a basis

that is net of any associated deferred tax liability.

(3) *Sublimit for purchased credit card relationships and non mortgage-related servicing assets.* In addition to the aggregate limitation in paragraph (e)(1) of this section, a sublimit shall apply to purchased credit card relationships and non mortgage-related servicing assets. The maximum allowable amount of these two types of assets combined shall be limited to the lesser of:

(i) 25 percent of the amount of core capital computed before the deduction of any disallowed servicing assets and purchased credit card relationships; or

(ii) The amount of purchased credit card relationships and non mortgage-related servicing assets determined in accordance with paragraph (d) of this section.

(f) *Tangible capital limitation.* The maximum amount of mortgage servicing assets that may be included in tangible capital shall be the same amount includable in core capital in accordance with the limitations set by paragraph (e) of this section. All nonmortgage servicing assets are deducted in computing tangible capital.

* * * * *

Dated: July 6, 1998.

By the Office of Thrift Supervision.

Ellen Seidman,

Director.

[FR Doc. 98–21141 Filed 8–7–98; 8:45 am]

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H.R. 39/P.L. 105–217

African Elephant Conservation Reauthorization Act of 1998 (Aug. 5, 1998; 112 Stat. 911)

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.

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