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Monday
August 31, 1998

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 63, No. 168
Monday, August 31, 1998

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Parts 2420, 2421, 2422, 2423, and 2470

Regulations Implementing Coverage of Federal Sector Labor Relations Laws to the Executive Office of the President

AGENCY: Federal Labor Relations Authority.

ACTION: Final rule.

SUMMARY: The Chair and Members of the Federal Labor Relations Authority, the General Counsel of the Federal Labor Relations Authority, and the Federal Service Impasses Panel (FLRA) amend portions of their regulations in order to carry out their responsibilities under the Presidential and Executive Office Accountability Act. The FLRA was directed to issue regulations implementing coverage of the Federal Service Labor-Management Relations Statute to the Executive Office of the President no later than October 1, 1998.

EFFECTIVE DATE: October 1, 1998.

ADDRESSES: Written comments received are available for public inspection during normal business hours at the Office of Case Control, Federal Labor Relations Authority, 607 14th Street, N.W., Washington, D.C. 20424–0001.

FOR FURTHER INFORMATION CONTACT: Peter Constantine, Director, Office of Case Control, at the address listed above or by telephone # (202) 482–6500.

SUPPLEMENTARY INFORMATION:

Background

The Federal Labor Relations Authority proposed revisions to Parts 2420 through 2423, 2470, and 2472 of its regulations in order to comply with its obligations under the Presidential and Executive Office Accountability Act (Pub. L. 104–331) (the EOAA). The proposed rule was published in the **Federal Register** and public comment was solicited on the proposed changes (63 FR 35882) (July 1, 1998). One commenter requested a one-day extension of the July 31, 1998 deadline for filing comments, which was granted.

Prior to proposing the rule, the FLRA published a **Federal Register** notice (63 FR 16141, Apr. 2, 1998) inviting parties to submit written recommendations on what, if any, modifications to the FLRA's current regulations were necessary to satisfy the requirements of the EOAA. No comments were received specifically in response to the notice. Additionally, the FLRA informally invited comment directly from interested persons. In response, one comment noted that during the FLRA's investigation, prosecution, and adjudication of cases involving the Executive Office of the President (EOP), the FLRA may receive documents that otherwise would not be subject to public disclosure through the Freedom of Information Act (FOIA). In the Notice of Proposed Rulemaking, the FLRA specifically requested comments on this issue of information disclosure and the interests of the EOP. No comments on this issue were received, and the FLRA is not promulgating any rule on this issue at this time.

As explained in the Notice of Proposed Rulemaking, the EOAA, among other things, applies Chapter 71 of Title 5, the Federal Service Labor-Management Relations Statute (the Statute), to the EOP, which is comprised of thirteen separate offices. In explaining the distinction between the Title 3 and Title 5 employees in these thirteen separate offices, the FLRA listed the Official Residence of the Vice President as an office employing Title 3 employees. One commenter noted, however, that currently there are no Title 3 employees working at the Official Residence of the Vice President.

Sectional Analyses

Sectional analyses of the amendments and revisions to parts 2420, 2421, 2422, 2423, and 2470 are as follows:

Part 2420—Purpose and Scope

Section 2420.1

Final rule as promulgated is the same as proposed rule.

Part 2421—Meaning of Terms as Used in This Subchapter

Section 2421.2

Final rule as promulgated is the same as proposed rule.

Section 2421.14

One commenter suggested that the reference to the Regional Director was unnecessary in this definitional regulation. This change was adopted. Accordingly, except for the deletion of the reference to the Regional Director and stylistic editing necessitated by the deletion, the final rule as promulgated is the same as proposed rule.

Part 2422—Representation Proceedings

Section 2422.34(b)

Final rule as promulgated is the same as proposed rule.

Part 2423—Unfair Labor Practice Proceedings

Section 2423.41

Recognizing that the proposed regulation implements the EOAA's requirement that covered employees shall not have a right to reinstatement, one commenter stated that other forms of equitable relief, such as promotion, would be unconstitutional with respect to certain covered employees and should also be addressed in this regulation. In considering this comment, the FLRA has determined that questions concerning the constitutionality of a particular remedy, like questions regarding the relationship between the Statute and other laws generally, are better raised to the FLRA on a case-by-case basis. Therefore, the final rule as promulgated is the same as proposed rule.

Part 2470—General

Section 2470.1

Final rule as promulgated is the same as proposed rule.

Section 2470.2

Final rule as promulgated is the same as proposed rule.

Part 2472—Impasses Arising Pursuant to Agency Determinations Not To Establish or To Terminate Flexible or Compressed Work Schedules

The FLRA proposed to amend this section in order to clarify that the regulations contained in this part do not

apply to employing offices, employees, and representatives of those employees, who are subject to the provisions of the EOAA. However, because EOP workers are excluded from coverage under the Federal Employees Flexible and Compressed Work Schedules Act—the law addressed by Part 2472—it is not necessary to further clarify their exclusion from coverage in the regulations. Thus, the regulation is not amended as proposed.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the FLRA has determined that this final rule will not have a significant economic impact on a substantial number of small entities. The amendments are required so that the FLRA can carry out its responsibilities under the EOAA.

Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This final rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act of 1995

The final rule contains no additional information collection or record keeping requirement under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

List of Subjects in 5 CFR Parts 2420, 2421, 2422, 2423, and 2470

Administrative practice and procedure, Government employees, Labor-management relations.

For the reasons stated in the preamble, the Federal Labor Relations Authority amends parts 2420, 2421, 2422, 2423, and 2470 of chapter XIV, title 5 of the Code of Federal Regulations as follows:

PART 2420—PURPOSE AND SCOPE

1. The authority citation for part 2420 is revised to read as follows:

Authority: 3 U.S.C. 431; 5 U.S.C. 7134.

2. The introductory paragraph of § 2420.1 is revised to read as follows:

§ 2420.1 Purpose and scope.

The regulations contained in this subchapter are designed to implement the provisions of chapter 71 of title 5 and, where applicable, section 431 of title 3 of the United States Code. They prescribe the procedures, basic principles or criteria under which the Federal Labor Relations Authority or the General Counsel of the Federal Labor Relations Authority, as applicable, will:

* * * * *

PART 2421—MEANING OF TERMS AS USED IN THIS SUBCHAPTER

1. The authority citation for part 2421 is revised to read as follows:

Authority: 3 U.S.C. 431; 5 U.S.C. 7134.

2. In § 2421.2, paragraph (a) is revised to read as follows:

§ 2421.2 Terms defined in 5 U.S.C. 7103(a); General Counsel; Assistant Secretary.

(a) The terms *person, employee, agency, labor organization, dues, Authority, Panel, collective bargaining agreement, grievance, supervisor, management official, collective bargaining, confidential employee, conditions of employment, professional employee, exclusive representative, firefighter*, and *United States*, as used in this subchapter shall have the meanings set forth in 5 U.S.C. 7103(a). The terms *covered employee, employee, employing office*, and *agency*, when used in connection with the Presidential and Executive Office Accountability Act, 3 U.S.C. 401 *et seq.*, shall have the meaning set out in 3 U.S.C. 401(b), and 431(b) and (d)(2). Employees who are employed in the eight offices listed in 3 U.S.C. 431(d)(2) shall be excluded from coverage if the Authority determines that such exclusion is required because of a conflict of interest, an appearance of a conflict of interest, or the President's or Vice President's constitutional responsibilities, in addition to the exemptions currently set forth in 5 U.S.C. 7103(a).

* * * * *

3. Section 2421.14 is revised to read as follows:

§ 2421.14 Appropriate unit.

Appropriate unit means that grouping of employees found to be appropriate for purposes of exclusive recognition under 5 U.S.C. 7111, and for purposes of allotments to representatives under 5 U.S.C. 7115(c), and consistent with the provisions of 5 U.S.C. 7112. In determining an appropriate unit in a proceeding under part 2422 of this Chapter, for the eight offices listed in 3 U.S.C. 431(d)(2), employees shall be excluded from the unit if it is determined that such exclusion is required because of a conflict of interest or appearance of a conflict of interest or because of the President's or Vice President's constitutional responsibilities, in addition to the standards set out in 5 U.S.C. 7112.

PART 2422—REPRESENTATION PROCEEDINGS

1. The authority citation for part 2422 is revised to read as follows:

Authority: 3 U.S.C. 431; 5 U.S.C. 7134.

2. In § 2422.34, paragraph (b) is revised to read as follows:

§ 2422.34 Rights and obligations during the pendency of representation proceedings.

* * * * *

(b) *Unit status of individual employees.* Notwithstanding paragraph (a) of this section and except as otherwise prohibited by law, a party may take action based on its position regarding the bargaining unit status of individual employees, pursuant to 3 U.S.C. 431(d)(2), 5 U.S.C. 7103(a)(2), and 7112(b) and (c): *Provided, however,* that its actions may be challenged, reviewed, and remedied where appropriate.

PART 2423—UNFAIR LABOR PRACTICE PROCEEDINGS

1. The authority citation for part 2423 is revised to read as follows:

Authority: 3 U.S.C. 431; 5 U.S.C. 7134.

2. In § 2423.41, paragraph (c) is revised to read as follows:

§ 2423.41 Action by the Authority; compliance with Authority decisions and orders.

* * * * *

(c) *Authority's order.* Upon finding a violation, the Authority shall, in accordance with 5 U.S.C. 7118(a)(7), issue an order directing the violator, as appropriate, to cease and desist from any unfair labor practice, or to take any other action to effectuate the purposes of the Federal Service Labor-Management Relations Statute. With

regard to employees covered by 3 U.S.C. 431, upon finding a violation, the Authority's order may not include an order of reinstatement, in accordance with 3 U.S.C. 431(a).

* * * * *

PART 2470—GENERAL

1. The authority citation for part 2470 is revised to read as follows:

Authority: 3 U.S.C. 431; 5 U.S.C. 7119, 7134.

2. Section 2470.1 is revised to read as follows:

§ 2470.1 Purpose.

The regulations contained in this subchapter are intended to implement the provisions of section 7119 of title 5 and, where applicable, section 431 of title 3 of the United States Code. They prescribe procedures and methods which the Federal Service Impasses Panel may utilize in the resolution of negotiation impasses when voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or any other third-party meditation, fail to resolve the disputes. It is the policy of the Panel to encourage labor and management to resolve disputes on terms that are mutually agreeable at any stage of the Panel's procedures.

3. In § 2470.2, paragraph (a) is revised to read as follows:

§ 2470.2 Definitions.

(a) The terms *agency, labor organization*, and *conditions of employment* as used in this subchapter shall have the meaning set forth in 5 U.S.C. 7103(a). When used in connection with 3 U.S.C. 431, the term *agency* as used in the Panel's regulations in this subchapter means an employing office as defined in 3 U.S.C. 401(a)(4).

* * * * *

Dated: August 26, 1998.

Solly Thomas,

Executive Director.

[FR Doc. 98–23336 Filed 8–28–98; 8:45 am]

BILLING CODE 6727–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 544

[No. 98–89]

RIN 1550–AB17

Charter and Bylaws; One Member, One Vote

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is amending its regulations on federal mutual savings association charters. The amendment expands the range of votes a federal mutual savings association may allow a member to cast on issues requiring action by the members of the association from the current 50 to 1000 votes to one to 1000 votes per member. This amendment adds flexibility to the federal mutual charter, and allows a federal mutual savings association to adopt a charter providing for ''one member, one vote.''

EFFECTIVE DATE: August 31, 1998.

FOR FURTHER INFORMATION CONTACT: Diana L. Garmus, Director, Corporate Activities Division (202/906–5683); David A. Permut, Counsel (Banking and Finance) (202/906–7505) or Kevin A. Corcoran, Assistant Chief Counsel for Business Transactions (202/906–6962), Business Transactions Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

Various depository institutions have expressed interest in converting to a federal mutual savings association charter,[1] but requested the right to retain existing voting procedures following the conversion. Several credit unions with membership voting rights of one vote per member, for example, have asked to retain their current voting provisions upon their conversions to federal charter. On April 14, 1998, the OTS issued a Notice of Proposed Rulemaking (''NPR'') that would provide such flexibility for mutual financial institutions, including credit unions, that wish to convert to the federal mutual charter.[2]

The OTS has long taken the position that depository institutions should be free to operate under whatever charter best suits their business needs, consistent with safety and soundness. Federal savings associations may operate under a stock charter or mutual charter. Within each charter, the OTS permits variations. For example, Federal mutual savings associations have varying voting provisions (e.g., 50 votes per member, 400 votes per member or 1000 votes per member), often based upon the rules in effect when they obtained their charters. The NPR proposed to permit federal mutual associations to expand the permissible range of votes allowed per member from one to 1000, rather than the current range of 50 to 1000.

II. Summary of Comments and Description of Final Rule

The public comment period on the NPR closed on June 15, 1998. Three commenters, all trade associations, responded to the proposal. Two were in favor of the proposal and one opposed it. The favorable comments agreed that the proposal would add flexibility to the federal mutual charter and would put credit unions on an equal footing with state chartered mutuals that convert to a federal charter. One commenter pointed out that adoption of the amendment would remove one of the perceived barriers to the conversion of a credit union to a federal mutual association.

The trade association opposing the amendment argued that the one member, one vote provisions are unique characteristics of credit unions, which should be maintained. In addition, the commenter noted that the proposed rule would jeopardize the one member, one vote principle because a converted institution could easily amend its charter, without OTS approval following the conversion. This trade association questioned the timing of the proposal and argued that the rule should be delayed until Congress had an opportunity to respond to the February 25, 1998 Supreme Court ruling overturning the National Credit Union Administration's (''NCUA'') actions permitting multiple common bonds for credit unions.[3] The trade association also asserted the board of directors and management of credit unions may seek to convert to federal association charter solely for their own personal enrichment. As a result, the trade association urged the OTS to require a converting credit union to wait a

[1] Section 2(5) of the Home Owners' Loan Act defines *federal savings associations* to include federal savings associations and federal savings banks. Accordingly, references to federal savings associations include federal savings banks.

[2] 63 FR 18149 (April 14, 1998).

[3] *National Credit Union Administration* v. *First National Bank & Trust Co.*, 118 S.Ct. 927 (1998).

minimum of seven years after conversion to federal mutual form before it may convert to federal stock form.

The OTS is aware of no reason why credit unions should be the only type of depository institution to permit a one vote per member arrangement. In response to the comment that the one member, one vote principle is jeopardized by the ease of later amending the federal charter, the OTS believes that members of a federal mutual association should continue to have the right to change the number of votes per member if they wish.

Further, the OTS is aware of no reason to delay its regulation. Legislation has been enacted in response to the Supreme Court ruling.[4] In addition, the OTS has seen no mass influx of credit unions seeking to become federal thrifts. Only seven credit unions have applied to convert to a federal mutual charter in the last eighteen months. (During the same period of time, ten commercial banks applied to convert to federal savings associations.)

Finally, the OTS believes that restricting converting credit unions from converting to stock for a number of years is beyond the scope of the proposal and would be more appropriately raised in response to planned revisions to the Part 563b mutual to stock conversion regulations.

The OTS is adopting the amendment as proposed. The amendment will permit mutual depository institutions that are converting to federal savings associations to retain the one vote per member provision in their current charters, and will permit other converting institutions, as well as existing federal mutual savings associations, to adopt a one vote per member provision.

The Final Rule will amend 12 CFR 544.2(b)(4) to permit federally chartered mutual savings associations to set the number of votes per member within the range of 1 to 1,000, rather than the current range of 50 to 1,000. New federal mutual savings associations may include this provision in their initial federal thrift charter. Existing federal mutual associations may amend their charters under the prescribed regulatory procedures.[5] Specifically, an institution must: (i) Obtain a board of directors' resolution adopting the amendment, (ii) obtain a favorable vote by the members, and (iii) notify the OTS of the adoption at least 30 days prior to the effective date of the proposed amendment. Unless the OTS notifies the institution of its objection to the proposed amendment within that 30 days, the amendment is automatically approved.

III. Executive Order 12866

The Director of the OTS has determined that this final rule does not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866.

IV. Regulatory Flexibility Act Analysis

Under Section 605(b) of the Regulatory Flexibility Act, the OTS certifies that this proposal will not have a significant economic impact on a substantial number of small entities. Small entities utilizing the regulation may be able to retain their existing membership rights, which will simplify the process of converting to a federal charter and reduce regulatory burden.

V. Unfunded Mandates Act of 1995

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 expenditures by state, local, and tribal governments, in the aggregate, or by the private sector, or $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. The OTS has determined that the proposed rule will not result in expenditures by state, local, or tribal governments or by the private sector of $100 million or more. Accordingly, this rulemaking is not subject to Section 202 of the Unfunded Mandates Act.

VI. Effective Date

The OTS has determined that there is good cause to dispense with a 30-day delayed effective date under 5 U.S.C. 553(d)(3). The amendment permits federal mutual savings associations and depository institutions converting their charters to federal mutual savings association charter to add flexibility to existing voting arrangements or retain current voting rights. The OTS believes the change does not have an adverse impact on savings associations because it reduces regulatory burden. Moreover, the substantive change to the regulations has already been made available to requesting converting depository institutions on a case-by-case basis. OTS-regulated institutions will not require additional time to adjust their policies or practices to comply with the rule.

The OTS has also determined, for the reasons stated in the preceding paragraph, that good cause exists to adopt an effective date that is before date that would otherwise be required by section 302 of CDRIA (*i.e.*, the first day of the calendar quarter after the date of publication).

List of Subjects in 12 CFR Part 544

Bylaws, Charters, Reporting and recordkeeping requirements, Savings associations.

Accordingly, the Office of Thrift Supervision proposes to amend chapter V, title 12, Code of Federal Regulations, as set forth below.

PART 544—CHARTER AND BYLAWS

1. The authority citation for part 544 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

2. Section 544.2 is amended by revising the last sentence of paragraph (b)(4) to read as follows:

§ 544.2 Charter amendments.

* * * * *

(b) * * *

(4) * * * [Fill in a number from 1 to 1000.]

* * * * *

Dated: August 25, 1998.

By the Office of Thrift Supervision.

Ellen Seidman,

Director.

[FR Doc. 98–23281 Filed 8–28–98; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–23–AD; Amendment 39–10725; AD 98–10–09]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model SA.315B, SA.316B, SA.316C, SA.319B, and SE.3160 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment

[4] On August 7, 1998 the President signed Pub. L. 105–219 which mitigated the impact of the Supreme Court decision by allowing occupation-based credit unions to accept members from unrelated companies with fewer than 3000 employees.

[5] 12 CFR 544.2(b) (1998).

adopting Airworthiness Directive (AD) 98–10–09 which was sent previously to all known U.S. owners and operators of Eurocopter France Model SA.315B, SA.316B, SA.316C, SA.319B, and SE.3160 helicopters by individual letters. This AD requires an initial and recurring inspections of the blade spar for cracks. This amendment is prompted by an accident in which a Model SA.315B helicopter lost a main rotor blade. The cause of the blade failure was fatigue cracking. This condition, if not corrected, could result in separation of a blade and subsequent loss of control of the helicopter.

DATES: Effective September 15, 1998, to all persons except those persons to whom it was made immediately effective by priority letter AD 98–10–09, issued on May 6, 1998, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 15, 1998.

Comments for inclusion in the Rules Docket must be received on or before October 30, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–23–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

The applicable service information may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Shep Blackman, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5296, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On February 12, 1998, the FAA issued priority letter AD 98–04–40 (FAA Docket 98–SW–09–AD), applicable to Eurocopter France Model SA.315B, SA.316B, SA.316C, SA.319B, and SE.3160 helicopters. That AD was published in the **Federal Register** on April 17, 1998 (63 FR 19183). That AD requires, for blades with 400 or more hours time-in-service (TIS), within 25 hours TIS, inspecting each blade spar for cracks using a dye-penetrant method, and visually inspecting each blade cuff for cracks using a 10-power or higher magnifying glass. If a crack is discovered in either a blade spar or cuff, removal and replacement of the blade with an airworthy blade is required prior to further flight. That action was prompted by an accident in which a Model SA.315B helicopter lost a main rotor blade (blade) just prior to take-off. Although the main gearbox and the remainder of the main rotor assembly separated from the helicopter and passed through the cockpit, there were no fatalities. The cause of the blade failure was determined to be fatigue cracks that originated from the outboard blade-to-cuff attachment bolt hole and progressed through the blade spar and cuff. That condition, if not corrected, could result in separation of a blade and subsequent loss of control of the helicopter. Priority Letter AD 98–10–09 issued May 6, 1998, superseded AD 98–04–40. AD 98–10–09 requires the same one-time inspections as required by AD 98–04–40, but also requires, at intervals not to exceed 25 hours TIS, a recurring visual inspection of the blade spar at the outboard blade-to-cuff attachment bolt hole for cracks using a 10-power or higher magnifying glass.

The FAA has reviewed Eurocopter France Service Telex No. 00055/0034/98, dated February 3, 1998 (Eurocopter Service Telex: 316/319 No. 01.64 and 315 No. 01.29), which describes procedures for inspecting each blade spar for cracks using a dye-penetrant method, and visually inspecting each blade cuff for cracks using a 10-power or higher magnifying glass; and Eurocopter France Service Telex No. 00060/00099/98, dated April 9, 1998 (Eurocopter Service Telex: 316/319 No. 01.65 and 315 No. 01.30), which describes procedures for repetitively inspecting each blade spar for cracks using a 10-power or higher magnifying glass. Additionally, the Direction Generale De L'Aviation Civile, which is the airworthiness authority for France, has issued AD 98–088–055(A) and 98–089–038(A), both dated February 25, 1998; and AD 98–170–056(A)R1 and 98–171–039(A)R1, both dated May 6, 1998, to mandate these actions.

Since the unsafe condition described is likely to exist or develop on other Eurocopter France Model SA.315B, SA.316B, SA.316C, SA.319B, and SE.3160 helicopters of the same type design, the FAA issued priority letter AD 98–10–09 to prevent separation of a blade and subsequent loss of control of the helicopter. This AD requires, for blades with 400 or more hours time-in-service (TIS), within 25 hours TIS, inspecting each blade spar for cracks using a dye-penetrant method, and visually inspecting each blade cuff for cracks using a 10-power or higher magnifying glass; and thereafter, visually inspecting each blade spar with a 10-power or higher magnifying glass at intervals not to exceed 25 hours TIS. If a crack is discovered in either a blade spar or cuff, removal and replacement of the blade with an airworthy blade is required prior to further flight. The actions are required to be accomplished in accordance with the service telexes described previously.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on May 6, 1998 to all known U.S. owners and operators of Eurocopter France Model SA.315B, SA.316B, SA.316C, SA.319B, and SE.3160 helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons. The FAA has made two non-substantive changes to the Priority Letter AD which will neither increase the economic burden on an operator nor increase the scope of the AD. The 400 or more hours TIS threshold provision has been moved from the compliance paragraph to the applicability paragraph. Additionally, Figure 1 has been enhanced to provide a clearer picture of the affected blade area.

Previous completion of the inspections required by AD 98–04–40 constitutes compliance with the initial blade inspections required by this AD. The recurring visual inspections specified in this AD shall begin on or before 25 hours TIS after the initial inspections required by either this AD or AD 98–04–40, whichever occurred first. If more than 25 hours TIS has elapsed since the inspections required by AD 98–04–40, then the recurring visual inspection specified in this AD must be accomplished prior to further flight.

The FAA estimates that 106 helicopters of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per helicopter to inspect a blade and 4 work hours to replace a main rotor blade, if necessary, and that the average labor rate is $60 per work hour. Required parts will cost approximately $49,700 per blade. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $5,319,080

for the first year, assuming one blade replacement per helicopter and $25,440 each subsequent year, assuming five inspections per year and no blade replacements.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–SW–23–AD.'' The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–10479 (63 FR 19183, April 17, 1998) and by adding a new airworthiness directive Amendment 39–10725 to read as follows:

AD 98–10–09 Eurocopter France: Amendment 39–10725. Docket No. 98–SW–23–AD. Supersedes AD 98–04–40, Amendment 39–10479, Docket 98–SW–09–AD.

Applicability: Model SA.315B, SA.316B, SA.316C, SA.319B, and SE.3160 helicopters, with main rotor blades, part numbers 3160S11–10000 all dash numbers, 3160S11–30000 all dash numbers, 3160S11–35000 all dash numbers, 3160S11–40000 all dash numbers, 3160S11–45000 all dash numbers, 3160S11–50000 all dash numbers, or 3160S11–55000 all dash numbers, with 400 or more hours time-in-service (TIS), installed, certificated in any category.

Note 1: This AD applies to each helicopter 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 helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (f) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of a blade and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 25 hours TIS, inspect each blade spar for cracks using a dye-penetrant method in accordance with paragraphs CC.1 through CC.4 of the Operational Procedures in Eurocopter France Service Telex No. 00055/0034/98, dated February 3, 1998 (Eurocopter Service Telex: 316/319 No. 01.64 and 315 No. 01.29).

(b) Within 25 hours TIS, visually inspect the upper and lower surfaces of each blade cuff for cracks, especially around the attachment bolts, using a 10-power or higher magnifying glass.

(c) Within 25 hours TIS from the last required inspection of each blade spar for cracks in the area indicated in Figure 1, and thereafter at intervals not to exceed 25 hours TIS:

(1) Without removing the blade from the helicopter, clean each blade root area using ''Teepol'' or an equivalent product.

(2) Support the blade tip to eliminate blade droop while inspecting the lower blade surface.

(3) Visually inspect each blade spar with a 10-power or higher magnifying glass along the hatched area indicated in Figure 1, beginning on the blade lower surface, then on the flat section of the trailing edge (B), on the blade upper surface, and then on the flat section of the leading edge (A).

(4) Before returning the blades to service, confirm that there is a sealing bead (1) around the edge of the blade cuff.

Note 2: Eurocopter France Service Telex No. 00060/00099/98, dated April 9, 1998 (Eurocopter Service Telex: 316/319 No. 01.65 and 315 No. 01.30) pertains to the subject of this AD.

(d) If more than 25 hours TIS have elapsed since the last required inspection of each blade spar for cracks in the area indicated in Figure 1, before further flight, conduct the inspections required by paragraph (c) of this AD.

(e) If a crack is found in a blade spar or cuff, remove the blade and replace it with an airworthy blade prior to further flight.

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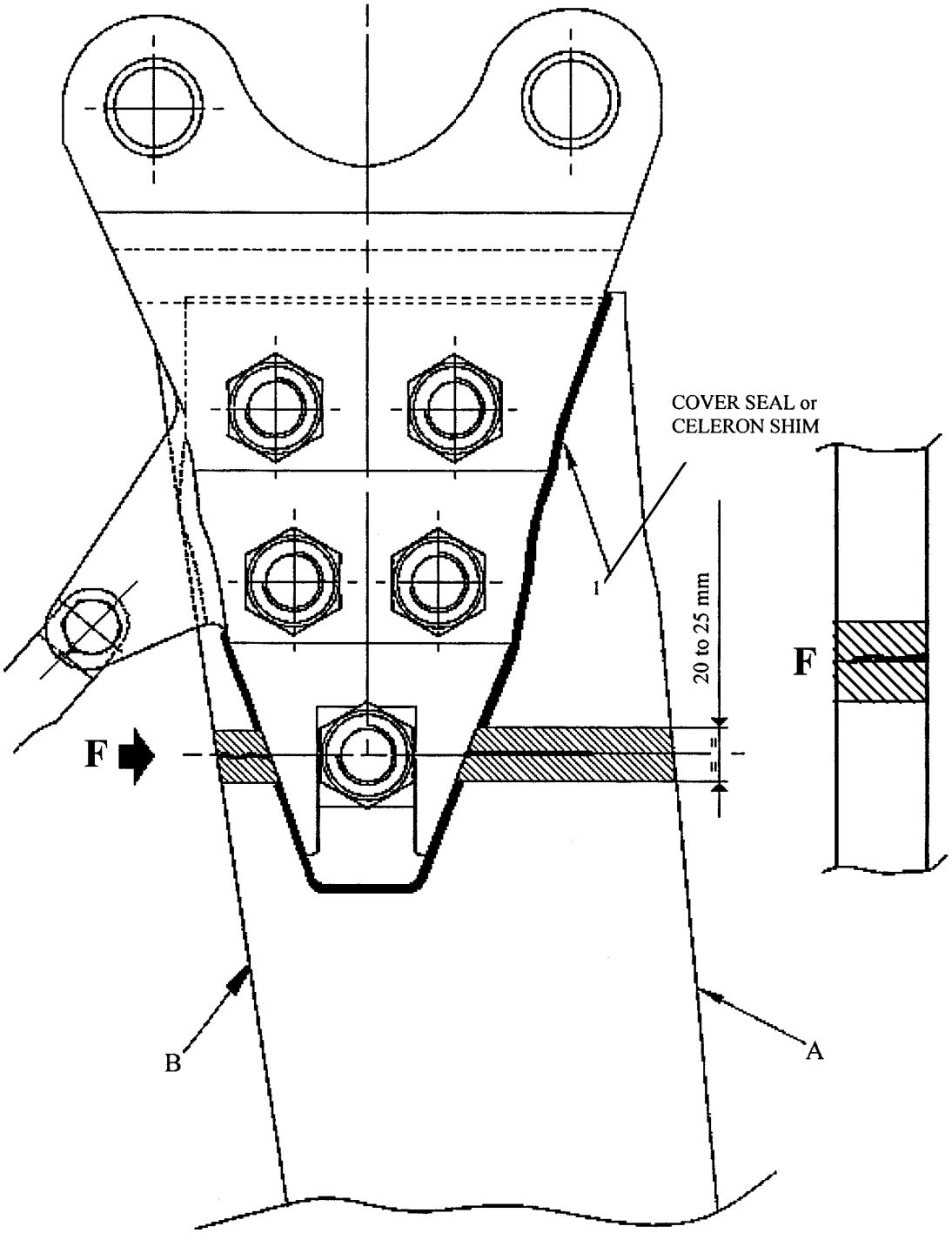

Figure 1

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(f) 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, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(g) Special flight permits will not be issued.

(h) The inspection shall be done in accordance with paragraphs CC.1 through CC.4 of the Operational Procedures in Eurocopter France Service Telex No. 00055/0034/98, dated February 3, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on September 15, 1998, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 98–10–09, issued May 6, 1998, which contained the requirements of this amendment.

Note 4: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 98–088–055(A) and 98–089–038(A), both dated February 25, 1998; and Direction Generale De L'Aviation Civile (France) AD 98–170–056(A)R1 and 98–171–039(A)R1, both dated May 6, 1998.

Issued in Fort Worth, Texas, on August 21, 1998.

Larry M. Kelly,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 98–23095 Filed 8–28–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–18–AD; Amendment 39–10726; AD 98–18–10]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–6 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to General Electric Company (GE) CF6–6 series turbofan engines, that requires removal from service of affected low pressure turbine (LPT) stage 4 disks prior to reaching new, reduced cyclic life limits, and replacement with serviceable parts. This amendment is prompted by reports of LPT stage 4 disk cracking in the blade dovetail slot bottom area. The actions specified by this AD are intended to prevent LPT stage 4 disk cracking, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Effective September 30, 1998.

FOR FURTHER INFORMATION CONTACT: Karen Curtis, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7192, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to General Electric Company (GE) CF6–6 series turbofan engines was published in the **Federal Register** on May 15, 1998 (63 FR 27001). That action proposed to require removal from service of affected low pressure turbine (LPT) stage 4 disks prior to reaching new, reduced cyclic life limits, and replacement with serviceable parts.

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

One commenter states that they have already incorporated the GE service bulletin and gives a cost estimate compatible with the FAA's estimate.

One commenter states that it does not operate any affected engines.

One commenter states that the AD should establish a ''cycles since'' date that is at least 7 days after the effective date of the AD in order to give operators time to prepare their time tracking systems. The commenter requests this change on the basis that without prior knowledge of the effective date of the AD, it would be necessary to manually backtrack records to determine disks times for a date already passed. The FAA disagrees. For non-emergency ADs such as this, the effective date of the AD must be at least 30 days after the publication date to allow affected operators time to prepare. That 30-day period should provide ample time for operators to make whatever adjustments are necessary in tracking systems that should already keep track of the life limited parts that operator uses in service.

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

There are approximately 257 engines of the affected design in the worldwide fleet. The FAA estimates that 242 engines installed on aircraft of U.S. registry will be affected by this AD, and that required parts, on a prorated basis, will cost approximately $22,432 per engine. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $5,428,544.

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

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

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–18–10 General Electric Company: Amendment 39–10726. Docket 98–ANE–18–AD.

Applicability: General Electric Company (GE) CF6–6 series turbofan engines, installed on but not limited to McDonnell Douglas DC–10–10 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 low pressure turbine (LPT) stage 4 disk cracking, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) Remove from service LPT stage 4 disks, part numbers (P/Ns) 9010M40P01, 9010M40P02, 9010M40P07, 9010M40P09, and 9010M40P12, and replace with serviceable parts, in accordance with the following schedule:

(1) For disks with 12,300 or more cycles since new (CSN) but less than 24,000 CSN on the effective date of this AD, remove from service affected disks at the earliest of the following:

(i) The next piece-part exposure after the effective date of this AD; or

(ii) The next engine shop visit after accumulating 16,500 CSN; or

(iii) Within 4,200 cycles in service (CIS) after the effective date of this AD; or

(iv) Prior to exceeding 24,000 CSN.

(2) For disks with 5,000 or more CSN, but less than 12,300 CSN, on the effective date of this AD, remove from service affected disks at the earlier of the following:

(i) Prior to exceeding 16,500 CSN; or

(ii) Within 7,300 CIS after the effective date of this AD.

(3) For disks with less than 5,000 CSN on the effective date of this AD, remove from service affected disks prior to exceeding 12,300 CSN.

(b) This AD establishes a new cyclic retirement life limit for LPT stage 4 disks of 12,300 CSN. Thereafter, except as provided in paragraph (d) of this AD, no alternative cyclic retirement life limits may be approved for LPT stage 4 disks.

(c) For the purpose of this AD, the following definitions apply:

(1) An engine shop visit is defined as separation of a major, static flange.

(2) Piece-part exposure is when the affected part is completely disassembled in accordance with the disassembly instructions in the engine manual or section of the Instructions for Continued Airworthiness.

(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, Engine Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

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

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

(f) This amendment becomes effective on September 30, 1998.

Issued in Burlington, Massachusetts, on August 25, 1998.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–23362 Filed 8–28–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AWP–19]

Revocation of Class D Airspace; Tustin MCAS, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action will revoke the Class D airspace at Tustin Marine Corps Air Station (MCAS), CA. In order to meet federal mandates with regard to Base Realignment and Closure (BRAC), the U.S. Marine Corps will cease air operations at Tustin MCAS on November 30, 1998, thereby elimination the criteria for Class D airspace.

EFFECTIVE DATES: 0901 UTC December 3, 1998. *Comment date:* Comments for inclusion in the Rules Docket must be received on or before September 30, 1998.

ADDRESSES: Send comments on the direct final rule in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 98–AWP–19, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Debra Trindle, Air Traffic Division, Airspace Specialist, AWP–520.10, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6613.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to remove the Class D airspace area associated with Tustin MCAS. Class D airspace areas are published in Paragraph 5000 of FAA Order 7400.9D dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be subsequently removed from this Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. This action removes previously designated controlled airspace associated with Tustin MCAS. The intended effect of this action is to remove controlled airspace where no longer required. Unless a written adverse or negative comment or a written notice of intend to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does received, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a

notice of proposed rulemaking, comments are invited on this rule. Interested person are invited to comment on this rule by submitting such written date, views, or arguments, as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–AWP–19.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air)

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

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

Paragraph 500 Class D Airspace

* * * * *

AWP CA D Tustin MCAS, CA [Removed]

* * * * *

Issued in Los Angeles, California, on August 17, 1998.

Dawna Vicars,

Assistant Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 98–23368 Filed 8–28–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AWP–20]

Revision of Class E Airspace, San Diego, North Island NAS, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action will amend the effective hours of the Class E airspace extension for San Diego, North Island Naval Air Station, (NZY) Halsey Field, CA. In April of 1998 the U.S. Navy reduced the hours of operation of the Airport Traffic Control Tower (ATCT) at NZY. A separate airspace docket has been published in the **Federal Register** amending the effective hours of the NZY Class D airspace surface area. The Class E airspace extension operates in conjunction with the Class D airspace surface area. The reduction of the ATCT hours of operation has made this action necessary. The intended effect of this action is to modify the effective hours of the NZY Class E airspace extension in the legal description of the controlled airspace. This action does not involve a change in the dimensions or operating requirements of that airspace containing Instrument Flight Rules (IFR) operations at NZY.

EFFECTIVE DATE: 0901 UTC December 3, 1998. *Comment date:* Comments for inclusion in the Rules Docket must be received on or before September 30, 1998.

ADDRESSES: Send comments on the direct final rule in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 98–AWP–20, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Debra Trindle, Air Traffic Division, Airspace Specialist, AWP–520, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6613.

SUPPLEMENTARY INFORMATION: This action will amend the airspace legal description to reflect the new operating hours of the Class E arrival extension of NZY. The 1998 reduction of the ATCT hours of operation has made this action necessary. The intended effect of this action is to modify the hours of the NZY Class E airspace area in the legal description of the controlled airspace. Class E airspace arrival extensions are published in Paragraph 6004 of FAA Order 7400.9D dated September 10,

1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–AWP–20.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

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

* * * * *

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

* * * * *

AWP CA E4 San Diego, North Island NAS, CA [Revised]

San Diego, North Island NAS (Halsey Field), CA
(Lat. 32°41′57″ N, long. 117°12′55″ W)
North Island TACAN
(Lat. 32°42′09″ N, long. 117°12′58″ W)

That airspace extending upward from the surface within the North Island TACAN 8.7-mile radius, extending clockwise from a line 1.8 miles north of and parallel to the North Island TACAN 120° radial clockwise to the 162° radial, excluding the airspace within the San Diego, CA, Class B airspace area and the portion within the Imperial Beach NOLF, CA, Class D airspace area. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Los Angeles, California, on August 19, 1998.

Dawna Vicars,

Assistant Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 98–23367 Filed 8–28–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29316; Amdt. No. 1887]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of 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 the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on August 21, 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 [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
07/31/98	FL	Panama City	Panama City-Bay County Intl	FDC 8/5393	ILS RWY 14, AMDT 15A.
07/31/98	FL	Panama City	Panama City-Bay County Intl	FDC 8/5394	VOR or TACAN or GPS RWY 14, ADMT 15A.
08/04/98	KY	Louisville	Louisville Intl-Standiford Field	FDC 8/5471	ILS RWY 17R, ORIG.
08/04/98	KY	Louisville	Louisville Intl-Standiford Field	FDC 8/5472	GPS RWY 17R, ORIG.
08/06/98	NC	North Wilkesboro	Wilkes County	FDC 8/5511	ILS RWY 1, ORIG.
08/11/98	CA	Murrieta/Temecula	Murrieta/Temecula/French Valley	FDC 8/5620	GPS RWY 18, ORIG.
08/12/98	OH	Columbus	Port Columbus Intl	FDC 8/5664	ILS RWY 28R, AMDT 1.
08/12/98	OH	Columbus	Port Columbus Intl	FDC 8/5665	NDB RWY 28R, ORIG-A.
08/13/98	NJ	Belmar-Farmingdale	Allaire	FDC 8/5719	LOC RWY 14 ORIG.
08/13/98	NJ	Belmar-Farmingdale	Allaire	FDC 8/5737	VOR or GPS–A AMDT 2.
08/13/98	TN	Arlington	Arlington Muni	FDC 8/5728	NDB or GPS RWY 15 AMDT 8.
08/13/98	TN	Memphis	Memphis Intl	FDC 8/5690	ILS RWY 18R, AMDT 12.
08/13/98	TN	Memphis	Memphis Intl	FDC 8/5691	ILS RWY 18L, AMDT 1.
08/17/98	SD	Mobridge	Morbridge Muni	FDC 8/5849	NDB or GPS RWY 12, AMDT 1.
08/17/98	WL	Milwaukee	General Mitchell Intl	FDC 8/5847	NDB or GPS RWY 7R, AMDT 10A.
08/18/98	FL	Ormond Beach	Ormond Beach Muni	FDC 8/5873	VOR or GPS RWY 17, AMDT 1A.

[FR Doc. 98–23364 Filed 8–28–98; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29315; Amdt. No. 1886]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 10591;

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

FOR FURTHER INFORMATION CONTACT: 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 of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

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

The Rule

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

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for

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

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on August 21, 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. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

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

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

* * * *Effective September 10, 1998*

Shawnee, OK, Shawnee Muni, ILS RWY 17, Orig
Eugene, OR, Mahlon Sweet Field, ILS RWY 16, Amdt 34

* * * *Effective October 8, 1998*

Augusta, GA, Daniel Field, RADAR–1, Amdt 6
Greensboro, GA, Greene County Regional, NDB OR GPS–A, ORIG–A, CANCELLED
Chicago, IL, Merrill C. Meigs, GPS RWY 36, Amdt 1
Ottumwa, IA, Ottumwa Industrial, ILS RWY 31, Amdt 5
Hartford, KY, Ohio County, VOR/DME–A, Orig
Nantucket, MA, Nantucket Memorial, LOC BC RWY 6, Amdt 9
Benson, MN, Benson Muni, NDB OR GPS RWY 14, Amdt 6
Hawley, MN, Hawley Muni, VOR/DME OR GPS–A, Amdt 1
Hawley, MN, Hawley Muni, GPS RWY 33, Orig
Olivia, MN, Olivia Regional, VOR/DME OR GPS–A, Amdt 2
Grand Forks, ND, Grand Forks Intl, LOC BC RWY 17R, Amdt 12
Grand Forks, ND, Grand Forks Intl, ILS RWY 35L, Amdt 11
Alliance, NE, Alliance Muni, VOR RWY 12, Amdt 3
Alliance, NE, Alliance Muni, VOR RWY 30, Amdt 2
Nebraska City, NE, Nebraska City Municipal, NDB RWY 15, Amdt 1
Nebraska City, NE, Nebraska City Municipal, NDB RWY 33, Amdt 1
Nebraska City, NE, Nebraska City Municipal, GPS RWY 33, Amdt 1
Andover, NJ, Aeroflex-Andover, GPS RWY 3, Orig
Youngstown, OH, Youngstown-Warren Regional, RADAR–1, Amdt 13
Latrobe, PA, Westmoreland County, NDB RWY 23, Amdt 13
Latrobe, PA, Westmoreland County, ILS RWY 23, Amdt 15
Latrobe, PA, Westmoreland County, GPS RWY 5, Orig
Latrobe, PA, Westmoreland County, VOR/DME RNAV RWY 5, Amdt 1, CANCELLED
Providence, RI, Theodore Francis Green State, VOR/DME RWY 34, Amdt 5
Providence, RI, Theodore Francis Green State, ILS/DME RWY 34, Amdt 9
Arlington, TX, Arlington Muni, VOR/DME RWY 34, Orig
Brownfield, TX, Terry County, GPS RWY 2, Amdt 1
Dallas, TX, Redbird, VOR OR GPS RWY 31, Orig
Dallas, TX, Redbird, VOR OR GPS RWY 31, Amdt 12, CANCELLED
Dallas, TX, Dallas-Fort Worth Intl, ILS RWY 13R, Amdt 5
Dallas, TX, Dallas-Fort Worth Intl, ILS RWY 17L, Amdt 1
Dallas, TX, Dallas-Fort Worth Intl, ILS RWY 17R, Amdt 19
Dallas, TX, Dallas-Fort Worth Intl, ILS RWY 17C, Amdt 7
Dallas, TX, Dallas-Fort Worth Intl, ILS RWY 18L, Amdt 17
Dallas, TX, Dallas-Fort Worth Intl, ILS RWY 35L, Amdt 2
Dallas, TX, Dallas-Fort Worth Intl, ILS RWY 35R, Amdt 1
Dallas, TX, Dallas-Fort Worth Intl, ILS RWY 36L, Amdt 6
Dallas, TX, Dallas-Fort Worth Intl, ILS RWY 36R, Amdt 3
Fort Worth, TX, Fort Worth Meacham Intl, ILS RWY 16L, Amdt 7
Fort Worth, TX, Fort Worth Meacham Intl, NDB OR GPS RWY 16L, Amdt 5
Fort Worth, TX, Fort Worth Spinks, VOR/DME RNAV OR GPS RWY 35L, Orig, CANCELLED
Fort Worth, TX, Fort Worth Spinks, VOR/DME RNAV RWY 35L, Orig,
Salt Lake City, UT, Salt Lake City Intl, ILS/DME RWY 16L, Amdt 12
Salt Lake City, UT, Salt Lake City Intl, ILS/DME RWY 16R, Amdt 3
Moses Lake, WA, Grant County Intl, VOR–1 RWY 14L, Amdt 1
Moses Lake, WA, Grant County Intl, VOR–3 RWY 14L, Amdt 1
Moses Lake, WA, Grant County Intl, VOR RWY 22, Amdt 5
Moses Lake, WA, Grant County Intl, VOR RWY 32R, Amdt 20
Moses Lake, WA, Grant County Intl, NDB RWY 32R, Amdt 17
Moses Lake, WA, Grant County Intl, ILS RWY 32R, Amdt 19
Moses Lake, WA, Grant County Intl, VOR RWY 4, Amdt 6
Moses Lake, WA, Grant County Intl, VOR/DME RNAV RWY 22, Amdt 1
Cumberland, WI, Cumberland Muni, NDB OR GPS RWY 9, Amdt 2
Cumberland, WI, Cumberland Muni, GPS RWY 27, Orig
Friendship/Adams, WI, Adams County Legion Field, GPS RWY 33, Orig
Superior, WI, Richard I. Bong, GPS RWY 3, Orig

* * * *Effective November 5, 1998*

Lee's Summit, MO, Lee's Summit Municipal, VOR–A, Orig
Lee's Summit, MO, Lee's Summit Municipal, VOR/DME–A, Orig, CANCELLED

* * * *Effective December 3, 1998*

Tioga, ND, Tioga Muni, GPS RWY 30, Orig

[FR Doc. 98–23366 Filed 8–28–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 801

[Docket No. 96N–0119]

Amended Economic Impact Analysis of Final Rule Requiring Use of Labeling on Natural Rubber Containing Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; amended economic analysis statement.

SUMMARY: The Food and Drug Administration (FDA) is issuing an amended economic analysis statement relating to a final rule that published in the **Federal Register** of September 30, 1997 (62 FR 51021), requiring labeling statements concerning the presence of natural rubber latex in medical devices. This rule was issued in response to numerous reports of severe allergic reactions and deaths related to a wide range of medical devices containing natural rubber. The final rule becomes effective on September 30, 1998. In order to allow further comment on the economic impact of the September 30, 1997, final rule, FDA published in the **Federal Register** of June 1, 1998, an amended economic impact statement, including an amended initial regulatory flexibility analysis (IRFA) that it prepared under the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement and Fairness Act (SBREFA). After considering comments submitted in response to the June 1, 1998, amended economic analysis statement, FDA is issuing the amended final economic impact statement, including an amended final regulatory flexibility analysis.

DATES: The September 30, 1997, final rule is effective on September 30, 1998, except for products that contain natural rubber latex solely in cold-seal type packaging. The rule will not apply to these products for an additional 270 days from the September 30, 1998, effective date of the final rule. Elsewhere in this issue of the **Federal Register**, FDA is announcing a stay of the effective date of the September 30, 1997, final rule for these products.

ADDRESSES: References are available in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Donald E. Marlowe, Center for Devices and Radiological Health (HFZ–100), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20850, 301–827–4777, FAX 301–827–4787.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of September 30, 1997 (62 FR 51021), FDA published a final rule (to be codified at 21 CFR 801.437), under its authority in section 505(a) and (f) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 352(a) and (f)), requiring certain labeling statements on medical devices that contain or have packaging that contains natural rubber. This rule becomes effective on September 30, 1998. The agency issued this rule because medical devices composed of natural rubber may pose a significant health risk to some consumers and health care providers who are sensitized to natural latex proteins. FDA has received numerous reports about adverse effects related to reactions to natural latex proteins contained in medical devices, including 16 deaths following barium enemas. These deaths were associated with anaphylactic reactions to the natural rubber latex cuff on the tip of barium enema catheters. Scientific studies and case reports have documented sensitivity to natural latex proteins found in a wide range of medical devices. It is estimated that 5 to 17 percent of health care workers are sensitive to latex proteins (Refs. 1 through 5.)

The September 30, 1997, final rule (hereinafter referred to as the final rule) specifically requires that devices that contain natural rubber that is intended to contact or is likely to contact the health care worker or patient bear one or more of four labeling statements, depending on the type of natural rubber in the device and depending on whether the natural rubber is in the device itself or in its packaging. These statements are as follows: ''This Product Contains Dry Natural Rubber.''; ''Caution: This Product Contains Natural Rubber Latex Which May Cause Allergic Reactions.''; ''The Packaging of This Product Contains Dry Natural Rubber.''; and ''The Packaging of This Product Contains Natural Rubber Latex Which May Cause Allergic Reactions.'' The final rule also prohibits the use of the word ''hypoallergenic'' on devices that contain natural rubber latex.

In the June 24, 1996, proposed rule (61 FR 32618), FDA stated that it did not believe that the proposed rule would be a significant regulatory action as defined by Executive Order 12866, and certified under the Regulatory Flexibility Act (5 U.S.C. 601–602) that the rule would not have a significant economic impact on a substantial number of small entities. FDA stated that it believed the rule's proposed effective date 180 days after publication would allow manufacturers to exhaust their existing labeling supplies.

FDA received comments concerning the economic impact of the proposed rule stating that the requirement would have a major impact on multinational companies, costing at least $15,000 per device for labeling. Another comment stated that the agency underestimated the impact of the rule, as each manufacturer will need to draft, review, and relabel primary and secondary packages of hundreds, if not thousands of devices.

Based on FDA's information, the agency responded that it did not agree that the regulation would require the relabeling of hundreds or thousands of devices, and that agency estimates of relabeling costs were between $1,000 to $2,000 for each type of device. The agency also noted that the extended 1 year effective date should allow most manufacturers to exhaust their current labeling stock prior to the effective date of the regulation. On this basis, the agency stated that the final rule was not a significant regulatory action under the Executive Order, and certified that although a substantial number of small entities would be affected by the rule, the estimated $1,000 to $2,000 cost of implementing the final rule would not have a significant economic impact on those entities (62 FR 51021 at 51029).

On October 7, 1997, the Office of the Chief Counsel for Advocacy of the U.S. Small Business Administration submitted a comment stating that the agency had not supplied data in the preamble to the final rule to support its cost estimates. The agency also received information from industry, subsequent to the issuance of the final rule, identifying additional products that would be subject to the final rule. On the basis of this information, FDA issued an amended economic impact analysis, including an IRFA, and offered opportunity for further comment before the implementation of the rule (63 FR 29552). FDA stated that after consideration of these comments, FDA will decide whether to issue the rule on its current effective date, to stay the effective date of the final rule, and/or repropose the rule.

II. Comments to the Amended Economic Impact Analysis Statement

FDA received three comments to the amended economic analysis. Two comments were from the Health Industry Manufacturers Association

(HIMA), and the other comment was from an in vitro diagnostic manufacturer.

The in vitro diagnostic manufacturer stated that health care professionals using in vitro products are trained in and expected to follow universal precautions for handling potential biohazards by wearing protective gloves. Accordingly, the comment maintained that health care professionals would not come into contact with latex in in vitro diagnostic products.

FDA believes that training in universal precautions will not prevent contact with the latex in in vitro diagnostic products for several reasons. Contact may occur under a variety of situations including failure to follow universal precautions, the absence of wearing protective gloves during the set up phase of testing, the retrieval of the products from storage or packing, or the disposal of products. While FDA does not believe that in vitro diagnostic products may be categorically excluded from the scope of this rule because of the universal precautions that may be undertaken, FDA believes that given the variety of product designs, there may be certain in vitro diagnostic products that may contain latex that are designed in such a manner as to preclude contact with the user. Currently, FDA is unaware of any products that are designed in such manner. If, however, there are such products, these products would not be subject to the final rule.

The in vitro diagnostic manufacturer and HIMA also commented that if in vitro diagnostic devices fell within the scope of the rule, they had not been included in the amended economic impact analysis. This omission was an oversight. FDA referred this comment and others described below to Eastern Research Group (ERG), Lexington, MA for analysis. ERG, after considering comments to the June 1, 1998, amended economic impact analysis, has issued an amended economic impact analysis which includes in vitro diagnostic products. The substantive parts of this analysis are reproduced in their entirety in Appendix 1 of this document.

HIMA submitted two comments. One comment requested an extension of the comment period to the economic impact analysis until July 31, 1998. Subsequently, HIMA submitted timely preliminary substantive comments.

FDA denied the request for an extension to the comment period. The public has now had two separate opportunities to comment on the economic impact of this rule. Interested persons had 90 days to respond to the economic impact statement in the proposed rule (61 FR 32618). FDA received only two comments related to the economic impact of the proposed rule. The amended economic impact analysis provided an additional opportunity for comment on the economic impact. FDA believes that 30 days is an adequate time to respond to the comments, particularly given the fact that this is the second opportunity for comment.

Moreover, FDA needed to notify the public whether the comments related to the costs of the rule would result in a stay of the rule, a reproposal of the rule, or whether FDA would retain the September 30, 1998, effective date. FDA needed sufficient time to analyze the comments and publish in the **Federal Register** a document notifying the public of its course of action before the September 30, 1998, effective date. FDA believes that allowing until July 31, 1998, for the submission of the second round of comments would not have allowed the agency adequate time to analyze comments and publish in the **Federal Register** a document in sufficient time before the September 30, 1998, effective date of the rule.

While HIMA's request for an extension was pending, HIMA submitted timely comments to FDA from several of its members. The fact that many HIMA members submitted responses within the comment period further demonstrates that the period of time was adequate for the submission of comments.

HIMA raised several substantive comments in its July 1, 1998, submission. These comments stated that HIMA was uncertain if the June 1, 1998, estimate included costs related to the following items or factors: New plates and film for each new label, purchasing or manufacturing new relabeled boxes and cartons, slow moving inventory or sterile products that cannot be repackaged, ''specialty'' products that are manufactured on an intermittent basis and kept in inventory for 2 to 3 years, and inability to place sticker labels on existing inventory for products that are sterile or carry several layers of packaging. HIMA also stated that one member had estimated the total cost per SKU to be $28,000.

These cost factors stated by HIMA were considered by ERG and FDA. Moreover, the figure reported to HIMA by one member for total cost per SKU does not affect the conclusions of FDA and ERG about the economic impact of this rule. The final ERG report, which is reproduced in Appendix 1, addresses these comments in further detail.

HIMA also stated that the agency did not comply with the Regulatory Flexibility Act in that it did not publish the initial regulatory flexibility analysis at the time of the publication of the proposed rulemaking. FDA does not agree. Regulatory flexibility analyses are only required if there is a significant impact on a substantial number of small entities. If an agency certifies there is no significant impact on a substantial number of small entities, the agency is not required to perform an initial or final regulatory flexibility analysis (5 U.S.C. 605(b)).

In both the proposed and final rules, FDA certified that under 5 U.S.C. 605(b) no such analysis was required (61 FR 32618, June 24, 1996; 62 FR 51021 at 51029, September 30, 1997). The first ERG analysis, as described in the **Federal Register** of June 1, 1998, and the subsequent ERG analysis, as described below, that responds to industry comments, supports FDA's conclusion that no regulatory flexibility analysis under 5 U.S.C. 603 and 604 is required. Even if such an analysis is required, FDA believes that the agency can satisfy the requirements under 5 U.S.C. 603 and 604 by issuing amended initial and final analyses after a proposed rule is issued.

III. Analysis of Impacts

During the course of reexamining the appropriateness of its certification that no regulatory flexibility analysis was required, FDA has already gathered sufficient information to perform a regulatory flexibility analysis. Accordingly, although FDA believes no regulatory flexibility analysis is required because there is no significant impact on a substantial number of small entities, FDA is providing a final regulatory flexibility analysis, as described below, in this amended economic impact analysis statement.

FDA has examined the impacts of the final rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act (2 U.S.C 1501 *et seq.*). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Under the Regulatory Flexibility Act, if a rule has a significant impact on a substantial number of small entities, an agency must analyze regulatory options that would minimize any significant impact of the rule on small entities. Title II of the Unfunded Mandates Reform Act (21 U.S.C. 1532) requires that agencies prepare a written assessment of

anticipated costs and benefits before proposing any rule that may result in an expenditure in any 1 year by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million (adjusted annually for inflation).

The agency believes that this rule is consistent with the regulatory philosophy and principles identified in Executive Order 12866 and in these two statutes. The purpose of this rule is to add labeling statements that will help ensure the safe and effective use by health care workers and patients of natural rubber devices. Potential benefits include early recognition of symptoms that could develop into severe latex allergies, and the prevention of severe allergic reactions and death that may occur if persons who are allergic to natural rubber inadvertently use natural rubber devices.

Based on other information referenced in this document, and on the analysis performed by the ERG, FDA is issuing this amended economic analysis statement. Since the rule does not impose any mandates on State, local or tribal governments, or the private sector that will result in an expenditure in any 1 year of $100 million or more, FDA is not required to perform a cost-benefit analysis according to the Unfunded Mandates Reform Act. The rule is not a significant regulatory action as defined by the Executive Order.

ERG amended its report based on comments received to the June 1, 1998, amended economic analysis statement. The final ERG analysis estimated that this rule will affect approximately 2,340 small businesses. Total annualized compliance costs for small businesses are estimated at $4.1 million, which represent 0.05 percent of revenues for small medical device manufacturers. This economic analysis indicates that this rule will not have a significant economic impact on a substantial number of small entities.

The final natural rubber latex labeling rule would require certain labeling statements on products that contain natural rubber latex. This rule would not invoke new recordkeeping and reporting requirements. Manufacturers of several types of products may include natural rubber latex and therefore be subject to this rule. Manufacturers of the products listed in Table 1–1 of the final ERG report will be subject to the final rule (63 FR 29552 at 29560).

Manufacturers of natural rubber latex devices need to employ certain professional skills to implement the new labeling requirements. Regulatory affairs staff will need to identify the need for a revised label, and coordinate the labeling review and revision processes with other departments such as marketing, medical and legal departments, and prepare the new labeling language. Graphic artists and label layout specialists will prepare the revised labels. Art work might be prepared by in-house or external staff. Once prepared, the revised label is normally sent to outside vendors who prepare new printing plates and perform final printing. The manufacturing personnel receive and review the final revised labeling, replace and discard old inventory, incorporate the new labels into the material control and inventory systems, and modify labeling and packaging equipment as necessary to accommodate new labels.

IV. Steps Taken to Minimize the Economic Impact on Small Entities and Regulatory Alternatives Examined

FDA has analyzed several alternatives and taken several steps to minimize the economic impact of this final rule on small entities. FDA did not receive any comments regarding proposed regulatory alternatives in response to the June 1, 1998, amended economic analysis statement. As discussed previously, FDA received a comment asking for clarification regarding the applicability of the final rule to in vitro diagnostic products, a request for an extension of the comment period, and several questions from HIMA relating to costs analysis issues. FDA's response to those comments is discussed in section II of this document.

A. Application of the Rule to Combination Products and Packaging

Although FDA did not receive any comments to the June 1, 1998, amended economic analysis statement proposing any regulatory alternatives, FDA did receive requests from industry, since publication of the final rule, for alternative approaches regarding the applicability of the rule. FDA considered both these alternatives, and modified the application of the rule under these requests in a manner that reduces the economic impact of the rule on industry, including small entities.

First, FDA received comments from industry requesting that the rule does not apply to combination products containing device components that had previously been regulated solely as drugs or biologics. In the **Federal Register** of May 6, 1998 (63 FR 24934), FDA issued a document stating that upon consideration of these comments and the need to provide a uniform labeling approach for all drug and biological products, including combination products, the agency did not intend to apply the final rule to combination products currently regulated as drugs or biologics, and instead intends to initiate a separate proceeding to propose rulemaking requirements for labeling statements on natural rubber-containing products regulated as drugs and biologics, including combination products, currently regulated under drug or biologic authorities.

Second, on June 5, 1998, HIMA submitted a citizen petition requesting a stay of the implementation of the final rule as it pertains to packaging (Ref. 6). As a basis for the stay, HIMA cited several grounds, including assertions that many manufacturers were confused as to the applicability of the rule to cold seal packaging, and, therefore, needed additional time to come into compliance with the new labeling requirements.

On June 19, 1998, FDA responded to this petition by stating it would stay the effective date of the latex labeling statements required by the final rule for cold-seal packaging for an additional 270 days from the September 30, 1998, effective date of the final rule. The stay of the effective date for the provisions of the September 30, 1997, final rule as they relate to cold-seal packaging is published elsewhere in this issue of the **Federal Register**. FDA is not granting a stay of the effective date for all packaging because of the evidence of serious risks latex poses for certain individuals and the need to inform those individuals of the presence of natural rubber latex in devices (Ref. 7).

B. Voluntary Compliance

FDA could have issued guidance stating FDA considered statements about the presence of natural rubber necessary to comply with existing general statutory and regulatory prohibitions against false and misleading labeling (section 505(a) of the act), and failure to provide adequate directions for use (section 505(f)). Given the significant health risks associated with natural rubber products, FDA does not believe that existing general statutory labeling authority and regulations provide adequate protection to ensure that health care workers and patients are warned about the risks associated with natural rubber.

Without the final regulation, manufacturers may not provide any information at all. The ERG report and FDA's own experience indicate that some manufacturers never voluntarily revise their labeling. Even if it could be assumed that all manufacturers would voluntarily provide some labeling information about the presence of

natural rubber, such information is likely to be presented in a variety of ways that may confuse consumers and limit the effectiveness of the natural rubber statement. FDA believes that the provision of consistent, accurate information to consumers is critical. FDA believes that this regulation, which provides accurate, consistent information in a standardized manner, will assure that the safety information is communicated effectively to the public.

C. Implementation Periods

FDA considered various implementation periods for the effective date after the issuance of the final rule. The June 24, 1996, proposed rule proposed an effective date 6 months after the publication of the final rule. The final rule has reduced the impact on small businesses by extending the effective date to 1 year after issuance of the final rule for all products, except those containing natural rubber latex solely in cold-seal type packaging. For those products the agency is providing, for the reasons stated previously, an additional 270 days to comply with the rule.

Based on the ERG report figures, the total industry cost of compliance for this rule with a 1-year implementation period is $64.1 million. This figure may be somewhat higher than actual costs because of the extension for compliance granted to cold seal packaged products, however FDA did not reduce cost estimates related to this variable. The total annualized costs are calculated at $9.1 million per year. The costs for a 6-month effective date are 26 percent greater than a 1-year effective date. Allowing a 24-month implementation date would reduce costs by 40 percent.

FDA rejected the 6-month implementation period and extended the implementation period to 1 year to allow manufacturers of products containing natural rubber latex, including small businesses, to reduce costs by depleting existing inventories and coordinating this labeling change with other planned labeling changes. Although costs could further be reduced by allowing a 24-month implementation period, FDA believes that the public need for this information about devices that pose serious risks justifies rejecting this alternative.

D. Exempting Small Businesses

FDA has considered the option of exempting small businesses from the final regulation. The ERG report estimates that approximately 83 percent of the manufacturers of natural rubber latex products are small businesses. FDA believes that given that the large majority of manufacturers of products containing natural rubber latex are small businesses, and given the risks associated with these devices, exempting small businesses from this regulation would result in a significant decrease of consumer protection. Accordingly, FDA does not believe that small businesses should be exempt from this regulation.

E. Allowance of Supplementary Labeling

FDA could have chosen a regulatory alternative that would require that all labeling be directly printed on the existing packaging and labeling. Such a regulatory provision would decrease the possibility that the required statement would become dislodged during distribution. Instead, the final rule allows the use of supplementary labeling (stickers) to provide the required labeling information. As noted in the ERG report, this will allow a number of firms, including small businesses, to reduce costs by avoiding extensive repackaging of existing product inventory that will not be sold prior to the end of the regulatory implementation period. FDA decided to include this option in the final rule.

F. Requiring a Labeling Statement on Only One Level of Labeling

Under the provisions of the final rule, FDA estimates that most devices covered under the final rule will bear the required natural rubber statement on two or three levels of labeling. FDA considered requiring labeling statements on only one level of labeling. This alternative was rejected because of the importance of the information contained in the required labeling statements. Users may not have the necessary opportunity to read the statement if it is included only on some levels of labeling. For some products, especially those with multiple users, some labeling may be discarded prior to use by subsequent consumers. The inclusion of the statement on each level of labeling increases the likelihood that consumers will be aware of the risks posed by the natural rubber in the product.

V. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Kibby, T., and M. Akl, ''Prevalence of Latex Sensitization in a Hospital Employee Population,'' *Annals of Allergy, Asthma and Immunology*, 78:41–44, 1997.

2. Kaczmarek, R. G., B. G. Silverman, T. P. Gross, et al., ''Prevalence of Latex-specific IgE Antibodies in Hospital Personnel,'' *Annals of Allergy, Asthma and Immunology*, 76:51–56, 1996.

3. Arellano, R., J. Bradley, and G. Sussman, ''Prevalence of Latex Sensitization Among Hospital Employees Occupationally Exposed to Latex Gloves,'' *Anesthesiology*, 77:905–908, 1992.

4. Lagier, F., D. Vervloet, I. Lhernet, et al., ''Prevalence of Latex Allergy in Operating Room Nurses,'' *Journal of Allergy and Clinical Immunology*, 90:319–322, 1992.

5. Yassin, M., M. Lierl, T. Fisher, et al., ''Latex Allergy in Hospital Employees,'' *Annals of Allergy*, 72:245–249, 1994.

6. June 5, 1998, HIMA citizen petition requesting a stay of the implementation of the final rule as it pertains to packaging.

7. June 19, 1998, FDA response to HIMA citizen petition requesting stay of the implementation of the final rule as it pertains to packaging.

VI. Public Outreach

FDA has conducted extensive public outreach relating to the final rule to small businesses. Interactions with the public on issues relating to this rule are discussed in detail in the amended economic analysis statement published in the **Federal Register** of June 1, 1998 (63 FR 29552, at 29553 and 29554).

Dated: August 13, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–23304 Filed 8–28–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 801

[Docket No. 96N–0119]

Natural Rubber-Containing Medical Devices; User Labeling; Cold Seal Adhesives Partial Stay

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The final rule for user labeling requirements for natural rubber-containing medical devices, 21 CFR 801.437, was published on September 30, 1997, and becomes effective on September 30, 1998. The Food and Drug Administration (FDA) is adding a note to that rule to stay, for 270 days from the effective date, paragraphs (f) and (g) as those final rule requirements relate to device packaging that uses ''cold seal'' adhesives. Labeling changes required by other paragraphs of this final rule must be incorporated in the labeling of devices

distributed after September 30, 1998, even if the devices are packaged in ''cold seal'' packages. Device packaging that uses natural rubber only on adhesives contained in the flaps of device packaging is not considered subject to the rule. Manufacturers of devices packaged with ''cold seal'' adhesives may, if necessary, submit a petition for an extension of the 270-day stay.

DATES: Effective September 30, 1998, until June 27, 1999.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: John J. Farnham, Center for Devices and Radiological Health (HFZ–332), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–4616.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 30, 1997 (62 FR 51021), FDA issued a final rule requiring labeling statements on medical devices, including device packaging containing natural rubber that contacts humans. The rule becomes effective on September 30, 1998. On June 5, 1998, the Health Industry Manufacturers Association (HIMA) filed a citizen petition requesting FDA to stay implementation of the final rule as it pertains to adhesives used in packaging, and packaging in general, of medical devices. On June 19, 1998, FDA denied the HIMA petition with respect to packaging in general but stated FDA would grant a stay of the effective date of paragraphs (f) and (g) of § 801.437 for 270 days from the effective date of the final rule as it pertains to device packaging that uses ''cold seal'' adhesives. Labeling changes required by other paragraphs of the final rule, such as elimination of the word ''hypoallergenic'' and inclusion of the latex content statement for devices that have natural rubber in places other than the packaging must be incorporated into the labeling of devices distributed after September 30, 1998, even if those devices are packaged in ''cold seal'' packages. The agency's response to HIMA's petition also clarified that FDA does not consider device packaging that uses natural rubber only on adhesives contained in the flaps of device packaging to be subject to the rule because such adhesives are not intended and are not likely to contact humans. The petition from HIMA and the agency's response are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. The agency's response is also available on the FDA home page at http://www.fda.gov/cdrh.

This action is being taken under FDA's authority under 21 CFR 10.35(a). The Commissioner finds that this stay is in the public interest.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 801 is amended as follows:

PART 801—LABELING

1. The authority citation for 21 CFR part 801 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 357, 360i, 360j, 371, 374.

2. Section 801.437 is amended by adding the following note to the end of the section:

§ 801.437 User labeling for devices that contain natural rubber.

* * * * *

Note to § 801.437: Paragraphs (f) and (g) are stayed until June 27, 1999, as those regulations relate to device packaging that uses ''cold seal'' adhesives.

Dated: August 20, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–23303 Filed 8–28–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD07–98–023]

RIN 2115–AE84

Regulated Navigation Area; San Juan Harbor, San Juan, PR

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary regulated navigation area in San Juan Harbor in the vicinity of La Puntilla in San Juan, PR. This regulated navigation area is needed to protect personnel, vessels, and equipment during the construction of piers at Coast Guard Base San Juan from the hazards created by the wakes of passing vessel traffic. By establishing this temporary regulation, the Coast Guard expects to reduce the risk of personnel injury and property damage.

DATES: This rule is effective from August 10, 1998, through August 10, 1999.

FOR FURTHER INFORMATION CONTACT:

LT D.R. XIRAU, Assistant Chief Port Operations Department, USCG Marine Safety Office San Juan at (787) 729–6800, ext 320.

SUPPLEMENTARY INFORMATION:

Background and Purpose

These regulations create a temporary regulated navigation area requiring all vessels to operate at no-wake speed in the vicinity of Coast Guard Base San Juan. These regulations are necessary to provide for the safety of personnel, vessels, and equipment during the construction of several piers at Coast Guard Base San Juan. Coast Guard Base San Juan is located at La Puntilla in Old San Juan, at a junction of major channels in the San Juan Harbor. The Coast Guard believes that a significant risk exists under current conditions because wakes cause damage to vessels and the piers, and create major safety hazards to personnel working on the piers and on board moored vessels.

Heavy wakes can cause damage to property while undergoing construction at Coast Guard Base San Juan. Vessel hulls, cleats, stanchions, and gangways have been bent or parted in the past. In addition, electrical shore ties and fueling hoses have been pulled loose, creating very hazardous situations. By establishing a temporary no-wake speed zone in the vicinity of La Puntilla, the risks to personnel and property inherent to wakes will be minimized during the construction.

In accordance with 5 U.S.C. 533, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impractical. Construction is scheduled to begin in a few days and there was not sufficient time to publish proposed rules prior to the construction event nor to provide for a delayed effective date.

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 proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary as the regulations only require minimum steerage way speeds and do not limit the amount of incoming and outgoing vessels.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' 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).

The Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), that this rule will not have a significant impact on a substantial number of small entities as there are no limits imposed on the quantity of incoming or outgoing vessels.

Collection of Information

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

Federalism

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

Environmental Analysis

The Coast Guard has considered the environmental impact of this action and has determined pursuant to figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1C, that this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist have been prepared and are available in the docket for inspection and copying.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

Temporary Regulations

In consideration of the foregoing, the Coast Guard amends amend Subpart F of Part 165 of Title 33, Code of Federal Regulations, as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Add a new § 165.T07–023 to read as follows:

§ 165.T07–023 Regulated Navigation Area; San Juan Harbor, San Juan, Puerto Rico.

(a) *Regulated Area.* The following is a Regulated Navigation Area: All the waters of San Juan Harbor bounded by the following geographic coordinates: Lighted Buoy #11 (LLNR 30805) in approximate position (18–27.31N. 066–07.01W; east to Puerto Rico Ports Authority Pier #3 in approximate position 18–27.40N. 066–06.43W; south to Lighted Buoy ''A'' (LLNR 30845) in approximate position 18–26.55N, 066–06.26W; west to Can Buoy ''A'' (LLNR 30815) in approximate position 18–27.01N, 066–06.59W; and thence north to the point of origin. All coordinates referenced use Datum: NAD 83.

(b) *Regulations.* (1) Unless otherwise authorized by the Captain of the Port, San Juan, Puerto Rico, all vessels operating in the regulated area must travel at no-wake speed. The general regulations in § 165.13 of this part apply.

(2) Violations of this regulated navigation area should be reported to the Captain of the Port, San Juan, PR.

(c) *Dates.* This section is effective from August 10, 1998 through August 10, 1999.

Dated: August 10, 1998.

R.C. Olsen, Jr.,

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

[FR Doc. 98–23373 Filed 8–28–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–98–115]

RIN AA97

Safety and Security Zones; Presidential Visit, Martha's Vineyard, MA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary moving safety and security zones, with identical boundaries, around the President of the United States during his vacation on Martha's Vineyard, Massachusetts. The security zone is needed to safeguard the President, the public, and property from sabotage or other subversive acts, accidents, or other causes of a similar nature. The safety zone is necessary to protect the spectators and the President's entourage. Entry into the zones is prohibited unless authorized by the Captain of the Port, Providence Rhode Island or the Coast Guard Presidential Security Detail Senior Duty Officer.

DATES: This regulation is effective from August 17, 1998, through August 31, 1998.

ADDRESSES: Documents relating to this temporary final rule are available for inspection and copying at U.S. Coast Guard Marine Safety Office Providence, 20 Risho Avenue, East Providence, RI 02914. Normal office hours are between 8:00 a.m. and 4:00 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: LT Ronald Cantin, U.S. Coast Guard, Marine Safety Field Office, Cape Cod, MA, at (508) 968–6556.

SUPPLEMENTARY INFORMATION:

Drafting Information. The principal person involved in drafting this document is LT.R.J. Cantin, Project Manager.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published (NPRM) for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Due to the sensitive and unpredictable nature of the President's schedule, the Coast Guard received insufficient notice to publish proposed rules in advance of the event. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to protect the President and the public.

Background and Purpose

From August 17, 1998, through August 31, 1998, President Clinton will be vacationing on Martha's Vineyard, MA. While vacationing, the President may be involved in myriad activities including boating or fishing trips, swimming, jogs along the beach, dinners at waterfront restaurants, golfing, all of which will place him on or in close proximity to the navigable waters of the United States. This temporary rule establishes moving safety and security

zones around the President extending 500 yards in all directions. The zones will be enforced when the President is on or near the waters of the United States.

The zones are needed for the safety and security of the President and to protect the public and adjacent areas from sabotage or other subversive acts, accidents, or other causes of a similar nature.

It is not possible to predict the President's exact movements on Martha's Vineyard. Accordingly, the Coast Guard Captain of the Port or the Coast Guard Presidential Security Detail Senior Duty Officer will enforce these 500 yard safety and security zones in all directions around the President when necessary. Notice of the exact location of the safety and security zones will be given via loudhailer, channels 16 and 22 VHF, or through Safety Marine Information Broadcasts, as appropriate. The safety and security zones have identical boundaries. All persons, other than those approved by the Captain of the Port or the Coast Guard Presidential Security Detail Senior Duty Officer, will be prohibited from these zones. The activation and enforcement of these zones will be coordinated with the Secret Service.

Regulatory Evaluation

This temporary 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 proposal to be so minimal that a Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The size of the zones are the minimum necessary to provide adequate protection for the President. The entities most likely to be affected are individuals wishing to view the President and pleasure craft engaging in recreational activities. These individuals and vessels have ample space out side of the safety and security zones to engage in these activities and therefore they will not be subject to undue hardship. The zones may impact ferries or other commercial vessels if the President is onboard a vessel. If so, vessels may be allowed to transit through the zones as necessary so as not to place undue hardships on these vessels, provided there is adequate protection for the President and the public. Any hardships experienced by persons or vessels are considered minimal compared to the national interest in protecting the President and the public.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this temporary 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 businesses concerns'' under section 3 of the Small Business Act (15 U.S.C. 632).

For the reasons outlined in the Regulatory Evaluation, the Coast Guard expects the impact to be minimal on all entities. Therefore, the Coast Guard certified under 5 U.S.C. 605(b) that this temporary rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This temporary rule contains no collection of information requirements under that Paperwork Reduction Act (44 U.S.C. 3501).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612, and has determined that these regulations do not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket and is available for inspection and copying at the address list under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. A temporary section 165.T01–115 is added to read as follows:

§ 165.T01–115 Safety and Security Zone: Presidential Visit; Martha's Vineyard, MA.

(a) *Location.* The following area is a moving safety zone and a moving security zone: All areas within a 500 yard radius from the President of the United States.

(b) *Effective Date.* This section is effective from August 17, 1998 through August 31, 1998. The security and safety zones established by this section will be enforced by the Captain of the Port or the Coast Guard Presidential Security Detail Senior Duty Officer as necessary to protect the President and the public. As appropriate, notice of the location of this zone may be made via loud hailer, Channels 16 and 22 VHF, or through Safety Marine Information Broadcasts.

(c) *Regulations.* The general regulations governing safety and security zones in §§ 165.23 and 165.33 of this part apply. Entry into the zones is prohibited unless authorized by the Captain of the Port Providence or the Coast Guard Presidential Security Detail Senior Duty Officer.

Dated: August 14, 1998.

Peter A. Popko,

Captain, U.S. Coast Guard Captain of the Port.

[FR Doc. 98–23374 Filed 8–28–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–98–114]

RIN AA97

Safety and Security Zone; Presidential Visit, Martha's Vineyard, MA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone and security zone, with identical boundaries, off the south shore of Martha's Vineyard, Massachusetts, during the President of the United States' vacation at the Friedman residence on Oyster Pond, Martha's Vineyard, Massachusetts. The security zone is needed to safeguard the President, the public and the area adjoining the Friedman residence from sabotage or other subversive acts,

accidents, or other causes of a similar nature. The safety zone is needed to protect spectators and the President's entourage. Entry into these zones are prohibited unless authorized by the Captain of the Port, Providence, Rhode Island or the Coast Guard Presidential Security Detail Senior Duty Officer.

DATES: This regulation is effective from August 17, 1998, through August 31, 1998.

ADDRESSES: Documents relating to this temporary final rule are available for inspection and copying at U.S. Coast Guard Marine Safety Office Providence, 20 Risho Avenue, East Providence, RI 02914. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: LT Ronald Cantin, U.S. Coast Guard, Marine Safety Field Office, Cape Cod, MA, at (508) 968–6556.

SUPPLEMENTARY INFORMATION:

Drafting Information. The principal person involved in drafting this document is LT R.J. Cantin, Project Manager.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Due to the sensitive and unpredictable nature of the President's schedule, the Coast Guard received insufficient notice to publish proposed rules in advance of the event. Publishing a NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to protect the President, the public and the area adjoining the Friedman residence.

Background and Purpose

From August 17, 1998, to August 31, 1998, President Clinton will be vacationing on Martha's Vineyard, MA. While vacationing, he and his family will reside at the Friedman residence, which is located on Oyster Pond, just inland of the south shore of Martha's Vineyard. The safety and security zones are needed to protect the President and the public from harmful or subversive acts in the vicinity of the Friedman residence. The safety and security zones have identical boundaries. All persons, other than those approved by the Captain of the Port or the Coast Guard Presidential Security Detail Senior Duty Officer, will be prohibited from these zones. They encompass a rectangular area of water extending approximately one-half mile along the beach and 500 yards out into the water. The safety and security zones will be marked by buoys.

Regulatory Evaluation

This temporary 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 proposal to be so minimal that a Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The size of the zones are the minimum necessary to provide adequate protection for the President. The entities most likely to be affected are individuals wishing to view the President and pleasure craft engaged in recreational activities. These individuals and vessels have ample space outside of the safety and security zones to engage in these activities and therefore they will not be subject to undue hardship. Commercial vessels do not normally transit the area of the safety and security zones. Any hardships experienced by persons or vessels due to these zones are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this temporary 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). For the reasons outlined in the Regulatory Evaluation, the Coast Guard expects the impact to be minimal on all entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this temporary rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612, and has determined that these regulations do not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket and is available for inspection and copying at the address listed under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. A temporary § 165.T01–114 is added to read as follows:

§ 165.T01–114 Safety and Security Zone: Presidential Visit; Martha's Vineyard, MA.

(a) *Location.* The following area is both a safety zone and a security zone: From a point beginning on land at Latitude 41 degrees 20 minutes 54 seconds N, Longitude 070 degrees 36 minutes 34 seconds W; thence eastward along the shoreline to a point on land at Latitude 41 degrees 20 minutes 57 seconds N, Longitude 070 degrees 35 minutes 45 seconds W; thence south 500 yards to an offshore point at Latitude 41 degrees 20 minutes 42 seconds N, Longitude 070 degrees 46 seconds W; thence west to an offshore point at Latitude 41 degrees 20 minutes 42 seconds N, Longitude 070 degrees 36 minutes 29 seconds W; thence north to the beginning point. The aforementioned offshore points will be marked by buoys indicating the safety and security zone.

(b) *Effective Date.* This section is effective from August 17, 1998 through August 31, 1998.

(c) *Regulations.* The general regulations governing safety and security zones in §§ 165.23 and 165.33 of this part apply. Entry into these zones is prohibited unless authorized by the Captain of the Port, Providence, or the Coast Guard Presidential Security Detail Senior Duty Officer.

Dated: August 14, 1998.

Peter A. Popko,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 98–23375 Filed 8–28–98; 8:45 am]

BILLING CODE 4910–15–M

Proposed Rules

Federal Register
Vol. 63, No. 168
Monday, August 31, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

RIN 3206–AI37

Federal Employees Health Benefits Program: Effective Dates

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing proposed regulations to change the existing Federal Employees Health Benefits (FEHB) Program regulations concerning the effective date for new enrollments made by employees during the annual open season. These regulations would also change the effective date of open season changes in enrollment made by employees, annuitants, former spouses and individuals enrolled under the temporary continuation of coverage (TCC) provisions of FEHB law. The proposed regulations would standardize the effective date of most of these new enrollments or changes in enrollment. This would make it easier for employing offices and health plan carriers to administer the Program and reduce the potential for error in determining effective dates.

DATES: Comments must be received on or before September 30, 1998.

ADDRESSES: Send written comments to Abby L. Block, Chief, Insurance Policy and Information Division, Retirement and Insurance Service, Office of Personnel Management, P.O. Box 57, Washington, DC 20044; or deliver to OPM, Room 3425, 1900 E Street NW., Washington, DC; or FAX to (202) 606–0633.

FOR FURTHER INFORMATION CONTACT: Jay D. Fritz (202) 606–0004.

SUPPLEMENTARY INFORMATION: The effective date of new enrollments by employees during the annual open season is specified in current regulations as the first day of the first pay period that begins in the next following year and which follows a pay period during any part of which the employee is in a pay status. For open season changes in enrollment by employees, annuitants, former spouses and individuals enrolled under TCC, the effective date is the first day of the first pay period that begins in January of the next following year. Under current regulations, the effective date for employee enrollments and changes in enrollment may be different each year based on which day in January is the first day of the pay period.

These proposed regulations would adopt January 1st as the effective date for all open season new enrollments for employees in a pay status. For employees in a non-pay status, an open season new enrollment must continue to be effective on the first day of the first pay period that begins in the next year which follows a pay period during any part of which the employee is in a pay status. The effective date for these employees cannot be regulated as January 1st since they may not meet the requirement of being in a pay status prior to the January 1st effective date.

These regulations would also adopt January 1st as the effective date for all open season changes in enrollment for employees, regardless of whether or not they are in a pay status, and for annuitants, former spouses, and individuals on TCC.

We believe standardization of the effective date of new enrollments and changes in enrollment made during the annual open season would be consistent with the effective date of benefits changes under our contracts with participating carriers, and would simplify administration of the FEHB Program. With the effective date always being January 1st, there is less chance of employing offices making errors in either determining the effective date or forwarding an incorrect effective date to the health benefits carriers. Recordkeeping by the carriers would be simplified, resulting in less chance of error in entering data into their enrollment systems.

The regulations would also bring a measure of uniformity to the Program as all enrollees would have the same effective date for their open season transactions regardless of their pay period. Under current regulations, the Federal agencies that operate with a pay period different from that used by most other agencies have different effective dates. This regulatory change would make it easier for enrollees since they would always know that they are covered by their new plan beginning January 1st.

These proposed regulations do not affect government contributions or employee withholdings for health insurance premiums. Any change in the contributions or withholdings brought about by a new enrollment or change in enrollment made during the open season will continue to be effective beginning on the first day of the first pay period that begins in January of the next year. We are not requiring that employing offices prorate withholdings and contributions when the January 1st effective date is not at the beginning of a pay period as this would create an administrative burden for both the employing offices and the carriers.

Under current regulations, when an individual makes an open season change from a plan with a deductible any covered expenses incurred from January 1st to the effective date of the open season change count towards the losing carrier's prior year deductible. Enrolled individuals and their family members are eligible for reimbursement by the losing carrier for covered expenses incurred during the current year if the prior year's deductible or family limit on deductibles had previously been met. Since these proposed regulations make January 1st the effective date for all open season changes in enrollment, this provision is no longer necessary. We are therefore removing the provision for deductible carryover (§ 890.201(a)(10)) from the current regulations.

Reduction of Comment Period for Proposed Rulemaking

I have determined that the comment period will be thirty days because OPM must receive public comments on this new initiative as soon as possible in order to analyze them, work with interested parties, and publish a final regulation prior to the beginning of the 1999 Contract Year.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect administrative procedures for Federal

agencies and health benefits carriers that participate in the FEHB 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 5 CFR Part 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Iraq, Kuwait, Lebanon, Reporting and recordkeeping requirements, Retirement.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM proposes to amend 5 CFR Part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; § 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c–1; subpart L also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; § 890.102 also issued under sections 11202(f), 11232(e), and 11246 (b) and (c) of Pub. L. 105–33, 111 Stat. 251.

§ 890.201 [Amended]

2. In § 890.201, paragraph (a)(10) is removed and paragraph (a)(11) is redesignated as paragraph (a)(10).

3. In § 890.301, paragraph (f)(4) is revised to read as follows:

§ 890.301 Opportunities for employees to enroll or change enrollment; effective dates.

* * * * *

(f) * * *

(4)(i) An open season new enrollment for an employee in a pay status takes effect on the first day of January of the next year.

(ii) An open season new enrollment for an employee in a non-pay status takes effect on the first day of the first pay period that begins in the next year and which follows a pay period during any part of which the employee is in a pay status.

(iii) An open season change of enrollment takes effect on the first day of January of the next year.

* * * * *

4. In § 890.306, paragraph (f)(2) is revised to read as follows:

§ 890.306 Opportunities for annuitants to change enrollment or to reenroll; effective dates.

* * * * *

(f) * * *

(2) An open season reenrollment or change of enrollment takes effect on the first day of January of the next year.

* * * * *

5. In § 890.806, paragraph (f)(2) is revised to read as follows:

§ 890.806 Opportunities for former spouses to enroll and change enrollment; effective dates of enrollment.

* * * * *

(f) * * *

(2) An open season reenrollment or change of enrollment takes effect on the first day of January of the next year.

* * * * *

6. In § 890.1108, paragraph (e)(2) is revised to read as follows:

§ 890.1108 Opportunities to change enrollment; effective dates.

* * * * *

(e) * * *

(2) An open season change of enrollment takes effect on the first day of January of the next year.

* * * * *

[FR Doc. 98–23335 Filed 8–28–98; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 999

[Docket No. FV98–999–1 PR]

Revised Quality and Handling Requirements and Entry Procedures for Imported Peanuts for 1999 and Subsequent Import Periods

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on several revisions to the peanut import regulation effective with the 1999 and subsequent peanut import quota periods. The proposed changes would: Relax certain quality requirements; modify entry procedures; revise handling requirements; reduce the reporting burden; and establish a new reporting period for peanuts imported into the United States. Changes to the quality and handling requirements are proposed to make the import requirements consistent, as required by law, with regulations covering domestically-produced peanuts under Marketing Agreement No. 146 (Agreement). Changes to import procedures and reporting requirements are proposed by the Agricultural Marketing Service (AMS) to improve efficiency of the importation process, ease the reporting burden, and provide importers with more time to meet peanut import regulation requirements. This proposal continues safeguard measures which prevent non-edible imported peanuts from being used in human consumption outlets in the United States. This action would benefit peanut importers, handlers, and consumers by helping to ensure that all peanuts in the domestic marketplace comply with the same quality standards.

DATES: Comments received by September 30, 1998 will be considered prior to issuance of a final rule. The comment period for information collections under the Paperwork Reduction Act of 1995 continues through October 30, 1998.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, D.C. 20090–6456; fax: (202) 720–5698, or E-mail: moabdocketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register**. Comments received will be made available for public inspection in the Office of the Docket Clerk during regular business hours. Comments concerning the amended information collection under the Paperwork Reduction Act of 1995 should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Tom Tichenor, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, D.C. 20090–6456; telephone: (202) 720–6862, or fax: (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber at the same address and fax number, telephone: (202) 720–2491.

SUPPLEMENTARY INFORMATION: This proposed rule would amend the peanut import regulation (7 CFR Part 999.600) issued June 11, 1996, and published in the **Federal Register** (61 FR 31306, June 19, 1996), which regulates the quality of peanuts imported into the United States. Amendments to the regulation were issued December 31, 1996 (62 FR 1269, January 9, 1997) and September 19, 1997 (62 FR 50243, September 25, 1997).

The import regulation is effective under subparagraph (f)(2) of section

108B of the Agricultural Act of 1949 (7 U.S.C. 1445c3) (Act), as amended November 28, 1990, and August 10, 1993, and section 155 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7271). These statutes provide that the Secretary of Agriculture (Secretary) shall require that all peanuts in the domestic and export markets fully comply with all quality standards under Marketing Agreement No. 146 (7 CFR Part 998) (Agreement), issued pursuant to the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601–674). The handling requirements proposed in this rule are the same as, or similar to, those recommended by the Peanut Administrative Committee (Committee or PAC), the administrative agency that oversees the Agreement's quality assurance program.

This 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.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the regulations, importers of foreign-produced peanuts must: Follow certain entry procedures with the U.S. Customs Service (Customs Service); obtain certification that such peanuts meet edible quality requirements or are disposed to non-edible peanut outlets; and report disposition of peanuts to AMS within an established time period. This rule proposes several changes to the current regulation to relax quality requirements, modify entry procedures, and relax reporting requirements. The rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Discussion

The peanut import regulation was issued June 11, 1996. At that time, three duty free peanut quotas for 1996 had been filled and no peanuts were entered under duty for the remainder of 1996. Therefore, the peanut import regulation had its first practical application on January 1, 1997, when the Mexican peanut quota opened, and again on April 1, 1997, when Argentine and ''other country'' quotas opened. By international agreements, these three duty free peanut quotas increase each year, allowing more foreign-produced peanuts duty free access to U.S. markets. For the 1999 peanut quota year, the Mexican quota will total approximately 8.7 million pounds (3.95 million kilograms). Argentina's 1999 peanut quota will total approximately 89 million pounds (40.4 million kg.) and the quota for all other countries will be approximately 17.7 million pounds (8 million kg.). The total volume will be about a 10 percent increase over the combined 1998 peanut quotas.

The Committee met April 29 and 30, 1997, and recommended relaxations to the quality and handling requirements of the domestic peanut program. Those relaxations have been finalized by the Department of Agriculture (USDA) and made effective for domestically-produced peanuts. Where applicable, those changes are proposed for imported peanuts in this rulemaking. The Committee met a second time on May 27, 1998, and unanimously recommended no further changes in the domestic program's quality requirements or handling procedures. In addition, after review of the entry and certification process, AMS proposes additional modifications to the import regulation to increase the efficiency of the importation procedure and relax reporting requirements.

Therefore, this rulemaking action proposes the following modifications to Section 999.600.

(1) AMS proposes removal of a phrase in the definition of *Negative aflatoxin content,* in Section 999.600, paragraph (a)(10). The phrase, ''and 25 parts-per-billion (ppb) or less for non-edible quality peanuts,'' is proposed to be removed because that action level is no longer used for non-edible peanuts. This proposed revision would make the requirements under these regulations consistent with those under the Agreement. Molds such as *Aspergillus flavus* (A.flavus) are present naturally in soil. Aflatoxin is a carcinogen which may develop from A.flavus which is more likely to be found on stressed peanut plants and damaged or defective kernels than on sound, whole kernels.

Also, in paragraph (a)(15), Marketing Agreement No. 146 is referred to as the Peanut Marketing Agreement No. 146. The word ''peanut'' is not a part of the title of the Agreement and would be removed from the definition to make it technically correct.

(2) AMS proposes to change the definition of *Conditionally released* in Section 999.600, paragraph (a)(16), to conform with Customs Service terminology. The current definition states that peanuts are conditionally released for further handling ''before final release.'' The phrase ''final release'' is not consistent with Customs Service terminology and would be removed to avoid confusion. This proposal would define conditionally released as ''released from U.S. Customs Service custody for further handling, sampling, inspection, chemical analysis, storage, and, if necessary, reconditioning.'' These activities are conducted to meet the requirements of the import regulation. If inspection and certification are not obtained prior to application for entry, or if peanuts are not held in Customs Service bonded storage facilities when inspected, the peanuts would be conditionally released for such inspection and needed reconditioning. Conditional release would provide more time for importers to obtain inspection certifications and to report compliance with the import regulation.

(3) AMS proposes to remove a redundant sentence in paragraph (b)(1) of Section 999.600. The second sentence states that ''only Segregation 1 peanuts may be used for human consumption.'' This sentence is re-stated at the end of the paragraph and is more appropriately placed at the end of the paragraph.

(4) Paragraph (c)(1)(i) of the *Outgoing regulation* in Section 999.600, currently states that ''no importer shall ship or otherwise dispose'' of imported peanuts unless the peanuts meet certain import requirements. The introductory sentence would be amended by removing the words ''ship or otherwise.'' This change would make the text consistent with the revised text of corresponding paragraph (a) of Section 998.200 of the Agreement regulations.

This modification has the effect of removing text which allows forwarding of very high quality imported peanuts to buyers before receipt of quality certifications. However, the impact of this modification is not expected to be significant. Given the quality of imported peanuts, importers have been reluctant to forward lots to buyers prior to receipt of both grade and aflatoxin certifications. The risk of having to have the lot returned for reconditioning is greater than the benefit of shipping a few days early. The delays are not excessive as aflatoxin analyses are usually completed within two or three days, and the results faxed back to importers. Finally, grade and aflatoxin certifications often are completed before other Federal agency clearances are received. Therefore, this modification would not be expected to have an impact on the importation process or on peanut importers. This modification is made in conjunction with Recommendation 6.

(5) To be consistent with a recent change in the Agreement regulation's

''Other Edible Quality'' table, this rule proposes to relax the tolerance for ''Unshelled and damaged kernels'' (from 1.50 to 2.00 percent) in the ''lots of splits'' categories specified in Table 1, ''Minimum Grade Requirements'' of paragraph (c)(1)(i). The new requirement now matches the tolerance for ''Unshelled and damaged kernels'' as specified in the U.S. Grade Standards for Peanuts. Table 1 shows the current tolerance for unshelled and damaged kernels as 1.50 percent (the second column under ''Lots of splits''). The tolerance would be relaxed to allow for 2.00 percent unshelled and damaged kernels in split lots. The relaxation in tolerance of one half of one percent could reduce the number of imported peanut lots that need to be reconditioned to meet outgoing quality requirements. This could save importers reconditioning costs and storage costs. This relaxation already has been made effective for domestically-produced peanuts.

(6) This modification would remove the text of paragraph (c)(1)(ii) and the first six grade categories in Table 2—Superior Quality Requirements. The Committee established Table 2 in the Agreement regulations several years ago to qualify higher grade peanut lots for its indemnification program. However, the indemnification coverage has been greatly reduced by recent Committee actions and the first six grade categories are no longer certified under the Agreement. Thus, those grade categories would be removed from the import regulation in this rulemaking action.

The final three grade categories in Table 2 covering domestically-produced peanuts with not more than 15 percent sound split kernels still have a small domestic marketing niche and have been moved to Table 1 under the Maximum Limitations category in the Agreement regulations. To be consistent with that modification, the last three imported ''with splits'' categories covering Runners, Virginias, and Spanish and Valencia with ''not more than 15 percent sound splits'' would be moved to the Minimum Grade Requirements table in paragraph (c)(1)(i) of the import regulation. Also, to be consistent with the other maximum tolerances in the ''Unshelled peanuts and damaged kernels'' column, and in the ''Minor defects'' column, the percentage tolerances for the three transferred categories would be increased (relaxed) from 1.25 to 1.50 percent and from 2.00 to 2.50 percent, respectively.

Recommendations 5 and 6 have the effect of relaxing the minimum quality requirements of the import regulation, and, together, simplify grade requirements by providing only one set of peanut quality requirements for human consumption use. While these proposed changes remove a provision that allows shipment of high quality lots to buyers immediately after grading, given the nature of peanut quality and importation processes, the proposed changes would not be expected to delay shipments or negatively affect the handling of imported peanuts.

To effectuate the above three changes, paragraph (c)(1)(i) would be modified by removing the words ''ship or otherwise.'' The text and the first six grade categories of Table 2 in paragraph (c)(1)(ii) also would be deleted from the regulation and the last three grade categories would be moved to the table in paragraph (c)(1)(i). Paragraph (c)(1)(iii) would be redesignated as paragraph (c)(1)(ii) and a conforming change would be made to that paragraph by deleting the second sentence which specifies that samples must be taken from Superior Quality peanut lots prior to shipment. Finally, because Table 2 would be deleted, it would not be necessary to refer to the ''Minimum Grade Requirements'' table as Table 1, and conforming changes would be made in paragraph (c)(1)(i), introductory paragraph (e), and in paragraph (e)(3).

(7) Paragraph (d)(3)(ii) would be changed to specify a maximum lot size for farmers stock peanuts. The import regulation currently specifies the maximum lot size for farmers stock, cleaned-inshell and shelled peanuts as 200,000 pounds (90,720 kilograms). However, the 200,000 pound size limit is applied only to shelled peanuts under the Agreement, and is based on an understanding between the Committee and the inspection service, reached some years ago. The maximum lot size for domestically-produced, farmers stock peanuts is limited to one conveyance, or two or more conveyances with a combined weight not exceeding 24,000 pounds (10,886 kilograms). The smaller lot size is established for farmers stock peanuts because farmers stock peanuts have not undergone extensive cleaning and sorting processes and, generally, contain more foreign material and A.flavus mold than lots of milled peanuts. Smaller lot sizes help increase the effectiveness of sampling variability and assure that the collected sample is representative of the entire lot. The 200,000 pound limit for shelled peanuts is the maximum volume on which random sampling procedures can be systematically and accurately implemented.

Therefore, under this proposal, foreign-produced peanuts imported in farmers stock form would be inspected in single conveyances or combined conveyances not exceeding a total of 24,000 pounds. Only a small percentage of the peanuts imported during 1997 and 1998 were imported in farmers stock form, and all complied with this maximum lot size. This inspection practice would help exporters plan their shipments and should not have a negative impact on future imports of farmers stock peanuts. For these reasons, the second sentence of paragraph (d)(3)(ii) would be modified to provide maximum lot size for farmers stock peanuts.

Paragraph (d)(3)(i)(A) would be changed to reflect closing of the inspection office in Yuma, Arizona. The introductory sentence in paragraph (d)(3)(i)(B) would be changed to more accurately reflect the sampling service provided by some inspection service offices.

(8) AMS proposes strengthening the lot identification requirements for shelled peanuts by adding new paragraph (d)(4) of the import regulation. The Agreement regulation requires Positive Lot Identification (PLI) generally using tags which are sewn on each bag or super sack of domestically-produced shelled peanuts. The PLI tag is applied after shelling, at the time of packaging and inspection. The current import regulation does not require PLI tags sewn at the time of first inspection when several hundred thousand pounds of peanuts arrive at a port-of-entry at one time. Such a requirement would be a burden on importers because of the large volume and lack of equipment, space, and time needed to sew tags on individual bags. However, better lot identification for imported peanuts is needed to insure integrity of the peanut import program.

Lot identification practices currently applied to imported peanuts by the Federal-State Inspection Service (inspection service) provide that lots, or pallets within a lot, be identified by a tag which is affixed to the lot or pallet. Such identification does not prevent the individual bags, sacks, or cartons in the lot from being tampered with or exchanged with other bags, sacks, or cartons. The inspection service cannot insure integrity of a lot that is only ''lot identified.'' Simple lot identity does not guarantee that peanuts drawn in a second sample under an appeal process come from the same peanut lot or containers from which the first sample was drawn.

Therefore, AMS proposes a more reliable PLI to be applied to shelled peanuts by the inspector at the time of first inspection. This may include: (1)

Wrapping PLI tape around the top layer of bags or boxes in such a way that no peanuts could be removed or added; (2) shrink wrapping pallets or multiple bags with a PLI sticker applied to the wrapped pallets or bags; (3) stamping or stenciling and numbering individual bags or boxes; (4) affixing a PLI seal to the door of a shipping container so that it could not be opened without breaking the seal; or (5) other methods acceptable to the inspection service that clearly identifies the lot, is securely affixed to the lot, and prevents peanuts from being removed or added to the lot.

These PLI methods represent substantially less burdensome and less-costly procedures than PLI tags sewn on individual bags. For instance, stenciling bags with a spray paint is a faster and much less expensive method of lot identity that represents an acceptable alternative to sewing tags on individual bags. The inspection service office in Suffolk, Virginia, used stenciling of imported peanuts in bags during the 1997 and 1998 quota years. These methods also do not require special training or equipment and can be carried out by inspection service personnel throughout the U.S. These methods should not require substantial extra time or material at the time of first inspection. Increased costs to the importer should be in the form of a few extra minutes to wrap pallets or stencil bags, and would vary with the size and containerization of each lot. These PLI methods could increase average storage costs when warehouse space for inspection is very limited or when an unusual amount of movement of lots is required during lengthy warehouse storage. However, increased costs should not be significant in comparison to overall costs of importation. Also, importers should benefit from improved lot identity if a lot needs to have an appeal inspection or if the Customs Service were to demand redelivery.

The inspection service currently works with domestic peanut handlers and storage warehouses to determine the most appropriate PLI or lot identity method to be used. The same cooperative relationship should apply to importers. Several factors will dictate which PLI method should be used: (1) Size of the lot; (2) storage space on the wharf or in the warehouse; (3) required, further movement of the lot prior to receipt of certification; and (4) other needs of the importer, wharf or warehouse operators, or the Customs Service. Any request for extension of the reporting period, or appeal inspection, would include the PLI number or designation of the lot needing additional reporting time.

AMS believes that these increased lot identity practices outweigh the possible minimal increases in handling or inspection costs associated with better lot identification. Tighter lot-identity requirements would be consistent with practices currently used by the inspection service to PLI domestically-produced peanuts. PLI also would help importers maintain the integrity of lots, should questions arise from the Customs Service after conditional release.

AMS believes that positive lot identification of inspected lots is essential in maintaining the integrity of imported shelled lots after first inspection. Lots failing grade and aflatoxin certifications can be appealed pursuant to current paragraph (d)(5). In the appeal process, the lot is sampled a second time. Without PLI, there is no guarantee that peanuts sampled under an appeal inspection are the same peanuts as those which failed initial inspection. Therefore, a sentence would be added to current paragraph (d)(5) to provide that peanut lots which show evidence of tampering or PLI violation, would not be eligible for an appeal inspection.

These PLI methods would be applied to peanut lots at the first inspection. If a lot subsequently fails either grade or aflatoxin analysis, the lot may be sent to a remilling or blanching operation for reconditioning. In such cases, PLI of the lot from the warehouse to the reconditioning site and during reconditioning does not have to be maintained. However, the importer must maintain information which ties the reconditioned lot to the original lot. This information must be provided to the inspection service upon inspection after reconditioning. Thus, inspection surveillance of the lot does not have to be maintained during reconditioning. This lot identity procedure is consistent with the handling requirements for domestically produced peanuts under the Agreement.

PLI requirements after reconditioning also would be updated in this proposal to make the treatment of reconditioned imported peanuts consistent with current industry practice for domestically-produced peanuts. Under Agreement requirements, failing lots that are reconditioned by remilling or blanching are positive lot identified by sewing tags on bags and by taping and tagging bulk bins. For shelled peanuts, the tag is sewn into the closure of the bag. In plastic bags, the tag is inserted prior to sealing so that the official stamp is visible. This is the most efficient PLI procedure and is currently carried out by the remiller or blancher at the end of the remilling and blanching process. The inspection service certifies the reconditioned lot based on the PLI tags applied to bags and bins. Bulk shipments and bulk bins would be positive lot identified by sealing the conveyance and, if in other containers, sealed by means acceptable to the inspection service. This proposal would ensure that the same PLI procedures are applied to imported peanuts which are reconditioned by remilling or blanching. Costs for these PLI measures are covered in the remilling and blanching charges, and, thus, would not be expected to increase costs for importers. Indeed, some blanching operations used this PLI method on imported peanuts during 1997 and 1998.

These PLI requirements and procedures would be established in the import regulation by adding a new paragraph (d)(4) and redesignating current paragraphs (d)(4) and (5) as (d)(5) and (6), respectively. Also, references to lot identity in paragraphs (c), (d), (d)(1) and (g)(6) would be amended to read ''Positive Lot Identification.''

It shall be noted that under the Agreement and import programs, a failing lot that is reconditioned must be re-certified for both grade and aflatoxin content after reconditioning. It does not matter whether the original lot fails for grade or aflatoxin analysis; both analyses must be conducted a second time. The reconditioned lot is considered to be a new lot because the size and quality is different from the original lot, and the previous lot identity has been lost. This procedure was in effect and properly carried out for reconditioned imported peanuts in 1997 and 1998.

A minor clarification would be added to redesignated paragraphs (d)(5)(ii) and (iii). These paragraphs refer to a ''notice of sampling'' as the inspection service's grade certification of shelled peanuts. The inspection service now commonly uses the ''Milled Peanut Inspection Certificate,'' AMS form FV–184–9A, to certify the grade quality of shelled peanuts. That form's title would be added to paragraphs (d)(5)(ii) and (iii).

AMS would advise importers that containers of imported lots of shelled peanuts may be subdivided prior to inspection. During the 1997 and 1998 quota years, some containers of shelled peanuts, when off-loaded and made available for inspection, revealed wet or moldy bags. The importers, suspecting such bags would fail quality requirements, isolated the wet and moldy bags apart from other bags in the container to reduce possible contamination of good peanuts. This practice is acceptable and can be done

at a Customs Service bonded warehouse without inspection service oversight. If the moldy bags are held separately in a Customs Services bonded warehouse and then re-exported without leaving Customs Service custody, those moldy bags do not have to be reported to AMS—except that the difference in the volume reported on the stamp-and-fax form and the volume inspected must be reported to the inspection service.

However, if the moldy bags are combined into a separate lot and identified on an inspection certificate, or moved out of Customs custody, the bags are subject to import requirements and must be reported as separate peanut lots. If such a lot fails quality requirements, it may be reconditioned, disposed to an non-edible peanut outlet pursuant to import requirements, or re-exported pursuant to Customs Service procedures. These dispositions must be reported to AMS.

(9) The second to the last sentence in current paragraph (d)(4)(iii) provides that laboratories shall provide aflatoxin assay results to the importer. Upon review, USDA determines that this sentence is redundant with provisions in current paragraph (d)(4)(v). Thus, this proposal would remove the second to last sentence of current paragraph (d)(4)(iii).

(10) Several changes in the regulatory text would be made regarding reporting of aflatoxin certifications to AMS. Current paragraph (d)(4)(iv)(A) provides that importers ''should'' contact one of the laboratories to arrange for chemical analyses of imported peanut lots. However, because chemical analysis is required under the regulation, the word ''should'' does not convey the mandatory nature of the requirement that aflatoxin analysis must be conducted on all imported peanut lots intended for human consumption. Thus, the first sentence of redesignated paragraph (d)(5)(iv)(A) would be revised to state that importers ''shall'' contact one of the laboratories to arrange for chemical analyses.

Current paragraph (d)(4)(v) would be revised to include the requirement that importers ''shall cause'' aflatoxin certifications to be reported to AMS. The last sentence in current paragraph (d)(4)(v)(B) would be revised and moved to redesignated paragraph (d)(5)(v) for more appropriate placement of the instructions.

(11) The list of aflatoxin testing laboratories shown in current paragraph (d)(4)(iv)(A) would be updated in this rulemaking action. The laboratory in Ashburn, Georgia formerly operated by AMS is now operated privately as a PAC-approved laboratory. The USDA laboratory in Dothan, Alabama is now operated by the Alabama-Federal State Inspection Service. In addition, three new laboratories in Headland, Goshen, and Enterprise, Alabama have been certified by AMS and approved by the PAC as Alabama-Federal State laboratories. The PAC-approved laboratory in San Antonio, Texas should be dropped from the list as that laboratory no longer certifies the aflatoxin content of peanut lots. Finally, the name of the AMS office that operates USDA laboratories and certifies the private laboratories has been changed from Science and Technology Division to Science and Technology Programs.

The import regulation refers to private aflatoxin testing laboratories as ''PAC-approved'' because those laboratories are approved by the Committee to perform chemical analyses on domestically-produced peanuts. These PAC-approved laboratories also may be referred to as ''designated'' laboratories. Whether a laboratory is referred to as ''PAC-approved'' or ''designated,'' only those laboratories listed in redesignated paragraph (d)(5)(iv)(A) may conduct aflatoxin content analysis on imported peanuts.

(12) Another Committee recommendation to modify the Agreement regulations would provide that shelled peanut lots failing quality requirements because of excessive ''fall through'' may be blanched. Paragraph (e) of the import regulation prescribes the corresponding requirement that imported shelled peanuts failing quality requirements because of excessive damage, minor defects, moisture, or foreign material may be reconditioned by remilling and/or blanching. This proposed change would add peanut lots failing ''fall through'' requirements to those lots that can be reconditioned by blanching. After blanching, all such lots would have to be sampled and certified as meeting minimum ''fall through'' requirements prior to disposition to edible peanut outlets.

This change would be made in paragraph (e) of Section 999.600 by adding a new second sentence to the introductory paragraph providing that peanuts which fail minimum grade requirements because of excessive ''fall through'' may be blanched. For consistency, the second to last sentence in introductory paragraph (e) also would be revised to include minimum ''fall through'' requirements as a condition for human consumption.

(13) A final change to be consistent with Agreement regulations would prescribe that shelled peanut lots meeting the minimum grade requirements specified in the Minimum Grade Requirements table, but which fail aflatoxin requirements, may be roasted during the blanching process. After roasting, the peanuts would be sampled and assayed for aflatoxin content, and, if meeting aflatoxin requirements (15 ppb or less), may be disposed of to human consumption outlets. The lot would not have to be re-inspected for grade quality because the lot would have already met grade requirements. This modification is a relaxation of requirements and would be an optional process for importers who intend to roast imported peanuts. It could save time, reduce costs, and reduce possibilities for damage or split kernels.

This process was recommended by the Committee for domestic peanuts because blanched peanuts, after sampling and certification, often are placed back into the blancher to complete the roasting process. This adds costs to the roasting process and can cause additional splits or kernel damage due to the extra handling of the peanuts. Also, roasting enhances the blanching efforts to eliminate aflatoxin, thus improving the wholesomeness of the peanuts.

Inspection service oversight of the blanching process is necessary to maintain lot identity. However, the Department believes that the savings involved in blanching and roasting in one step and prevention of additional damage and splits due to excessive handling are benefits that would outweigh the costs of inspection service oversight. Any residual peanuts, excluding skins and hearts, resulting from the roasting process, must be red tagged and disposed of to non-edible peanut outlets, and so reported to AMS. This proposal is added as new paragraph (e)(4) in Section 999.600. Current paragraph (e)(4) would be redesignated as (e)(5).

Paragraph (f) Safeguard procedures of Section 999.600 outlines the steps that importers must follow when entering peanuts into U.S. commercial markets. The stamp-and-fax process helps assure that AMS will be notified of all peanut entries. This rule would modify or remove several requirements of the current safeguard procedures and reporting requirements to help streamline the entry process, ease reporting burdens, and provide more time for importers to obtain human consumption certification. The changes are proposed after AMS' review of the peanut importation process during the 1997 and 1998 quota periods. Where applicable, the changes are proposed

with the concurrence of the Customs Service.

(14) Under the ''stamp-and-fax'' procedure, importers notify the inspection service of pending peanut shipments by faxing or mailing a copy of the Customs Service entry documentation to the inspection service office that will sample the imported peanut shipment. The first sentence of paragraph (f)(1) provides that such documentation must be sent ''prior to arrival'' of the peanuts at the port-of-entry. However, experience shows that it may not be possible to send a completed stamp-and-fax document to the inspection service ''prior to arrival'' of the shipment at the port-of-entry. While it is in the importer's interest to give the inspection service advance notice of inspection, it is not essential that this be done before arrival of the shipment at a port. Thus, the first sentence of paragraph (f)(1) would be changed to read ''Prior to, or upon, arrival * * *''.

The Customs Service will not release imported peanut lots without entry documentation stamped by the inspection service. Further, the inspection service will not sample and inspect peanuts that are not covered in a stamp-and-faxed entry document.

(15) AMS proposes revising paragraph (f)(1) to change the information that is currently required on the stamp-and-fax document. This rule would add the Customs Service entry number(s) for the peanut shipment(s) covered in a stamp-and-fax document. The entry number is basic Customs Service entry information and appears on Customs Form 3461 (Entry/Immediate Deliver) which is commonly used as the stamp-and-fax document. During the 1997 and 1998 quota periods, the inspection service recorded the entry number on the grade certificates, enabling AMS to monitor imported lots and communicate with the Customs Service regarding importers' compliance with program requirements.

Experience of the last two import years shows that different Customs Service forms may be used in the stamp-and-fax process. In most cases, Customs Form 3461 has been used. USDA's Animal and Plant Health Inspection Service (APHIS) Form 368 (Notice of Arrival) also may be used as a stamp-and-fax document. In these cases, the importer or customs broker filing the stamp-and-fax document must add the inland destination and contact number before sending the document to the inspection service.

The current provision specifies that the destination location, including city and street address, be included on the stamp-and-fax form. The street address is not necessary as long as the city and receiving entity is identified. A telephone contact number also must be included. Experience shows that the receiving entities are usually cold storage warehouses.

The current provision specifies that the stamp-and-fax document include the date and time that the peanut shipment will be inspected at the inland destination. However, a date and time for inspection is not always known at the time of entry, and it is not necessary that this information be included on the stamp-and-fax document. The purpose of the stamp-and-fax is to assure that the inspection service is aware of every peanut lot being imported. Arrangements for the time and date of the inspection often are made by the cold storage warehouse after arrival of the imported lot at the inland destination.

Therefore, this rule proposes that the information required on the stamp-and-fax be amended to include: the Customs Service entry number; the volume (weight) of peanuts being imported; the city, and location of the entity receiving the peanuts; and a contact name or number at the destination. Paragraph (f)(1) would be changed accordingly.

(16) The ''stamp and fax'' process would be further modified by removing the fifth sentence in paragraph (f)(1) that requires importers to send a copy of the stamp-and-fax entry document to the Secretary. AMS can obtain information on peanut entries from the inspection service and from the Customs Service on data tapes. That information effectively replaces the need for stamp-and-fax entry documents to be reported by importers to AMS' headquarters office. The change would be made in the fifth sentence in paragraph (f)(1) by removing the words ''and send a copy of the document to the Secretary.'' A similar change also would be made in the first sentence in paragraph (f)(2) by removing the words ''entry document'' from that sentence. This modification does not change the requirement that importers must file the stamp and fax with the inspection service office as provided in paragraph (f)(1).

Another change regarding the stamp-and-fax reporting would be made in paragraph (f)(1). The last sentence provides that the importer shall cause a copy of the entry document to accompany the peanut lot and be presented to the inspection service ''at the inland destination.'' The intent of this requirement was to help inspection service offices account for all peanut lots which those offices have authorized entry by stamp-and-fax. However, the provision, as currently written, could be interpreted as meaning that all peanut lots must be shipped inland for inspection. This is not the intent of the provision. Peanuts may be inspected and certified for human consumption while at the port-of-entry, free trade zone, or bonded warehouse adjacent to the port of entry. If inspected at the port or free trade zone and certified as edible, the lot does not have to be seen again by the inspection service and may be transported to its intended destination. Uninspected lots and failing lots which are sent inland for inspection or reconditioning must be accompanied by Customs Service entry documentation relevant to the lots, which must be presented to the inspection service at the time of inland inspection.

The last sentence in paragraph (f)(1) would, therefore, be modified to provide that the entry documentation be presented at the time of sampling—whether that sampling is at the port of entry or at an inland destination. The last sentence of paragraph (d)(3)(i) also would be revised to conform with this clarification.

(17) The import regulation's reporting requirements are specified in paragraph (f)(2) of Section 999.600. Currently, importers are required to file with the Secretary entry documents, including all grade and aflatoxin certifications, showing that imported peanut lots meet quality and disposition requirements of the regulation. Certifications filed by importers enable AMS to monitor all imported peanut shipments and ensure compliance with the regulation's quality and disposition requirements. The reporting requirements can be burdensome if, as now happens, large volumes of peanuts are entered simultaneously when a country's peanut import quota is opened.

The inspection service performs all inspections of imported peanuts, and AMS has access to all of those grade certificates. In addition, AMS' Science and Technology Programs' laboratories conduct chemical analysis of imported peanut lots, and, thus, AMS has access to aflatoxin certificates issued by those laboratories. Through memoranda of understanding with these offices, AMS' Marketing Order Administration Branch (MOAB), which administers the import regulation, can obtain copies of grade and aflatoxin certificates issued by the inspection service and the USDA laboratories. Therefore, it is not necessary that importers file inspection service grade certifications and USDA laboratory aflatoxin certifications on lots which meet requirements. Those certifications can be provided to MOAB

by the inspection service and laboratories. Filing of aflatoxin certifications provided by PAC-approved private laboratories is addressed below.

Experience shows that if importers do not have to file certifications on peanut lots which meet import requirements, a large portion of the reporting burden would be removed. Importer would continue to be required to report failing lots and disposition of those failing lots. AMS believes such a modification of the reporting requirements would not reduce the effectiveness of the regulation's safeguard procedures or AMS' program oversight, because its compliance efforts focus on failing peanut lots. Therefore, AMS proposes to revise paragraph (f)(2) of Section 999.600 to provide that importers file with AMS only certificates of imported peanut lots failing quality or aflatoxin requirements.

This proposed rulemaking action would update the kind of information required to be filed by importers, or others on behalf of importers.

Importers who choose to use PAC laboratories for aflatoxin certification must either file those certifications themselves or direct the private laboratory to file the certifications with AMS. Similarly, it is the responsibility of the importer to either file, or direct the filing of, documentation covering such non-edible peanut dispositions. The first sentence of paragraph (f)(2) would be revised to require that importers ''shall file, or cause to have filed'' documentation showing disposition of peanut lots which fail to meet quality requirements. The phrase ''cause to have filed'' would enable importers to direct the entity to file the documents on behalf of the importer.

This optional reporting procedure could reduce importers' direct reporting burdens because they would not have to file the certificates themselves. The cost, if any, of reporting aflatoxin certifications to AMS could be included in the cost of testing. Thus, while importers would be responsible for the reporting charges, the additional reporting costs should be less than the costs of individual importers filing the certificates themselves. The certifications would not have to be reported individually or on a scheduled basis, but would have to be filed by the reporting deadline relevant to each imported lot. A laboratory could file certificates from many importers in one mailing.

As noted above, this proposed rulemaking would continue importers' responsibility for reporting, or causing the reporting of, final disposition of all failing peanut lots. Proper disposition of a failing peanut lot could include: (1) Appeal inspection and analysis which results in subsequent certification that the peanut lot meets grade or aflatoxin requirements; (2) reconditioning through remilling or blanching of the lot to meet grade or aflatoxin requirements; (3) disposition to a non-edible peanut outlet such as crushing oilmill, animal feed, or seed use; (4) dumping in a landfill or otherwise destroying the peanuts; or (5) re-exportation to another country.

It is the importer's responsibility to insure that the business entity disposing of non-edible peanuts uses the peanuts in a non-edible product, and that proof of such use is reported to AMS. The business entity could be directed to file proof of disposition directly to AMS or send the report to the importer who would then forward the report to AMS.

Paragraph (f)(2) would also be modified to clarify the type of documentation needed to prove such disposition. AMS requires ''source'' documents as proof of disposition. Source documents are documents originating from the business entity carrying out the actual disposition of the peanuts. For example: proof of crushing must be reported by the oilmill performing the crushing; an animal feed manufacturer must file proof of receipt of non-edible peanuts and certify in writing to the non-edible use of those peanuts; re-exported peanuts must be reported on a Customs Service form showing exportation. These certifications should be on the business letterhead of the disposing entity as proof that it is a ''source'' document; i.e., a document prepared by the originator of the disposition action. If such a report cannot be obtained from the disposing entity, the inspection service may be contacted to assist in documenting the disposition. For instance, certification of a landfill dumping may not be provided by the landfill. In such case, the inspection service may be contacted to observe and certify such disposition. Peanut growers associations in the Virginia-Carolina, Southeast, and Southwest also may be contacted, particularly with regards to certifying disposition to an oilmill for crushing.

''Source'' documents must include reference to the lot number or Customs Service entry number for the peanut lot(s) and the volume (weight) being disposed. For instance, if residual peanuts are crushed for oil, the importer must file, or direct the crusher to file, documentation which shows the name of the crusher, the failing lot number, and the weight of residuals crushed. If crushing is directly observed by a regional peanut growers association or the inspection service, documentation can be provided by those entities. The volume may reflect several residual lots commingled for crushing.

''Source'' documentation of a feed lot disposition would include certification that the feed company received imported peanuts and has, or intends to, use those peanuts as animal feed. Such documentation must include, as required by paragraph (e)(2)(ii) of the import regulation, an aflatoxin certificate showing that the peanuts did not exceed 300 ppb aflatoxin content.

Non-edible peanuts sent to a landfill also must be reported. If no documentation can be obtained from the landfill operator, the inspection service may be contacted to certify the dumping.

Documentation of re-exported peanuts must include a completed Customs Service form, specific to the peanuts, verifying exportation from the U.S.

The current regulation specifies bills-of-lading as documentation that can be filed in reporting disposition. In reporting dispositions, many importers have filed bills of lading showing residual peanuts were transported to a crushing facility. However, neither the importers nor crushers filed proof of crushing. A bill-of-lading showing shipment to an oilmill operation is not sufficient to verify that the residuals were received by the oilmill and crushed. Bills-of-lading and transfer certificates may be filed in conjunction with other source documents to help show movement of non-edible peanuts, but cannot be filed as proof of final non-edible disposition. Therefore, the terms ''bills-of-lading'' and ''transfer certificates'' would be removed from paragraph (f)(2) as a document showing proof of disposition.

Further, some importers have requested appeal analyses on failing peanut lots. An appeal inspection involves resampling and reinspection by the inspection service and/or aflatoxin testing laboratory. If the failing lot is determined to meet requirements upon an appeal analysis, the importer must file both the initial failing certificate(s) and the appeal certificate(s) showing the same peanut lot ultimately was certified as meeting quality requirements on appeal.

Experience with the 1997 and 1998 imports also shows that most failing lots were reconditioned by blanching. After reconditioning, the lots are reinspected and, in most cases, certified for edible consumption. In reporting reconditioning of a failing peanut lot, the importer must account for pickouts

and other poor quality kernels that are removed from the lot during the reconditioning process. For example, if a 40,000 pound container of peanuts fails grade requirements, the lot may be blanched. If the resulting lot, weighing 30,000 pounds, is certified as edible, the importer must file: (1) The first failing grade certificate; (2) the first passing aflatoxin certificate (''negative'' to aflatoxin); (3) the second passing grade certificate; (4) the second passing aflatoxin certificate; and (5) proof of disposition of the non-edible residuals.

The volume of residual peanuts may not exactly equal the difference between the two weights because of ''disappearance'' during the reconditioning and re-inspection process. Such disappearance can include bag weight, skins, moisture from the blanching, other loss of kernels, and differences in weighing scales, which, to the extent practical, must be documented.

Fees charged for disposition of failing peanuts must be borne by the importer.

AMS has found that grade and aflatoxin certificates are the primary documentation for monitoring edible and non-edible disposition of imported peanuts. Tying a disposition back to an original imported peanut lot may be difficult without reference to grade and aflatoxin certificate numbers. Thus, for compliance purposes, it is necessary that all reporting of non-edible disposition include the grade and aflatoxin certificate numbers of the original failing lot(s).

Residuals from the remilling or blanching of several imported peanut lots belonging to the same importer may be commingled into a larger, residual lot. Proof of disposition of a commingled residual lot must include: (1) The name and telephone number of the disposition outlet; (2) lot numbers from which the residuals were removed; and (3) the total weight of the disposed residual lot. The report must be sufficient to account for all of the residual peanuts and identify the lots from which the residuals were taken. Residuals from imported peanut lots cannot be commingled with domestically-produced residual peanuts because of the separate compliance and recordkeeping responsibilities for domestic peanuts (to the Committee) and imported peanuts (to AMS). Certification of PLI issued by the inspection service may be used to verify commingling of multiple residual peanut lots.

During the 1997 and 1998 quotas, some customs brokers, warehouse operators, and blanchers failed to identify the importer of record when requesting inspections. If the warehouse or blancher is shown as the applicant for the inspection and the importer's name withheld, AMS has difficulty matching up certificates and verifying that the importer has satisfied reporting requirements. For AMS recordkeeping purposes, the applicant requesting inspection must provide the name of the importer to the inspection service. A provision to this effect would be added to the first sentence of paragraph (f)(2).

Because of the extent of these revisions, the first half of paragraph (f)(2) would be revised. Crushing, feed, seed, or burying would be added as examples of non-edible disposition outlets. Bills-of-lading and transfer certificates would be removed as proof of final disposition. The address to which disposition documentation must be filed would remain unchanged. Finally, current paragraph (d)(4)(v)(B), which provides that importers file aflatoxin certificates ''regardless of the test result'' would be removed to conform with reduced reporting of only failing lots.

(18) Paragraph (f)(3) of the peanut import regulation establishes the period for importers to obtain inspection and certification of their imported peanut lots and report disposition to AMS. The current reporting period is 23 days after Customs Service release of the peanut lot. However, based on the experience of the 1997 and 1998 import quotas, the 23-day period does not provide enough time for importers to meet requirements for all lots and report disposition to AMS. Indeed, the 23-day reporting period was extended for the 1997 reports only in a separate rulemaking (62 FR 50243, September 25, 1997). Therefore, current paragraph (f)(3) and the reporting period would be completely revised.

Because of the high demand for foreign-produced peanuts, the 1997 Argentine and ''other country'' quotas were filled on the day of opening. Among other things, this caused a flood of imported peanuts into clearance channels at the same time. For the most part, the inspection service and aflatoxin labs were able to provide timely sampling and inspection of imported peanuts. However, some importers encountered problems obtaining wharfage and storage space in bonded warehouses and other delays in other clearance processes. Large volume importers had particular difficulty coordinating the paperwork required by different Federal government offices, and the quality inspections and needed reconditioning to meet requirements of the import regulation, 7 CFR Part 999.600.

Therefore, the period for reporting compliance with the import regulation is proposed to be extended in this rulemaking. An extended period would help alleviate problems encountered with the large numbers of lots entered under Argentine and ''other country'' quotas on April 1 each year. The extended period also would be helpful for imports of Mexican peanuts, some of which are farmers stock peanuts needing the extra steps of shelling, sorting, and sizing before certification for edible use.

The reporting period proposed in this rulemaking action would be 180 days from the date of release of a lot by the Customs Service. Lengthening the reporting period would be accomplished by providing that all Customs Service releases of peanuts be designated as ''conditional'' releases. The 180-day period would be established as the conditional release period for Customs Service purposes.

A peanut lot which is inspected and certified as edible in advance of a quota's opening day would be conditionally released, and would be subject to the 180-day conditional release/reporting period. However, importers would be able to dispose of those peanuts after receipt of the required edible certifications and after conditional release of the lots by the Customs Service.

Uninspected peanut lots would be conditionally released under bond, provided that, within 180 days, those peanuts be inspected and reported to AMS as meeting requirements of the import regulation.

Inspected peanut lots that fail to meet quality requirements would be conditionally released for reconditioning and re-inspection. Reconditioning and reinspection must be completed and reported to AMS within the 180-day conditional release period. Non-edible disposition of residual peanuts or pick-outs from the reconditioning process also must be reported within the 180-day period. Positive lot identification would have to be maintained on these peanuts.

If AMS finds that, after the 180-day conditional release period expires, an uninspected or failing peanut lot has not been reported as meeting import requirements, AMS would request the Customs Service to issue a Notice of Redelivery to the importer. Subsequent to that request, the Customs Service would have 30 days to issue, under the terms of the basic importation bond, a valid demand for redelivery. Upon receiving the Notice of Redelivery, the importer would have 30 days to

redeliver the unreported or failing peanuts to the Customs Service.

Current paragraph (f)(3) provides for a 60-day extension of the redelivery demand period to enable an importer additional time to meet a redelivery demand. This provision would be removed from paragraph (f)(3) because the Department believes that, with the extended 180-day conditional release period, an extension of the redelivery demand period would not be needed. A conforming change would be made by removing the second sentence in paragraph (f)(4).

Current paragraph (f)(4) also would be revised to restate the redelivery demand process. The paragraph also would continue to include the consequences of an importer's failure to comply with import regulation, i.e., assessment of liquidated damages equal to the value of the peanuts involved, under the terms of the Basic Importation and Entry Bond. Further, failure to fully comply with quality and handling requirements or failure to notify the AMS of disposition of uninspected or failing imported peanuts, as required under this section, may result in a compliance investigation by AMS. Finally, revised paragraph (f)(4) includes the proviso that falsification of reports submitted to AMS also is a violation of Federal law and is punishable by fine or imprisonment, or both.

(19) AMS believes that the need for extension of the 180-day conditional release and reporting period should be significantly reduced because of the longer reporting period proposed in this rulemaking. However, new paragraph (f)(5) would provide for extension of the reporting period, should an importer be unable to dispose of a particular peanut lot within 180 days. This rule proposes an extension of an additional 60 days, giving importers a total of 240 days to meet requirements of the import regulation.

Unusual circumstances could necessitate an extended delay in disposition of an imported peanut lot. There have been a few instances over the last two years where failing lots were set aside and not reconditioned until months after the initial inspections. Disposition of farmers stock peanuts which require shelling and final outgoing inspection also may require an extended period of time to complete shelling and final inspections. In such instances, the importers needed an extension of the reporting period. Under this proposal, the length of the extension, up to 60 days, would be specified in the extension request and would be made by the importer in writing at the end of the conditional release period. The extension request also would specify the lot's Customs Service entry number, PLI designation, volume or weight, and current location. Requests for extension would be made to AMS at the address provided in paragraph (f)(2).

(20) AMS proposes to add a new paragraph (f)(6) to clarify a procedural question that arose during the 1997 quota period. Not all peanut lots that arrive in the U.S. are entered for consumption. Because of the expected overfill of the Argentine quota, some importers placed peanuts in bonded storage and did not file consumption entry documents (including a stamp-and-fax) until after quota allotments were determined by the Customs Service. The excess peanuts had to be either exported to another country, held in bonded storage for the next year's quota, or entered as admittable. Such peanuts that are held in bonded storage and subsequently exported from the U.S. without import application or stamp-and-fax communication, need not be reported to AMS. However, if a peanut lot is included in a stamp-and-fax document, but is subsequently exported without being entered by the Customs Service, the importer must notify AMS of the export decision and provide proof of export. The lot must be so reported even if it is not sampled and inspected by the inspection service.

With the addition of new paragraphs (f)(5) and (f)(6), current paragraphs (f)(5) and (f)(6) would be redesignated as paragraphs (f)(7) and (f)(8), respectively, and references to those paragraphs would be changed accordingly.

In addition, minor additions would be made in paragraphs (f)(7) and (8) to clarify the current provisions of those paragraphs. In paragraph (f)(7), the words ''and aflatoxin'' would be inserted between ''inspection certificate(s)'' to clarify that the Secretary may reject a current aflatoxin certificate as well as grade certificate. The word ''may'' also would be removed from the sentence to clarify the authority of the Secretary to require reinspections of suspect peanut lots. In paragraph (f)(8), the second sentence would be changed by adding the words ''the storage'' before the word location to clarify the requirement that importers advise AMS of the storage location of peanuts held in bonded storage for longer than one month prior to quota opening.

(21) A clarification would be made to paragraph (g)(1) *Additional requirements.* The second sentence currently states that all peanuts presented for entry for human consumption must be certified as meeting import requirements. The phrase ''presented for entry'' can be misleading in that, as discussed above, many peanuts presented for entry are not subsequently imported. AMS proposes to change the sentence by replacing the phrase ''presented for entry'' with the term ''intended'' for human consumption. This clarifies the purpose for importation. Also, the phrase ''prior to such disposition'' would be added to the end of the sentence to further state that all peanuts imported for edible use meet those requirements prior to movement to the receiver or buyer.

(22) Finally, several minor changes would be made to paragraph (g)(6) to clarify and simplify provisions regarding costs incurred in meeting the requirements of the import regulation. The changes would include clarification that the inspection service and aflatoxin testing laboratories bill ''applicants'' making the request for inspection and chemical analysis, not only the importer, as currently stated. Applicants include customs brokers, storage warehouses, or other entities acting of behalf of importers. The list of the types of chargeable services would be modified for clarity and simplicity. PLI certifications would replace ''certifications of lot identification'' to be in conformance with Recommendation 8, above.

The Department proposes these amendments and modifications to the peanut import regulation, Section 999.600 to update and streamline the provisions of that regulation.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements contained in this proposed rule will be submitted to the Office of Management and Budget (OMB) for approval. The information collection requirements in the current peanut import regulation were approved by OMB on September 3, 1996, and assigned OMB number 0581–0176.

This paperwork burden analysis applies to only AMS' peanut import regulation burden in Section 999.600, and does not include or supersede other reporting requirements for imported peanuts that may be established by APHIS, the Food and Drug Administration (FDA), the Customs Service, or other agencies.

The current burden statement for the peanut import regulation was developed and approved before the regulation was put into effect. The reporting burden is based on importers, or others acting on behalf of importers, filing copies of

documents necessary to show compliance with program requirements. There are no forms to be completed and filed. The import program's current reporting and recordkeeping estimates are not broken down in OMB's 0581–0176 burden statement—making it difficult to apply comparisons for the individual changes proposed in this regulation. Also, because the duty free quota has increased by approximately 21 percent since the current burden statement was approved, savings calculated in this proposal are based on 1999 quota volumes.

The average reporting time for each response is reduced in this proposal from 5 minutes to 3.5 minutes. The current burden was calculated based on importers filing certificates one at a time. However, experience shows that importers generally file documents in large groups, thus, saving considerable reporting time. With extended reporting periods, importers will be able to collect relevant inspection certificates and other needed documents and file them in packages. This reduces the response time to an estimated 3.5 minutes for each response—which is used in this reporting burden.

The current reporting burden estimates 25 respondents filing 5,000 responses, for a total of 300 burden hours—an average of 12 reporting hours per importer. The current recordkeeping burden is estimated at 25 respondents and a total of 125 burden recordkeeping hours—an average of 5 recordkeeping hours per importer.

This rule proposes to revise the current information collection burden based on: (1) Experience of the 1997 and 1998 peanut quota periods; (2) a two-year increase in peanut quota volume from 94.8 million to 115.4 million pounds for 1999, as established by trade agreements; (3) an estimated 2,650 lots entered (based on lot sizes of 40,000 pounds for most lots and 200,000 pounds for a small number of lots; (4) proposed reductions in information collection requirements; (5) reduced response time from 5 minutes per response to 3.5 minutes; (6) reduced number of respondents (importers) from 25 to 15; and (7) generally good peanut quality, with an estimated 10 percent of the lots failing initial quality requirements.

Reporting burden: The following proposed changes should reduce the AMS paperwork reporting burden on peanut importers.

Recommendation 16: This recommendation would remove from paragraph (f)(1) the requirement that importers must send copies of each stamp-and-fax document to AMS headquarters. The intent of the current requirement was to ensure AMS headquarters has knowledge of all peanut imports for monitoring and compliance purposes. However, this rule proposes that the inspection service and aflatoxin testing laboratories provide copies of all inspection certificates issued on imported peanuts (Recommendation 17). In addition, AMS receives periodic database printouts of all peanut entries from the Customs Service. Together, these reports should be sufficient documentation for AMS headquarters' purposes. Therefore, it would not be necessary that importers send copies of their stamp-and-fax documents to AMS headquarters.

Savings: The burden of filing stamp-and-fax documents with AMS' headquarters would be completely eliminated by this proposed rule. The current burden for reporting stamp-and-fax documents is factored into the total program burden of 5,000 hours. Based on the 1999 quota of 115.4 million pounds, projected entries of 2,650 lots, and 5 containers listed on each stamp-and-fax document, approximately 530 stamp-and-fax documents would be filed. This number of responses would be saved if AMS headquarters did not have to be notified, as proposed. At 5 minutes per filing, the new reporting burden for reporting stamp-and-fax would total 44 hours and the savings would be 44 hours.

Recommendation 17: This recommendation would reduce the number of inspection certificates which importers must report to AMS. Currently, importers must file copies of both passing and failing grade and aflatoxin certificates issued on all imported peanut lots. Those certificates are issued by the inspection service and by AMS and private laboratories. The certificates can be made available to AMS by those entities, thus relieving importers of a significant direct reporting burden.

Because AMS' compliance efforts focus on failing lots, AMS proposes that importers continue to be required to file only certificates covering failing peanut lots. AMS receives copies of passing certificates from the inspection service and laboratories as a check on all lots entered. Approximately 2,650 peanut lots are expected to be imported under 1999 peanut quotas. For burden-reporting purposes, this rule estimates that 10 percent of the imported lots will fail one or both inspections. Thus, approximately 265 lots can be expected to fail quality requirements and will have to be either reconditioned to meet requirements, disposed of to non-edible peanut outlets, or re-exported. The other 90 percent of the lots (2,385 lots) can be expected to meet quality requirements, and would not have to be reported.

Recommendation 17 would make two clarifications. First, the name of the importer would be entered on filed inspection certificates, which are completed by the inspection service. Often the business requesting the inspection is not the importer, but another entity acting on behalf of the importer. This proposal would clarify that in such cases, the importer's identity should be placed on the certificate. This would not increase the reporting burden because the name is entered by the inspector, not the importer. Secondly, the recommendation clarifies that ''source'' documents must be used when reporting disposition of failing lots. This also is not an increase in requirements, but a clarification to identify the kinds of documentation needed to meet the reporting requirements of this regulation. The documentation should be available to importers as part of their normal business practices.

Savings: If importers are not required to file certificates on lots meeting program requirements, a savings of approximately 4,770 responses would be realized (2,385 lots, times 2 certificates per lot) and 398 hours saved (4,770 times 5 minutes per response). The new reporting burden under Recommendation 17 would be 4 responses for each of the 265 imported lots failing requirements, or 1,060 total responses. At 3.5 minutes per filing, the total reporting burden for filing disposition of failing lots only is projected to be 62 hours. The new average would be 70 responses and 4 hours per importer. If this proposed regulation does not become effective, the 1,999 reporting burden on importers would be approximately 5,830 responses filed, and, based on 5 minute reporting time per response, roughly 485 burden hours. Thus, Recommendation 17 could result in an estimated savings of roughly 4,770 responses and 423 burden hours in 1999.

Recommendation 18: A small portion of the 5,000 hours under the current reporting burden accounts for importers filing requests for extension of the reporting period. Recommendation 18 would extend the reporting period from 23 days after entry to 180 days after conditional release by the Customs Service. The 23-day period proved to be too short for reporting most imported lots, forcing importers to request extensions on nearly all lots imported during 1997 and 1998. Extension of the reporting period to 180 days should

alleviate the need to file requests for extension for almost all imported peanut lots. In addition, extension of the reporting period also should affect an importer's reporting burden because, with more time to meet requirements, an importer would be able to collect certificates as the lots are certified, and file all certificates on failing lots at one time, thus saving the burden of reporting individual lots. After deadline extensions were granted by AMS during the 1997 and 1998 quota periods, importers filed outstanding reports in groups.

Savings: Extending the reporting period from 23 days to 180 days means importers would likely not have to request extensions and they would be able to combine the failing lot certificates into fewer reports. Savings from the proposed reduction in the reporting burden is factored into the estimate of Recommendation 17.

Recommendations 10, 15, and 20 would clarify reporting requirements but not change the burden. Recommendation 10 would clarify that importers may designate other entities (aflatoxin testing laboratories, customs import brokers, warehouses, blanchers, crushers, etc.) to file certificates and reports on their behalf. This reporting may be done as a part of the business contract between the importer and the service-provider at little or no cost to the importer, thus relieving the importer of the reporting burden. Recommendation 15 would clarify the information that is needed on stamp-and-fax documents. This change in information needed would not increase the time needed to complete the stamp-and-fax document or the reporting burden. Recommendation 20 would clarify that if peanuts are not covered in a stamp-and-fax document and are not inspected—but are subsequently exported—those peanuts should not be reported.

Total average savings, reporting burden: This proposed rule could represent an annual savings of approximately 5,300 responses and 467 reporting hours.

The savings may be only a few minutes for small importers who import a few containers of peanuts. A large importer of 8 million pounds of peanuts—200 lots with 20 lots failing requirements—could have the following reporting burden in 1999 (vs. the current burden estimate in parentheses): 40 stamp-and-fax notices (80 stamp-and-fax notices); 0 certificates on passing lots (360 certificates on passing lots); 80 certificates on failing lots (80 certificates on failing lots); 0 deadline extensions (40 deadline extensions); total 120 reports filed (total 560 reports filed); 8 hours reporting burden (46.6 hours reporting burden). These are rough estimates for general comparison purposes only.

Recordkeeping burden: In addition to the reporting requirements, Section 999.600 requires that importers retain copies of certifications and entry documentation for not less than two years after the calendar year of acquisition. Customs Service document retention requirements are five years. While the importers would not file grade and aflatoxin certificates on passing lots, they must store that information for AMS and the Customs Service. The current recordkeeping burden totals 125 hours, based on 25 respondents retaining records—an average of 5 recordkeeping hours per importer. The revised recordkeeping burden, based on the 21 percent increase in the quota volume and 15 record keepers, would be 151 hours for an average of 10 recordkeeping hours per importer.

Cumulative new burden: This proposed rule would require a new annual reporting and total recordkeeping burden for OMB number 0581–0176 of 1590 responses and 257 hours. This compares to the current burden of 5,000 responses and 425 hours. The proposed new burden would average 106 annual responses and 17 burden hours for each peanut importer. The burden hours per importer is increased because the estimated number of importers is sharply reduced.

Comments to this amended Paperwork Reduction Act burden should reference this proposed regulation and the date and page number of this **Federal Register**. Comments should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C., 20503. OMB is required to make a decision concerning the collection of information contained in this rule between 30 and 60 days after submission to OMB. Therefore, a comment to OMB is best assured of having full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the rule.

Comments on proposed reduction of the paperwork burden also should be submitted to the Department in care of the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090–6456; fax: (202) 720–5698, or E-mail: moabdocketclerk@usda.gov. All comments received will also become a matter of public record.

Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the AMS has considered the economic impact of the import regulation on small entities and whether these proposed changes to the regulation would disproportionately or unfairly effect small entities. The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Accordingly, AMS has prepared the following initial regulatory flexibility analysis.

The import regulation is required by law—subparagraph (f)(2) of Section 108B of the Agricultural Act of 1949, as amended, and the Federal Agriculture Improvement and Reform Act of 1996. Subparagraph (f)(2) mandates that the Secretary shall require that ''all peanuts in the domestic and export marketplace fully comply with quality standards under Marketing Agreement 146.'' Handling requirements similar to those established under the Agreement also are established in the import regulation, to the extent necessary to assure comparability of quality standards. The import regulation was issued June 11, 1996 (61 FR 31306, June 19, 1996) with the intent to minimize the regulatory burden on importers. An amendment was issued December 31, 1996, (62 FR 1269, January 9, 1997), to conform to changes in the Agreement regulations and to add necessary storage reporting requirements.

Experience of the 1997 and 1998 peanut quota periods shows that approximately 15 business entities imported peanuts and were subject to this import regulation. Importers appear to cover a broad range of business entities, including fresh and processed food handlers, and both large and small commodity brokers who buy agricultural products on behalf of others. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. Less than one third of the importers appear to be small business entities. The majority of peanut importers are large business entities under this definition. AMS is not aware of any peanut producers (farmers) who imported peanuts during these quota years.

The 1997 and 1998 peanut quota years were the first two years that imported peanuts have been regulated

under 7 CFR Part 999.600. Analysis of the regulatory impact of the regulation is complicated by several factors. Peanuts are imported from at least half a dozen countries and can be imported in inshell, shelled, or cleaned-inshell forms. This makes it difficult to compare the costs of importation with purchase price of the product. The costs of importation can vary greatly, with significant cost factors being transportation distance, shipment method, wharf fees, demurrage costs, storage charges, and the quality of the peanuts imported.

The proposed amendments to the import regulation in this rulemaking action are recommended for the following reasons. Five changes are proposed to conform with changing Agreement requirements (relaxing the tolerance for unshelled and damaged kernels; allowing lots with excessive fall-through peanuts to be blanched; and allowing failing lots to be roasted during blanching without requiring grade re-inspection). Seventeen changes are proposed by AMS to update, clarify, and reduce the importation procedures and reporting requirements specified in the regulation. Of the 17 changes, three relax reporting requirements by removing nearly 90 percent of the documents that must be filed and extending the reporting period to ease the time pressures for those documents that must be filed. The AMS changes would improve oversight of imported peanut lots, increase quality assurance, and correct misunderstandings of importation procedures.

All of these proposed changes are intended to apply uniformly to both large and small importers. None are intended to, or are expected to, disproportionately affect small importers. The changes would have the following regulatory impact on importers.

Recommendation 1 would make two changes in definitions. The first change would remove reference to an out-of-date aflatoxin level for non-edible peanuts in paragraph (a)(10) defining *Negative aflatoxin content*. The level of 25 ppb should have been removed in previous rulemaking. No imported peanuts have been graded against this old quality level. Recommendation 1 also would remove the word ''Peanuts'' from the title of Marketing Agreement No. 146 as specified in paragraph (a)(15) defining *PAC-approved laboratories*. The term ''Peanuts'' is not a part of the title of the Agreement.

Recommendation 2 would change the definition of *Conditionally released* in paragraph (a)(16) by removing the words ''before final release'' and adding reference to reconditioning. The ''final release'' term does not conform with Customs Service terminology. The addition of the words ''and, if necessary, reconditioning'' helps complete the definition. These changes do not alter the intent or meaning of the definition. There would be no regulatory impact on importers.

Recommendation 3 would remove a redundant sentence in paragraph (b)(1) relating to use of Seg. 1 peanuts for human consumption only. This reference appears twice in the same paragraph.

Recommendations 4 and 6 are inter related and are proposed to make the import regulation consistent with changes in handling and quality requirements to the Agreement. These changes simplify both the import and Agreement regulations.
Recommendation 6 would remove Table 2, Superior Quality Requirements—Peanuts for Human Consumption from paragraph (c)(1)(ii). Currently, peanut lots meeting the higher quality requirements of Table 2 may be shipped to buyers prior to receiving aflatoxin analyses on the lots. Recommendation 4 is a conforming change that would have the affect or requiring importers to receive aflatoxin analyses on all lots prior to forwarding the peanuts to buyers.

While these changes represent a tightening of handling requirements, the affect on importers is minimal. Under limited circumstances, the provisions help reduce, by a few days, the storage time for such high quality peanuts. AMS does not have information on the number of imported lots that would have been affected by this proposal had it been in effect for the last two quota seasons. AMS also does not have financial data on storage costs and whether those costs are on a daily or weekly basis. However, in conversations between AMS and importers and customs brokers during 1997 and 1998, importers did not indicate that they shipped superior quality lots without waiting for aflatoxin certification. Also, importers did not contact AMS about the timeliness of aflatoxin certifications. Given today's overnight mail and facsimile technologies, aflatoxin analyses are routinely reported within two days. Finally, importers who arranged for arrival, inspection, and bonded storage prior to quota opening had quality and aflatoxin certifications ready when the peanuts were released by the Customs Service. Thus, delays and any regulatory impact due to these proposed changes would be negligible.

Not all categories of peanuts would be removed from Table 2. Three ''with split'' categories of peanuts would be moved from Table 2 to Table 1 to retain the small marketing niche in the domestic market for lots with high percentages of split kernels. This change was made to the Agreement regulations in 1998 and is proposed in this regulation to conform with that change. Any impact on importers would be positive as it would allow lots with high split kernel content to continue to be imported. AMS does not maintain data on the number of peanut lots that were imported under these ''with splits'' categories. Data on the last two years' imported peanut lots cannot be used to reliably indicate quality of future shipments or the impact of this relaxation.

Recommendation 5 would relax tolerances in Table 1 for ''unshelled and damaged kernels by one half of one percent in split lots. The change is made to be consistent with a change already made to the Agreement regulations. It should reduce the number of lots that must be reconditioned to meet edible quality requirements. Reconditioning a lot to remove excessive splits can significantly increase costs by adding additional transportation costs, remilling or blanching charges, and additional inspection fees. Data on the last two years' imported peanut lots cannot be used to reliably indicate the impact on future shipments because the quality of imports varies significantly from year to year and country to country.

Recommendation 7 would set a maximum limit on the volume of farmers stock peanuts that may comprise one lot. Paragraph (d)(3)(ii) would be modified. The volume, 24,000 pounds (10,886 kg), has been in effect for domestic peanuts as part of inspection service procedures. The lot size is the largest for which optimum sampling procedures can be applied and is the industry standard. Buying points where farmers stock peanuts must be inspected are set up to handle this maximum lot size. For logistical and cost reasons, farmers stock peanuts have been imported only from Mexico—in large semi-trailer truck loads. The 24,000 pound limit approximates the volume of farmers stock peanuts that are carried in semi-trailer trucks. It would be unrealistic to transport a lot larger than 24,000 pounds. Only a small percentage of imported peanuts were imported in farmers stock form during 1997 and 1998 and all were within this maximum lot size. Thus, Recommendation 7 can be expected to have no negative impact on peanut importers.

Recommendation 8 would add new paragraph (d)(4) to strengthen lot identification requirements for imported peanuts. In some situations, the proposed modified positive lot identification procedures could take additional warehouse personnel and space, as well as inspection service time. However, warehouse labor is needed to lay out all bags for sampling, so costs in addition to those normally charged should not be significant. Additional inspection time could vary from a few minutes to wrap PLI tape around containers or stacked bags to 30 minutes or more to reassemble bags on pallets and shrink-wrapping pallets or stenciling individual bags with spray paint. The PLI requirements could increase costs for some, but not all, imported lots. Inspection service sampling and grading costs currently are $43 an hour. Inspections generally take from one to three hours, including travel time, to complete. The costs to importers would be proportionate to the number of lots inspected and is not considered to unfairly affect small importers.

The amended PLI requirement would make the import regulation more consistent with domestic program PLI requirements, and is consistent with the intent of the Act. Importers, as well as domestic peanut producers, handlers and manufacturers benefit from quality assurances and the integrity of the product—due, in large part, to enforced PLI procedures. The benefits of quality assurance and product integrity far outweigh the small increased costs of modified PLI methods proposed in this rulemaking.

Recommendation 9 would remove a redundant sentence in paragraph (d)(4)(iii) which provides that laboratories provide aflatoxin assay results to importers. This reference is repeated in paragraph (d)(4)(v). There is no regulatory impact from this change.

Recommendation 10 would make minor changes in three paragraphs regarding the mandatory nature of aflatoxin testing and reporting test results. The regulation clearly states throughout that chemical analysis is required on imported peanuts. Paragraph (d)(4)(iv)(A) clarifies that importers ''shall,'' rather than ''should,'' contact a laboratory to arrange for chemical testing. Also under Recommendation 10, the clarification that laboratories can be designated by the importer to report test results to AMS would be moved from paragraph (d)(4)(v)(B) to paragraph (d)(5)(v) for better placement of that instruction. These changes identify an optional reporting procedure and have no regulatory impact on importers.

Recommendation 11 would amend redesignated paragraph (d)(5)(iv)(A) by updating the list of aflatoxin testing laboratories certified to conduct chemical analyses on imported peanuts. There is no regulatory impact.

Recommendation 12 would add a new sentence to introductory paragraph (e) to provide a blanching option for shelled peanuts failing quality requirements because of excessive ''fall through.'' This is a relaxation in the regulation and is consistent with Agreement requirements. AMS does not maintain records of the number of lots that fail ''fall through'' and, thus, cannot estimate the impact of this relaxation. However, allowing such lots to be reconditioned offers the possibility of increasing the per ton value of the lot from approximately $150 for non-edible use to over $500 for edible peanuts.

Recommendation 13 also would relax requirements by adding a new paragraph (e)(4), pursuant to a change in Agreement regulations. The change would allow lots meeting grade requirements but failing aflatoxin requirements to be blanched until roasted and then reinspected only for aflatoxin content. The impact of this relaxation can be significant if the importer has many such failing lots which can be roasted for the buyer. Savings are accrued because the peanuts do not have to be removed from the blanching process for inspection and then returned to the blanching process for the remaining portion of the roasting process. The original grade certificate would be recognized and the only additional inspection charges would be for sampling and aflatoxin analyses. AMS does not have data on the actual costs that could be saved in this process and cannot estimate the number of imported peanuts that may be affected by it in the future.

Recommendations 14, 15, and 16 would relax requirements relating to the stamp-and-fax entry process in paragraph (f)(1). Recommendation 14 would remove the terms which specify that the stamp-and-fax document be filed ''prior to arrival'' at the port-of-entry. Experience shows that importers may not have all of the needed information until after arrival of the peanuts. Recommendation 15 would amend paragraph (f)(1) by reducing, slightly, the information required on stamp-and-fax documents. Information on subsequent inspection of the arriving peanuts is not necessary for the purposes of the stamp-and-fax. One needed piece of information, the Customs Service entry number applicable to the lot, is not specified. In total, these changes reduce the reporting burden by a few words. The needed information was included on the stamp-and-fax documents during 1997 and 1998, but was not so specified as part of the entry information in paragraph (f)(1). Recommendation 16 would remove the requirement in paragraph (f)(1) that a copy of the stamp-and-fax document be forwarded to AMS headquarters. This reduces one reporting requirement for importers. These three relaxations are proposed to make the entry procedure consistent with the reporting needs of AMS. The regulatory impact is minimal but does reduce requirements on importers.

Recommendation 17 would reduce the number of lots that have to be reported by requiring that only certificates on failing lots be filed by importers. If imported peanut quality is the same in 1999 as the average in 1997 and 1998, roughly 90 percent of the lots will meet quality requirements and will not have to be reported to AMS headquarters. This would save an estimated 423 reporting hours. The revision is in paragraph (f)(2).

Recommendation 18 would extend the reporting period specified in paragraph (f)(3) from 23 days after entry to 180 days after conditional release by the Customs Service. The extended reporting period allows importers more time to make good business decisions regarding imported lots, particularly failing lots that must be either reconditioned or re-exported. Also, with an extended reporting period, importers should not have to request extensions of reporting periods and could file all failing certifications and dispositions at one time after all certifications and reports are acquired. This could save the time of filing individual reports as each lot is certified, disposed of, or re-exported.

Recommendation 19 provides for up to a 60-day extension of the proposed 180 day reporting period. There is no time limit on domestic peanut disposition. However, because of Customs Service required liquidation of entry documentation, there must be some time limit for importers to obtain clearances on failing lots and report to AMS. A 240-day reporting period represents a compromise between the open-ended domestic requirements and Customs Service liquidation schedules. The impact of this requirement should be minimal, as continued storage costs or successive reconditions would eventually reduce margins and force business decisions on lots pending eight months after conditional entry. A new paragraph (f)(5) would be added.

Recommendations 20, 21, and 22 propose minor changes that would have no regulatory impact on importers. Recommendation 20 clarifies that if a container or shipment is re-exported without conditional entry by the Customs Service, it does not have to be reported to AMS and inspected. Such situations were not foreseen in the original import regulation and are included for clarity in new paragraph (f)(6) in this regulation. Recommendation 21 makes a minor wording change in paragraph (g)(1) regarding peanuts that are ''intended'' to be entered but are not entered. Recommendation 22 clarifies that those who are billed for inspections are those requesting inspections. Customs house brokers and storage warehouses often request inspections, and are the entities billed for services provided. However, costs of the inspections are borne by the importer. These three recommendations clarify current provisions and do not change the regulatory aspects of the rule or reporting burden already authorized by OMB.

The relaxation of quality and handling requirements proposed in this rulemaking also would result in an overall reduction of the information reporting and recordkeeping burden of the peanut import regulation, currently assigned as OMB number 0581–0176. The most significant reduction in the reporting burden would be that importers must file copies of grade and aflatoxin certificates only on failing lots, rather than all lots (Recommendation 17) . Using the quality of 1997 and 1998 imported peanuts as a guide, this proposal could reduce that reporting requirement by as much as 90 percent. The proposed recordkeeping requirement would be increased by an estimated 21 percent because the 1999 duty-free tariff quota is 21 percent higher than the 1997 quota on which the current recordkeeping burden is based. Thus, this proposed rule would establish an annual reporting and recordkeeping burden of 1,590 responses and 257 hours. This is a reduction from the current burden of 5,000 responses and 425 hours.

Finally, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule. Besides meeting AMS import quality requirements, clearance of each imported peanut lot also must be obtained from the Customs Service, FDA, and APHIS. Program requirements of those entities do not overlap the quality requirements of this regulation. AMS has consulted with the Customs Service to assure that the proposed changes are consistent with its entry procedures.

Based on available information, the Administrator of the AMS has determined that this proposed rule could impose very small additional costs (PLI) on affected importers, but could save considerable reconditioning, storage, and reporting expenses. The benefits of maintaining a high quality product should exceed any additional costs which could be incurred in meeting these requirements. On balance, the proposed changes would be expected to reduce program costs incurred by importers.

This proposal provides a 30-day period for interested persons to comment on the proposed changes in quality and handling requirements, on import procedures, and on the impacts of this action on small businesses. The proposed changes should be put into effect by January 1, 1999, when the next (Mexican) peanut quota period opens. Comments on the proposed reduction in paperwork reporting and recordkeeping burden must be submitted to both OMB and AMS within 60 days of publication of this proposal.

Upon publication, this proposal will be distributed to the Washington, D.C. embassies of peanut exporting countries, all known peanut exporters and importers, customs house brokers, storage warehouses, and reconditioning facilities. This proposal also will be electronically disseminated on the Internet and comments may be received electronically. Comments should be submitted to the mailing address, fax number, or E-mail address listed under **ADDRESSES** at the beginning of this document. All written comments timely received will be considered before a final determination is made on the recommendations proposed herein.

List of Subjects in 7 CFR Part 999

Dates, Food grades and standards, Hazelnuts, Imports, Nuts, Peanuts, Prunes, Raisins, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR Part 999 is proposed to be amended as follows:

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 999 continues to read as follows:

Authority: 7 U.S.C. 601–674, 7 U.S.C. 1445c-3, and 7 U.S.C. 7271.

2. Section 999.600 is revised to read as follows:

§ 999.600 Regulation governing imports of peanuts.

(a) *Definitions.* (1) *Peanuts* means the seeds of the legume *Arachis hypogaea* and includes both inshell and shelled peanuts produced in countries other than the United States, other than those marketed in green form for consumption as boiled peanuts.

(2) *Farmers stock peanuts* means picked and threshed raw peanuts which have not been shelled, crushed, cleaned or otherwise changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the form in which customarily marketed by producers.

(3) *Inshell peanuts* means peanuts, the kernels or edible portions of which are contained in the shell.

(4) *Incoming inspection* means the sampling and inspection of farmers stock peanuts to determine Segregation quality.

(5) *Segregation I peanuts,* unless otherwise specified, means farmers stock peanuts with not more than 2.00 percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus* mold.

(6) *Segregation 2 peanuts,* unless otherwise specified, means farmers stock peanuts with more than 2.00 percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus* mold.

(7) *Segregation 3 peanuts,* unless otherwise specified, means farmers stock peanuts with visible *Aspergillus flavus* mold.

(8) *Shelled peanuts* means the kernels of peanuts after the shells are removed.

(9) *Outgoing inspection* means the sampling and inspection of either: shelled peanuts which have been cleaned, sorted, sized, or otherwise prepared for human consumption markets; or, inshell peanuts which have been cleaned, sorted and otherwise prepared for inshell human consumption markets.

(10) *Negative aflatoxin content* means 15 parts-per-billion (ppb) or less for peanuts which have been certified as meeting edible quality grade requirements.

(11) *Person* means an individual, partnership, corporation, association, or any other business unit.

(12) *Secretary* means the Secretary of Agriculture of the United States or any officer or employee of the U.S. Department of Agriculture (Department or USDA) who is, or who may hereafter

be, authorized to act on behalf of the Secretary.

(13) *Inspection service* means the Federal or Federal-State Inspection Service, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA.

(14) *USDA laboratory* means laboratories of the Science and Technology Programs, Agricultural Marketing Service, USDA, that chemically analyze peanuts for aflatoxin content.

(15) *PAC-approved laboratories* means laboratories approved by the Peanut Administrative Committee, pursuant to Marketing Agreement No. 146 (7 CFR part 998), that chemically analyze peanuts for aflatoxin content.

(16) *Conditionally released* means released from U.S. Customs Service custody for further handling, sampling, inspection, chemical analysis, storage, and, if necessary, reconditioning.

(17) *Importation* means the arrival of a peanut shipment at a port-of-entry with the intent to enter the peanuts into channels of commerce of the United States.

(b) *Incoming regulation.* (1) Farmers stock peanuts presented for consumption must undergo incoming inspection. All foreign-produced farmers stock peanuts for human consumption must be sampled and inspected at a buying point or other handling facility capable of performing incoming sampling and inspection. Sampling and inspection shall be conducted by the inspection service. Only Segregation 1 peanuts certified as meeting the following requirements may be used in human consumption markets:

(i) *Moisture.* Except as provided under paragraph (b)(2) of this section, peanuts may not contain more than 10.49 percent moisture: *Provided,* That peanuts of a higher moisture content may be received and dried to not more than 10.49 percent moisture prior to storage or milling.

(ii) *Foreign material.* Peanuts may not contain more than 10.49 percent foreign material, except that peanuts having a higher foreign material content may be held separately until milled, or moved over a sand-screen before storage, or shipped directly to a plant for prompt shelling. The term ''sand-screen'' means any type of farmers stock cleaner which, when in use, removes sand and dirt.

(iii) *Damage.* For the purpose of determining damage, other than concealed damage, on farmers stock peanuts, all percentage determinations shall be rounded to the nearest whole number.

(2) *Seed peanuts.* Farmers stock peanuts determined to be Segregation l quality, and shelled peanuts certified negative to aflatoxin (15 ppb or less), may be imported for seed purposes. Residuals from the shelling of Segregation l seed peanuts may be milled with other imported peanuts of the importer, and such residuals meeting quality requirements specified in paragraph (c)(1) of this section may be disposed to human consumption channels. Any portion not meeting such quality requirements shall be disposed to non-edible peanut channels pursuant to paragraphs (f) and (g) of this section. All disposition of seed peanuts and residuals from seed peanuts, whether commingled or kept separate and apart, shall be reported to the Secretary pursuant to paragraphs (f)(2) and (f)(3) of this section. The receiving seed outlet must retain records of the transaction, pursuant to paragraph (g)(7) of this section.

(3) *Oilstock and exportation.* Farmers stock peanuts of lower quality than Segregation 1 (Segregation 2 and 3 peanuts) shall be used only in non-edible outlets. Segregation 2 and 3 peanuts may be commingled but shall be kept separate and apart from edible quality peanut lots. Commingled Segregation 2 and 3 peanuts and Segregation 3 peanuts shall be disposed only to oilstock or exported. Shelled peanuts and cleaned-inshell peanuts which fail to meet the requirements for human consumption in paragraphs (c)(1) or (c)(2), respectively, of this section, may be crushed for oil or exported.

(c) *Outgoing regulation.* No person shall import peanuts for human consumption into the United States unless such peanuts are Positive Lot Identified and certified by the inspection service as meeting the following requirements:

(1) *Shelled peanuts.* (i) No importer shall dispose of shelled peanuts to human consumption markets unless such peanuts are Positive Lot Identified pursuant to paragraph (d)(4) of this section, certified as ''negative'' to aflatoxin, pursuant to paragraph (d)(5)(v)(A) of this section, and meet the requirements specified in the following table.

MINIMUM GRADE REQUIREMENTS—PEANUTS FOR HUMAN CONSUMPTION

[Whole kernels and splits: maximum limitations]

Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels	Sound whole kernels	Total (percent)		
Excluding lots of ''splits''							
Runner	1.50	2.50	3.00%; 17/64 inch round screen.	3.00%; 16/64 x 3/4 inch slot screen.	4.00; both screens	.20	9.00
Virginia (except No. 2).	1.50	2.50	3.00%; 17/64 inch round screen.	3.00%; 15/64 x 1 inch slot screen.	4.00; both screens	.20	9.00
Spanish and Valencia.	1.50	2.50	3.00%; 16/64 inch round screen.	3.00%; 15/64 x 3/4 inch slot screen.	4.00; both screens	.20	9.00
No. 2 Virginia	1.50	3.00	6.00%; 17/64 inch round screen.	6.00%; 15/64 x 1 inch slot screen.	6.00; both screens	.20	9.00
Runner with splits (not more than 15% sound splits).	1.50	2.50	3.00%; 17/64 inch round screen.	3.00%; 16/64 x 3/4 inch slot screen.	4.00; both screens	.10	9.00
Virginia with splits (not more than 15% sound splits).	1.50	2.50	3.00% 17/64 inch round screen.	3.00%; 15/64 inch slot screen.	4.00; both screens	.10	9.00

MINIMUM GRADE REQUIREMENTS—PEANUTS FOR HUMAN CONSUMPTION—Continued

[Whole kernels and splits: maximum limitations]

Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels	Sound whole kernels	Total (percent)		
Spanish & Valencia with splits (not more than 15% sound splits).	1.50	2.50	3.00%; 16/64 inch round screen.	2.00%; 15/64 inch slot screen.	4.00; both screens	.10	9.00
Lots of "splits"							
Runner (not more than 4% sound whole kernels).	2.00	2.50	3.00%; 17/64 inch round screen.	3.00%; 14/64 × 3/4 inch slot screen.	4.00; both screens	.20	9.00
Virginia (not less than 90% splits).	2.00	2.50	3.00%; 17/64 inch round screen.	3.00; 14/64 × 1 inch slot screen.	4.00; both screens	.20	9.00
Spanish & Valencia (not more than 4% sound whole kernels).	2.00	2.50	3.00%; 16/64 inch round screen.	3.00%; 13/64 × 3/4 inch slot screen.	4.00; both screens	.20	9.00

(ii) The term "fall through," as used in this section, shall mean sound split and broken kernels and whole kernels which pass through specified screens.

(2) *Cleaned-inshell peanuts.* Peanuts declared as cleaned-inshell peanuts may be presented for sampling and outgoing inspection at the port-of-entry. Alternatively, peanuts may be conditionally released as cleaned-inshell peanuts but shall not subsequently undergo any cleaning, sorting, sizing or drying process prior to presentation for outgoing inspection as cleaned-inshell peanuts. Cleaned-inshell peanuts which fail outgoing inspection may be reconditioned or redelivered to the port-of-entry, at the option of the importer. Cleaned-inshell peanuts determined to be unprepared farmers stock peanuts must be inspected against incoming quality requirements and determined to be Segregation l peanuts prior to outgoing inspection for cleaned-inshell peanuts. Cleaned-inshell peanuts intended for human consumption may not contain more than:

(i) 1.00 percent kernels with mold present, unless a sample of such peanuts is drawn by the inspection service and analyzed chemically by a USDA or PAC-approved laboratory and certified "negative" as to aflatoxin.

(ii) 2.00 percent peanuts with damaged kernels;

(iii) 10.00 percent moisture (carried to the hundredths place); and

(iv) 0.50 percent foreign material.

(d) *Sampling and inspection.* (1) All sampling and inspection, quality certification, chemical analysis, and Positive Lot Identification, required under this section, shall be done by the inspection service, a USDA laboratory, or a PAC-approved laboratory, as applicable, in accordance with the procedures specified in this section. The importer shall make arrangements with the inspection service for sampling, inspection, Positive Lot Identification and certification of all peanuts accumulated by the importer. The importer also shall make arrangements for the appropriate disposition of peanuts failing edible quality requirements of this section. All costs of sampling, inspection, certification, identification, and disposition incurred in meeting the requirements of this section shall be paid by the importer. Whenever peanuts are offered for inspection, the importer shall furnish any labor and pay any costs incurred in moving and opening containers as may be necessary for proper sampling and inspection.

(2) For farmers stock inspection, the importer shall cause the inspection service to perform an incoming inspection and to issue a CFSA–1007, "Inspection Certificate and Sales Memorandum," form designating the lot as Segregation 1, 2, or 3 quality peanuts. For shelled and cleaned-inshell peanuts, the importer shall cause the inspection service to perform an outgoing inspection and issue an FV–184–9A, "Milled Peanut Inspection Certificate," reporting quality and size of the shelled or cleaned inshell peanuts, whether the lot meets or fails to meet quality requirements for human consumption of this section, and that the lot originated in a country other than the United States. The importer shall provide to the Secretary copies of all CFSA–1007 and FV–184–9A forms applicable to each peanut lot conditionally released to the importer. Such reports shall be submitted as provided in paragraphs (f)(2) and (f)(3) of this section.

(3) *Procedures for sampling and testing peanuts.* Sampling and testing of peanuts for incoming and outgoing inspections of peanuts presented for consumption into the United States will be conducted as follows:

(i) *Application for sampling.* The importer shall request inspection and certification services from one of the following inspection service offices convenient to the location where the peanuts are presented for incoming and/or outgoing inspection. To avoid possible delays, the importer should make arrangements with the inspection service in advance of the inspection date. A copy of the Customs Service entry document specific to the peanuts to be inspected shall be presented to the inspection official at the time of sampling the lot.

(A) The following offices provide incoming farmers stock inspection:

Dothan, AL, tel: (334) 792–5185,
Graceville, FL, tel: (904) 263–3204,
Winter Haven, FL, tel: (941) 291–5820, ext 260,
Albany, GA, tel: (912) 432–7505,
Williamston, NC, tel: (919) 792–1672,
Columbia, SC, tel: (803) 253–4597,
Suffolk, VA, tel: (757) 925–2286,
Portales, NM, tel: (505) 356–8393,
Oklahoma City, OK, tel: (405) 521–3864,
Gorman, TX, tel: (817) 734–3006.

(B) The following offices, in addition to the offices listed in paragraph (d)(3)(i)(A) of this section, provide outgoing sampling for certification of shelled and cleaned in-shell peanuts:

Eastern U.S.

Mobile, AL, tel: (334) 415–2531,
Jacksonville, FL, tel: (904) 359–6430,
Miami, FL, tel: (305) 870–9542,
Tampa, FL, tel: (813) 272–2470,
Presque Isle, ME, tel: (207) 764–2100,
Baltimore/Washington, tel: (301) 317–4387,
Boston, MA, tel: (617) 389–2480,
Newark, NJ, tel: (201) 645–2636,
New York, NY, tel: (718) 991–7665,
Buffalo, NY, tel: (800) 262–4810,
Philadelphia, PA, tel: (215) 336–0845.

Central U.S.

New Orleans, LA, tel: (504) 589–6741,
Detroit, MI, tel: (313) 226–6059,
St. Paul, MN, tel: (612) 296–8557,
Las Cruces, NM, tel: (505) 646–4929,
Alamo TX, tel: (956) 787–4091,
El Paso, TX, tel: (915) 540–7723,
Houston, TX, tel: (713) 923–2557.

Western U.S.

Nogales, AZ, tel: (520) 281–4719,
Los Angeles, CA, tel: (213) 894–2489,
San Francisco, CA, tel: (415) 876–9313,
Honolulu, HI, tel: (808) 973–9566,
Salem, OR, tel: (503) 986–4620,
Seattle, WA, tel: (206) 859–9801.

(C) Questions regarding inspection services or requests for further assistance may be obtained from: Fresh Products Branch, P.O. Box 96456, room 2049–S, Fruit and Vegetable Programs, AMS, USDA, Washington, D.C. 20090–6456, telephone (202) 690–0604, fax (202) 720–0393.

(ii) *Sampling.* Sampling of bulk farmers stock lots shall be performed at a facility that utilizes a pneumatic sampler or approved automatic sampling device. The maximum lot size of farmers stock peanuts shall be one conveyance, or two or more conveyances not exceeding a combined weight of 24,000 pounds. Shelled peanut lots and cleaned-inshell lots, in bulk or bags, shall not exceed 200,000 pounds. For farmers stock, shelled and cleaned-inshell lots not completely accessible for sampling, the applicant shall be required to have lots made accessible for sampling pursuant to inspection service requirements. The importer shall cause appropriate samples of each lot of edible quality shelled peanuts to be drawn by the inspection service. The amount of such peanuts drawn shall be large enough to provide for a grade and size analysis, for a grading check-sample, and for three 48-pound samples for aflatoxin assay. Because there is no acceptable method of drawing official samples from bulk conveyances of shelled peanuts, the importer shall arrange to have bulk conveyances of shelled peanuts sampled during the unloading process. A bulk lot sampled in this manner must be Positive Lot Identified by the inspection service and held in a sealed bin until the associated inspection and aflatoxin test results have been reported.

(4) Positive Lot Identification (PLI) shall be applied to all shelled and cleaned-inshell peanut lots during or immediately after first inspection by the inspection service or under the guidance of the inspection service. Positive Lot Identification of a lot may be accomplished by: Wrapping PLI tape around bags or boxes on pallets; shrink wrapping pallets or multiple bags and applying a PLI sticker; stenciling and numbering of individual bags or boxes; affixing PLI seals on shipping container doors; or by other methods acceptable to the inspection service that clearly identifies the lot, is securely affixed to the lot, and prevents peanuts from being removed or added to the lot. Such positive lot identification methods may be dictated by the size and containerization of the lot, by warehouse storage or space requirements, or, by necessary further movement of the lot prior to receipt of certification. Failing lots that are reconditioned shall be positive lot identified by sewing tags on bags or affixing a seal and taping bulk bin containers after such reconditioning or by other means acceptable to the inspection service that clearly identifies the peanuts in the lot, is securely affixed to the lot, and which prevents peanuts from being removed or added to the lot.

(5) *Aflatoxin assay.* (i) The importer shall cause appropriate samples of each lot of shelled peanuts intended for edible consumption to be drawn by the inspection service. The three 48-pound samples shall be designated by the inspection service as ''Sample 1IMP,'' ''Sample 2IMP,'' and ''Sample 3IMP'' and each sample shall be placed in a suitable container and lot identified by the inspection service. Sample 1IMP may be prepared for immediate testing or Samples 1IMP, 2IMP and 3IMP may be returned to the importer for testing at a later date, under Positive Lot Identification procedures.

(ii) The importer shall cause Sample 1IMP to be ground by the inspection service or a USDA or PAC-approved laboratory in a subsampling mill. The resultant ground subsample shall be of a size specified by the inspection service and shall be designated as ''Subsample 1–ABIMP.'' At the importer's option, a second subsample may also be extracted from Sample 1IMP and designated ''Subsample 1–CDIMP'' which may be sent for aflatoxin assay to a USDA or PAC-approved laboratory. Both subsamples shall be accompanied by a Milled Peanut Inspection Certificate or Notice of Sampling signed by the inspector containing identifying information as to the importer, the lot identification of the shelled peanut lot, and other information deemed necessary by the inspection service. Subsamples 1–ABIMP and 1–CDIMP shall be analyzed only in a USDA or PAC-approved laboratory. The methods prescribed by the Instruction Manual for Aflatoxin Testing, SD Instruction-1, August 1994, shall be used to assay the aflatoxin level. The cost of testing and notification of Subsamples 1–ABIMP and 1–CDIMP shall be borne by the importer.

(iii) The samples designated as Sample 2IMP and Sample 3IMP shall be held as aflatoxin check-samples by the inspection service or the importer until the analyses results from Sample 1IMP are known. Upon call from the USDA or PAC-approved laboratory, the importer shall cause Sample 2IMP to be ground by the inspection service in a subsampling mill. The resultant ground subsample from Sample 2IMP shall be designated as ''Subsample 2—ABIMP.'' Upon further call from the laboratory, the importer shall cause Sample 3IMP to be ground by the inspection service in a subsampling mill. The resultant ground subsample shall be designated as ''Subsample 3—ABIMP.'' The importer shall cause Subsamples 2—ABIMP and 3—ABIMP to be sent to and analyzed only in a USDA or PAC-approved laboratory. Each subsample shall be accompanied by a Milled Peanut Inspection Certificate or a Notice of Sampling. All costs involved in the sampling, shipment and assay analysis of subsamples required by this section shall be borne by the importer.

(iv)(A) To arrange for chemical analysis, importers shall contact one of the following USDA or PAC-approved laboratories:

Science and Technology Programs, AMS, 301 West Pearl St., Aulander, NC 27805 (P.O. Box 279), Tel: (919) 345–1661 Ext. 156, Fax: (919) 345–1991

Science and Technology Programs, AMS, 1211 Schley Ave., Albany, GA 31707, Tel: (912) 430–8490 / 8491, Fax: (912) 430–8534

Science and Technology Programs, AMS, 610 North Main St., Blakely, GA 31723, Tel: (912) 723–4570, Fax: (912) 723–3294

Science and Technology Programs, AMS, 107 South Fourth St., Madill, OK 73446, Tel: (405) 795–5615, Fax: (405) 795–3645

Science and Technology Programs, AMS, 715 North Main St., Dawson, GA 31742 (P.O. Box 272), Tel: (912) 995–7257, Fax: (912) 995–3268

Science and Technology Programs, AMS, 308 Culloden St., Suffolk, VA 23434 (P.O. Box 1130), Tel: (757) 925–2286, Fax: (757) 925–2285
Federal-State Inspection Service Laboratory, 1557 Reeves St., Dothan, AL 36303 (P.O. Box 1368, ZIP 36302), Tel: (334) 792–5185, Fax: (334) 671–7984
Federal-State Inspection Service Laboratory, 201 Broad St., Headland, AL 36345 (P.O. Box 447, ZIP 36345–0447), Tel: (334) 693–2729, Fax: (334) 693–2183
Federal-State Inspection Service Laboratory, 103 Greenville Ave., Goshen, AL 36035 (P.O. Box 204), Tel: (334) 484–3340, Fax: (334) 484–3340
Federal-State Inspection Service Laboratory, 805 North Main St., Enterprise, AL 36330 (P.O. Box 310926), Tel: (334) 347–6525
ABC Research, 3437 SW 24th Ave., Gainesville, FL 32607, Tel: (904) 372–0436, Fax: (904) 378–6483
J. Leek Associates, Inc., 200 Wyandotte, Albany, GA 31705 (P.O. Box 50395, ZIP 31703), Tel: (912) 889–8293, Fax: (912) 888–1166
J. Leek Associates, Inc., 139 South Lee St., Ashburn, GA 31714, Tel: (912) 567–3703, Fax: (912) 567–8055
J. Leek Associates, Inc., 402 S.E. 3rd Street, Anadarko, OK 73005, Tel: (405) 247–3266, Fax: (405) 247–3270
J. Leek Associates, Inc., 502 West Navarro St., DeLeon, TX 76444 (P.O. Box 6), Tel: (817) 893–3653, Fax: (817) 893–3640
Pert Laboratories, 145 Peanut Drive, Edenton, NC 27932 (P.O. Box 267), Tel: (919) 482–4456, Fax: (919) 482–5370
Pert Laboratory South, Hwy 82 East, Seabrook Drive, Sylvester, GA 31791 (P.O. Box 129), Tel: (912) 776–1256, Fax: (912) 776–1029
Southern Cotton Oil Company, 600 E. Nelson Street, Quanah, TX 79252 (P.O. Box 180), Tel: (817) 663–5323, Fax: (817) 663–5091
Quanta Lab, 9330 Corporate Drive, Suite 703, Selma, TX 78154–1257, Tel: (210) 651–5799, Fax: (210) 651–9271

(B) Further information concerning the chemical analyses required pursuant to this section may be obtained from: Science and Technology Programs, AMS, USDA, P.O. Box 96456, room 3507–S, Washington, DC 20090–6456, Tel. (202) 720–5231, or Fax (202) 720–6496.

(v) *Reporting aflatoxin assays.* A separate aflatoxin assay certificate, Form CSSD–3 ''Certificate of Analysis for Official Samples'' or equivalent PAC-approved laboratory form, shall be issued by the laboratory performing the analysis for each lot. The assay certificate shall identify the importer, the volume of the peanut lot assayed, date of the assay, and numerical test result of the assay. The importer shall file, or cause to be filed, with the Secretary, all USDA Form CSSD–3, or equivalent chemical assay forms issued on failing peanuts. The importer shall cause the results of all chemical assays issued by PAC-approved laboratories to be filed with the Secretary. The results of the assay shall be reported as follows:

(A) For the current peanut quota year, ''negative'' aflatoxin content means 15 parts per billion (ppb) or less aflatoxin content for peanuts which have been certified as meeting edible quality grade requirements. Such lots shall be certified as ''Meets U.S. import requirements for edible peanuts under Section 999.600 with regard to aflatoxin.''

(B) Lots containing more than 15 ppb aflatoxin content shall be certified as ''Fails to meet U.S. import requirements for edible peanuts under Section 999.600 with regard to aflatoxin.'' The certificate of any non-edible peanut lot also shall specify the aflatoxin count in ppb.

(6) *Appeal inspection.* In the event an importer questions the results of a quality and size inspection, an appeal inspection may be requested by the importer and performed by the inspection service. A second sample will be drawn from each container and shall be double the size of the original sample. The results of the appeal sample shall be final and the fee for sampling, grading and aflatoxin analysis shall be charged to the importer. Lots that show evidence of PLI violation or tampering, as determined by the inspection service, are not eligible for appeal inspection.

(e) *Disposition of peanuts failing edible quality requirements.* Peanuts shelled, sized, and sorted in another country prior to arrival in the U.S. and shelled peanuts which originated from imported Segregation 1 peanuts that fail minimum grade requirements specified in the table in paragraph (c)(1)(i) of this section (excessive damage, minor defects, moisture, or foreign material) or are positive to aflatoxin may be reconditioned by remilling and/or blanching. Peanuts that fail minimum grade requirements because of excessive ''fall through'' may be blanched. After such reconditioning, peanuts meeting the minimum grade requirements in the table, including minimum ''fall through'' requirements, and which are negative to aflatoxin (15 ppb or less), may be disposed for edible use. Residual peanuts resulting from milling or reconditioning of such lots shall be disposed of as follows:

(1) Failing peanut lots may be disposed for non-human consumption uses (such as livestock feed, wild animal feed, rodent bait, seed, etc.) which are not otherwise regulated by this section; *Provided,* That each such lot is Positive Lot Identified and certified as to aflatoxin content (actual numerical count). On the shipping papers covering the disposition of each such lot, the importer shall cause the following statement to be shown: ''The peanuts covered by this bill of lading (or invoice) are not to be used for human consumption.''

(2) Peanuts, and portions of peanuts which are separated from edible quality peanuts by screening or sorting or other means during the milling process (''sheller oilstock residuals''), may be sent to non-edible peanut markets pursuant to paragraph (e)(1) of this section, crushed or exported. Such peanuts may be commingled with other milled residuals. Such peanuts shall be positive lot identified, red tagged in bulk or bags or other suitable containers.

(i) If such peanuts have not been certified as to aflatoxin content, as prescribed in paragraph (d) of this section, disposition is limited to crushing and the importer shall cause the following statement to be shown on the shipping papers: ''The peanuts covered by this bill of lading (or invoice, etc.) are limited to crushing only and may contain aflatoxin.''

(ii) If the peanuts are certified as 301 ppb or more aflatoxin content, disposition shall be limited to crushing or export.

(3) Shelled peanuts which originated from Segregation 1 peanuts that fail minimum grade requirements specified in the table in paragraph (c)(1)(i) of this section, peanuts derived from the milling for seed of Segregation 2 and 3 farmers stock peanuts, and peanuts which are positive to aflatoxin, may be remilled or blanched. Residuals of remilled and/or blanched peanuts which continue to fail minimum grade requirements in the table shall be disposed pursuant to paragraphs (e)(1) or (2) of this section.

(4) Shelled peanuts that are certified as meeting minimum grade requirements specified in the table in paragraph (c)(1)(i) of this section and which are positive to aflatoxin may be roasted during blanching. After roasting, such peanuts certified as meeting aflatoxin requirements (15 ppb or less), and which are positive lot identified, may be disposed to human consumption outlets without further grade analysis. The residual peanuts, excluding skins and hearts, resulting from roasting process, shall be red tagged and disposed of to non-edible outlets pursuant to paragraphs (e)(1) or (2) of this section.

(5) All certifications, lot identifications, and movement to non-edible dispositions, sufficient to account for all peanuts in each consumption entry, shall be reported to the Secretary

by the importer pursuant to paragraphs (f)(2) and (f)(3) of this section.

(f) *Safeguard procedures.* (l) Prior to, or upon, arrival of a foreign-produced peanut lot at a port-of-entry, the importer, or customs broker acting on behalf of the importer, shall mail or send by facsimile transmission (fax) a copy of the Customs Service entry documentation for the peanut lot or lots to the inspection service office that will perform sampling of the peanut shipment. More than one lot may be entered on one entry document. The documentation shall include: the Customs Service entry number; the container number(s) or other identification of the lot(s); the volume of peanuts in each lot being entered; the inland shipment destination where the lot will be made available for inspection; and a contact name or telephone number at the destination. The inspection office shall sign, stamp, and return the entry document to the importer. The importer shall cause a copy of the relevant entry documentation to accompany each peanut lot and be presented to the inspection service at the time of sampling.

(2) The importer shall file, of cause to have filed, with the Secretary, copies of failing grade and aflatoxin certificates and non-edible disposition documents which identify the importer and the disposition outlet for failing quality peanuts. Such reports shall be sufficient to account for all peanuts failing quality requirements of this section: *Provided That:* importers shall cause all certificates of peanuts meeting aflatoxin requirements issued by PAC-approved laboratories to be filed with the Secretary. Proof of non-edible disposition must include documentation from the disposing entity or other entity on behalf of the importer, certifying to the crushing, feed or seed use, burying, or other non-edible disposition. Such documentation must include the weight of peanuts being disposed and the name and telephone number of the disposing entity. Proof of export must include U.S. Customs Service documentation showing exportation from the United States. These documents must be sent to the Marketing Order Administration Branch, Attn: Report of Imported Peanuts. Facsimile transmissions and overnight mail may be used to ensure timely receipt of inspection certificates and other documentation. Fax reports should be sent to (202) 205–6623. Overnight and express mail deliveries should be addressed to USDA, AMS, FV, Marketing Order Administration Branch, 1400 Independence Avenue, SW, Room: 2525–S, Washington, D.C., 20250, Attn: Report of Imported Peanuts. Regular mail should be sent to FV, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, D.C. 20090–6456, Attn: Report of Imported Peanuts.

(3) All peanuts imported into the United States subject to this part shall be conditionally released by the U.S. Customs Service for a period of 180 days following the date of Customs Service release, for the purpose of determining whether such peanuts meet the quality requirements for human consumption or non-edible disposition and reporting such certification or non-edible disposition to the Secretary.

(4) If the Secretary finds during, or upon termination, of the conditional release period that a lot of peanuts is not entitled to admission into the commerce of the United States, the Secretary shall request the Customs Service, within 30 days after close of the conditional release period, to demand return of said lot of peanuts to Customs Service custody. Failure to comply with a redelivery demand within 30 days of the date of the redelivery demand, may result in the assessment against the importer of record and surety, jointly and severally of liquidated damages equal to the value of the peanuts involved. Failure to fully comply with quality and handling requirements or failure to notify the Secretary of disposition of all foreign-produced peanuts, as required under this section, may result in a compliance investigation by the Secretary. Falsification of reports submitted to the Secretary is a violation of Federal law punishable by fine or imprisonment, or both.

(5) An extension of the 180-day conditional release period may be granted by the Secretary upon request of the importer. Extension shall not exceed an additional 60 calendar days. Requests for extension shall be specific to each peanut lot and shall include the lot's Customs Service entry number, the positive lot identification, weight or volume, and current storage location. Requests for extension of the conditional release period shall be made in writing pursuant to paragraph (f)(2) of this section.

(6) Peanuts for which an import application is filed with the Customs Service but which are subsequently exported without sampling or inspection by the inspection service, need not be reported to the Secretary.

(7) *Reinspection.* Whenever the Secretary has reason to believe that peanuts may have been damaged or deteriorated while in storage, the Secretary may reject the then effective inspection and aflatoxin certificates and require the importer to have the peanuts reinspected to establish whether or not such peanuts may be disposed of for human consumption.

(8) *Early arrival and storage.* Peanut lots sampled and inspected upon arrival in the United States, but placed in storage for more than one month prior to beginning of the quota year for which the peanuts will be entered, must be reported to AMS at the time of inspection. The importer shall file copies of the Customs Service documentation showing the volume of peanuts placed in storage and the storage location, including any identifying number of the storage warehouse. Such peanuts should be stored in clean, dry warehouses and under cold storage conditions consistent with industry standards. Pursuant to paragraph (f)(7) of this section, the Secretary may require reinspection of the lot at the time the lot is declared for entry with the Customs Service.

(g) *Additional requirements.* (1) Nothing contained in this section shall preclude any importer from milling or reconditioning, prior to importation, any shipment of peanuts for the purpose of making such peanuts eligible for importation into the United States. However, all peanuts intended for human consumption use must be certified as meeting the quality requirements specified in paragraph (c) of this section, prior to such disposition.

(2) Conditionally released peanut lots of like quality and belonging to the same importer may be commingled. Defects in an inspected lot may not be blended out by commingling with other lots of higher quality. Commingling also must be consistent with applicable Customs Service regulations. Commingled lots must be reported and disposed of pursuant to paragraphs (f)(2) and (f)(3) of this section.

(3) Inspection by the Federal or Federal-State Inspection Service shall be available and performed in accordance with the rules and regulations governing certification of fresh fruits, vegetables and other products (7 CFR part 51). The importer shall make each conditionally released lot available and accessible for inspection as provided in this section. Because inspectors may not be stationed in the immediate vicinity of some ports-of-entry, importers must make arrangements for sampling, inspection, and certification through one of the offices and laboratories listed in paragraphs (d)(3) and (d)(5) of this section, respectively.

(4) Imported peanut lots sampled and inspected at the port-of-entry, or at other locations, shall meet the quality

requirements of this section in effect on the date of inspection.

(5) A foreign-produced peanut lot entered for consumption or for warehouse may be transferred or sold to another person: *Provided,* That the original importer shall be the importer of record unless the new owner applies for bond and files Customs Service documents pursuant to 19 CFR 141.113 and 141.20: *Provided further,* That such peanuts must be certified and reported to the Secretary pursuant to paragraphs (f)(2) and (f)(3) of this section.

(6) Payment of the cost of transportation, sampling, inspection, certification, chemical analysis, and Positive Lot Identification, as well as remilling and blanching, and further inspection of remilled and blanched lots, and disposition of failing peanuts, shall be the responsibility of the importer. Whenever an applicant presents peanuts for inspection, the applicant shall furnish any labor and pay any costs incurred in moving, opening containers for sampling, and the shipment of samples as may be necessary for proper sampling and inspection. The inspection service shall bill the applicant for fees covering quality inspections and other certifications as may be necessary to certify edible quality or non-edible disposition. USDA and PAC-approved laboratories shall bill the applicant separately for aflatoxin assay fees. The importer also shall pay Customs Service costs as required by that agency.

(7) Each person subject to this section shall maintain true and complete records of activities and transactions specified in these regulations. Such records and documentation accumulated during entry shall be retained for not less than two years after the calendar year of acquisition, except that Customs Service documents shall be retained as required by that agency. The Secretary, through duly authorized representatives, shall have access to any such person's premises during regular business hours and shall be permitted, at any such time, to inspect such records and any peanuts held by such person.

(8) The provisions of this section do not supersede any restrictions or prohibitions on peanuts under the Federal Plant Quarantine Act of 1912, the Federal Food, Drug and Cosmetic Act, any other applicable laws, or regulations of other Federal agencies, including import regulations and procedures of the Customs Service.

Dated: August 24, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–23230 Filed 8–28–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–28–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT9D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Pratt & Whitney (PW) JT9D series turbofan engines. This proposal would require a fluorescent penetrant inspection (FPI) of the rear skirt of the diffuser case for cracks, and, if necessary, blending down to minimum wall thickness to remove cracks and subsequent FPI to determine if cracks have been removed, polishing, and shotpeening. If the cracks are shown by subsequent FPI not to have been removed, this proposed AD would require removing the diffuser case from service and replace with a serviceable part. This proposal is prompted by a report of a diffuser case rupture during takeoff roll that resulted in damage to the aircraft. The actions specified by the proposed AD are intended to prevent diffuser case rupture due to cracks, which can result in an uncontained engine failure and damage to the aircraft.

DATES: Comments must be received by October 30, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–28–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ad-engineprop@faa.dot.gov''. Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–6600, fax (860) 565-4503. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Tara Goodman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7130, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–ANE–28–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–28–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) received a report of a diffuser case rupture on a Pratt & Whitney (PW)

Model JT9D–7Q turbofan engine. The diffuser case rupture occurred when the engine was at takeoff power at the beginning of takeoff roll. As a result of the diffuser case rupture both engine side cowl doors, a precooler, and other hardware were ejected from the engine. The escaping gas and engine debris blew out the engine pylon access panels, and created holes, cracks, and other damage to the wing's leading edge, aileron, and flaps. The investigation revealed the diffuser case fracture was due to a crack that most likely developed in a toolmark in the case outer pressure wall in the rear skirt area, adjacent to the dog bone-shaped embossment at the 11 o'clock circumferential location. Extensive investigation could not determine the source of the excitation that caused the crack to progress in a high cycle fatigue mode. This condition, if not corrected, could result in diffuser case rupture due to cracks, which can result in an uncontained engine failure and damage to the aircraft.

The FAA has reviewed and approved the technical contents of PW Service Bulletin (SB) No. JT9D–6329, dated May 20, 1998, that describes inspection and rework procedures for cracks.

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 a fluorescent penetrant inspection (FPI) of the rear skirt of the diffuser case for cracks, and, if necessary, blending down to minimum wall thickness, to remove cracks, subsequent FPI to determine if cracks have been removed, and polishing and shotpeening. If the cracks are shown by subsequent FPI not to have been removed, this proposed AD would require removing the diffuser case from service for possible weld repair or replacement with serviceable parts. The actions would be required to be accomplished in accordance with the SB described previously.

There are approximately 566 engines of the affected design in the worldwide fleet. The FAA estimates that 157 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 68 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $640,560.

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:

Pratt & Whitney: Docket No. 98–ANE–28–AD.

Applicability: Pratt & Whitney (PW) Model JT9D–7Q, –7Q3, –59A, and –70A turbofan engines, with diffuser cases, part numbers (P/Ns) 772173, 772173–001, 772173–002, 782222, 782222–001, and 782222–002, installed. These engines are installed on but not limited to Boeing 747 series, McDonnell Douglas DC–10 series, and Airbus A300 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD.

For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent diffuser case rupture due to cracks, which can result in an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) At the next piece-part exposure of the diffuser case after the effective date of this AD, accomplish the following in accordance with PW Service Bulletin (SB) No. JT9D–6329, dated May 20, 1998:

(1) Perform a fluorescent penetrant inspection (FPI) in accordance with the procedures and criteria stated in the SB of the areas around the dog bone-shaped bosses in the diffuser case rear skirt identified in the SB for cracks.

(2) If no indications of cracks are found in accordance with the procedures and criteria stated in the SB, no further action is required.

(3) If indications of cracks are found in accordance with the procedures and criteria stated in the SB, remove the diffuser case from service, replace with a serviceable part, or blend the cracks as needed down to the minimum wall thickness to remove cracks in accordance with the procedures and criteria stated in the SB.

(4) After blending down in accordance with the procedures and criteria stated in the SB, perform a subsequent etch and FPI for cracks, as follows:

(i) If no indications of cracks are found in accordance with the procedures and criteria stated in the SB, polish and shot-peen the area around each dog bone boss in accordance with the procedures and criteria stated in the SB.

(ii) If indications of cracks are found in accordance with the procedures and criteria stated in the SB, remove the diffuser case from service and replace with a serviceable part.

(b) For the purpose of this AD, piece-part exposure is defined as when the part is considered completely disassembled when done in accordance with the disassembly instructions in the engine manufacturer's maintenance manual, to give access to the dog bone-shaped bosses in the diffuser case rear skirt.

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

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

(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 aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on August 25, 1998.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–23360 Filed 8–28–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–61–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney PW2000 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposal would require revisions to the Time Limits Section (TLS) of the manufacturer's Engine Manuals (EMs) for Pratt & Whitney (PW) PW2000 series turbofan engines to include required enhanced inspection of selected critical life-limited parts at each piece-part exposure. This proposal would also require an air carrier's approved continuous airworthiness maintenance program to incorporate these inspection procedures. Air carriers with an approved continuous airworthiness maintenance program would be allowed to either maintain the records showing the current status of the inspections using the record keeping system specified in the air carrier's maintenance manual, or establish an acceptable alternate method of record keeping. This proposal is prompted by an FAA study of in-service events involving uncontained failures of critical rotating engine parts which indicated the need for improved inspections. The improved inspections are needed to identify those critical rotating parts with conditions, that if allowed to continue in service, could result in uncontained failures. The actions specified by this proposed AD are intended to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

DATES: Comments must be received by November 30, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–61–AD, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may also be sent via the Internet using the following address: ''9-ad-engineprop@faa.dot.gov''. Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Peter White, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7128, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–ANE–61–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–61–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

A recent FAA study analyzing 15 years of accident data for transport category airplanes identified several failure mode root causes that can result in serious safety hazards to transport category airplanes. This study identified uncontained failure of critical life-limited rotating engine parts as the leading engine-related safety hazard to airplanes. Uncontained engine failures have resulted from undetected cracks in rotating parts that initiated and propagated to failure. Cracks can originate from causes such as unintended excessive stress from the original design, or they may initiate from stresses induced from material flaws, handling damage, or damage from machining operations. The failure of rotating parts can present a significant safety hazard to the airplanes by release of high energy fragments that could injure passengers or crew by penetration of the cabin, damage flight control surfaces, sever flammable fluid lines, or otherwise compromise the airworthiness of the airplane.

Accordingly, the FAA has developed an intervention strategy to significantly reduce uncontained engine failures. This intervention strategy was developed after consultation with industry and will be used as a model for future initiatives. This intervention strategy is to conduct enhanced, nondestructive inspections of fan hubs which could most likely result in a safety hazard to the airplane in the event of a disk failure. The need for additional rule making is also being considered by the FAA. Future ADs may be issued introducing additional intervention strategies to further reduce or eliminate uncontained engine failures.

Properly focused enhanced inspections require identification of the parts whose failure presents the highest safety hazard to the airplane, identifying the most critical features to inspect on these parts, and utilizing inspection procedures and techniques that improve crack detection. The FAA, with close cooperation of the engine manufacturers, has completed a detailed analysis that identifies the most safety significant parts and features, and the most appropriate inspection methods.

Critical life-limited high energy rotating parts are currently subject to some form of recommended crack inspection when exposed during engine maintenance or disassembly. As a result of this AD, the inspections currently

recommended by the manufacturer will become mandatory for those parts listed in the compliance section. Furthermore, the FAA intends that additional mandatory enhanced inspections resulting from this AD serve as an adjunct to the existing inspections. The FAA has determined that the enhanced inspections will significantly improve the probability of crack detection while the parts are disassembled during maintenance. All mandatory inspections must be conducted in accordance with detailed inspection procedures prescribed in the manufacturer's Engine Manuals.

Additionally, this AD allows for air carriers operating under the provisions of 14 CFR part 121 with an FAA-approved continuous airworthiness maintenance program, and entities with whom those air carriers make arrangements to perform this maintenance, to verify performance of the enhanced inspections by retaining the maintenance records that include the inspections resulting from this AD, provided that the records include the date and signature of the person performing the maintenance action. These records must be retained with the maintenance records of the part, engine module, or engine until the task is repeated. This will establish a method of record preservation and retrieval typical to those in existing continuous airworthiness maintenance programs. Instructions must be included in an air carrier's maintenance manual providing procedures on how this record preservation and retrieval system will be implemented and integrated into the air carrier's record keeping system.

For engines or engine modules that are approved for return to service by an authorized FAA-certificated entity and that are acquired by an operator after the effective date of this AD, the mandatory enhanced inspections need not be accomplished until the next piece-part opportunity. For example, there is no need for an operator to disassemble to piece-part level an engine or module returned to service by an FAA-certificated facility simply because that engine or module was previously operated by an entity not required to comply with this AD. Furthermore, the FAA intends for operators to perform the enhanced inspections of these parts at the next piece-part opportunity following the initial acquisition, installation, and removal of the part following the effective date of this AD. For piece parts that have not been approved for return to service prior to the effective date of this AD, the FAA does intend that the mandatory enhanced inspections required by this AD be performed before such parts are approved for return to service. Piece parts that have been approved for return to service prior to the effective date of this AD may be installed; however, enhanced inspection will be required at the next piece-part opportunity.

This proposal would require, within the next 30 days after the effective date of this AD, revisions to the Time Limits Section (TLS) of the Engine Manuals, and, for air carriers, the approved continuous airworthiness maintenance program. Pratt & Whitney, the manufacturer of PW2000 series turbofan engines, used on 14 CFR part 25 airplanes has provided the FAA with a detailed proposal that identifies and prioritizes the critical life-limited rotating engine parts with the highest potential to hazard the airplane in the event of failure, along with instructions for enhanced, focused inspection methods. The enhanced inspections resulting from this AD will be conducted at piece-part opportunity, as defined below in the compliance section, rather than specific time inspection intervals.

There are approximately 780 engines of the affected design in the worldwide fleet. The FAA estimates that 650 engines installed on airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, and using recent shop visit rate data, the total cost impact of the proposed AD on U.S. operators is estimated to be approximately $145,000 per year.

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:

Pratt & Whitney: Docket 98–ANE–61–AD.

Applicability: Pratt & Whitney PW2037, PW2040, PW2037M, PW2240, PW2337, PW2043, PW2643, and PW2143, series turbofan engines, installed on but not limited to Boeing 757 series and Ilyushin IL–96T series airplanes.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane, accomplish the following:

(a) Within the next 30 days after the effective date of this AD, revise the manufacturer's Time Limits section of the manufacturer's Engine Manual, Part Number 1A6231, as appropriate for the Pratt & Whitney PW2037, PW2040, PW2037M, PW2240, PW2337, PW2043, PW2643, and PW2143 series turbofan engines, and for air carriers revise the approved continuous airworthiness maintenance program, by adding the following:

''MANDATORY INSPECTIONS

(1) Perform inspections of the following parts at each piece-part opportunity in

accordance with the instructions provided in the PW2000 series Engine Manuals:

Part nomenclature	Part number (P/N) inspection	Manual section
Hub, 1st Stg Comp.	1A9001 (Assy P/N 1A9021). Inspection –06	72–31–04

(2) For the purposes of these mandatory inspections, piece-part opportunity means:

(i) The part is considered completely disassembled when done in accordance with the disassembly instructions in the manufacturers engine manual; and

(ii) The part has accumulated more than 100 cycles in service since the last piece-part opportunity inspection, provided that the part was not damaged or related to the cause for its removal from the engine.''

(b) Except as provided in paragraph (c) of this AD, and notwithstanding contrary provisions in section 43.16 of the Federal Aviation Regulations (14 CFR 43.16), these enhanced inspections shall be performed only in accordance with the TLS of the appropriate PW2000 series Engine Manuals.

(c) 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 Engine Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Engine Certification Office.

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

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

(e) The record of the mandatory inspections required as a result of revising the Time Limits of the PW2000 series Engine Manuals as provided by paragraph (a) of this AD shall be maintained by FAA-certificated air carriers who have an approved continuous airworthiness maintenance program in accordance with the record keeping system currently specified in their manual required by section 121.369 of the Federal Aviation Regulations (14 CFR 121.369); or, in lieu of the record showing the current status of each mandatory inspection required by section 121.380(a)(2)(vi) of the Federal Aviation Regulations (14 CFR 121.380(a)(2)(vi)), certificated air carriers may establish an alternate system of record retention that provides a method for preservation and retrieval of the maintenance record that includes the inspections resulting from this AD, and include the policy and procedures for implementing this alternate method in the manual required by section 121.369(c) of the Federal Aviation Regulations (14 CFR 121.369(c)) provided the alternate system must require the maintenance record be maintained either indefinitely or until the work is repeated.

Note 3: These record keeping requirements apply only to the records used to document the mandatory enhanced inspections required as a result of revising the Time Limits section of the PW2000 series Engine Manuals as provided in paragraph (a) of this AD, and do not alter or amend the record keeping requirements for any other AD or regulatory requirement.

Issued in Burlington, Massachusetts, on August 25, 1998.

David A. Downey,

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

[FR Doc. 98–23361 Filed 8–28–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASO–16]

Proposed Establishment of Class D Airspace; Concord, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to establish Class D airspace at Concord, NC. The City of Concord, North Carolina is installing a control tower at the Concord Regional Airport. Class D surface area airspace is required when the control tower is open to accommodate current Standard Instrument Approach Procedures (SIAPs) and for Instrument Flight Rules (IFR) operations at the airport. This would establish Class D airspace extending upward from the surface to and including 3,200 feet MSL within a 4-mile radius of the Concord Regional Airport. Control tower hours of operation are tentatively scheduled for 0700–2300, daily.

DATES: Comments must be received on or before September 30, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 98–ASO–16, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 98–ASO–16.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class D airspace at Concord, NC. The City of Concord, North Carolina is installing a control tower at the Concord Regional Airport. Class D

surface area airspace is required when the control tower is open to accommodate current SIAPs and for IFR operations at the airport. Class D airspace designations for airspace areas extending upward from the surface are published in Paragraph 5000 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed 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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ASO NC D Concord, NC [New]

Concord Regional Airport, NC
(lat. 35°23′11″N, long. 80°42′58″W)

That airspace extending upward from the surface to and including 3,200 feet MSL within a 4-mile radius of Concord Regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on August 20, 1998.

John C. Thompson,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 98–23363 Filed 8–28–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG–104565–97]

RIN 1545–AV50

Revision of the Tax Refund Offset Program

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the administration of the Tax Refund Offset Program (TROP). This action is necessary because TROP, which is currently administered by the IRS, is being merged into the centralized administrative offset program known as the Treasury Offset Program (TOP), which is administered by the Financial Management Service (FMS). These regulations will affect State and Federal agencies that participate in TROP.

DATES: Written comments and requests for a public hearing must be received by November 30, 1998.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–104565–97), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–104565–97), Courier's Desk, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS internet site at http://www.irs.ustreas.gov/prod/tax_regs/comments.html.

FOR FURTHER INFORMATION CONTACT: John J. McGreevy, (202) 622-4910 (not toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Procedure and Administration Regulations (26 CFR part 301) relating to section 6402 (c) and (d). The proposed regulations contain revised effective dates for the regulations under section 6402 (c) and (d).

Explanation of Provisions

Section 6402(c) provides, in general, that the amount of any overpayment to be refunded to the person making the overpayment must be reduced by the amount of any past-due support (as defined in section 464(c) of the Social Security Act) owed by that person of which the Secretary has been notified by a State in accordance with section 464 of the Social Security Act.

Section 6402(d) provides, in general, that upon receiving notice from any Federal agency that a named person owes a past-due, legally enforceable debt to that agency, the Secretary must reduce the amount of any overpayment payable to that person by the amount of the debt, pay the amount by which the overpayment is reduced to the agency, and notify the person making the overpayment that the overpayment has been reduced.

The IRS currently makes offsets pursuant to section 6402 (c) and (d) according to regulations prescribed under those sections. See §§ 301.6402–5 and 301.6402–6 of the Regulations on Procedure and Administration.

Section 31001(v)(2) and (w) of the Debt Collection Improvement Act of 1996 (110 Stat. 1321–375), amended 42 U.S.C. 664(a)(2)(A) and 31 U.S.C. 3720A(h), respectively, to clarify that the disbursing agency of the Treasury Department may conduct tax refund offsets. The disbursing agency of the Treasury Department is the FMS.

The IRS and FMS have agreed that the Tax Refund Offset Program (TROP), which is currently administered by the IRS, will be merged into the centralized administrative offset program known as the Treasury Offset Program (TOP), which is administered by the FMS. The merger of the two programs is intended to maximize and improve the Treasury Department's government-wide collection of nontax debts, including those subject to offset against the debtor's Federal tax refund. The full

merger of TROP with TOP is expected to occur by January 1, 1999.

Interim rules concerning the manner in which the FMS will administer the collection of nontax federal debts after the merger of TROP with TOP were published by the FMS in the **Federal Register** on June 25, 1997 (62 FR 34175) (codified at 31 CFR Part 285) effective for refunds payable after January 1, 1998. The regulations proposed in this document provide an ending effective date for § 301.6402–6 to accommodate the beginning effective date of the FMS regulations. Accordingly, § 301.6402–6 will not apply to refunds payable after January 1, 1998.

A notice of proposed rulemaking concerning the manner in which the FMS will administer the collection of past-due child support payments was published by the FMS in the **Federal Register** on August 4, 1998 (63 FR 41688) (which when finalized will be codified at 31 CFR Part 285), effective for refunds payable after January 1, 1999. The regulations in this document provide an ending effective date for § 301.6402–5 to accommodate the expected beginning date for the full merger of TROP with TOP. Accordingly, it is expected that § 301.6402–5 will not apply to refunds payable after January 1, 1999.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic or written comments (a signed original and eight (8) copies of written comments) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information. The principal author of these regulations is John J. McGreevy, Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and the Treasury Department participated in the development of the regulations.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

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

Par. 2. Section 301.6402–5 is amended by adding paragraph (h) to read as follows:

§ 301.6402–5 Offset of past-due support against overpayments.

* * * * *

(h) *Effective dates.* This section applies to refunds payable on or before January 1, 1999. For the rules applicable after January 1, 1999, see 31 CFR part 285.

Par. 3. Section 301.6402–6 is amended by revising paragraph (n) to read as follows:

§ 301.6402–6 Offset of past-due, legally enforceable debt against overpayment.

* * * * *

(n) *Effective dates.* This section applies to refunds payable under section 6402 after April 15, 1992, and on or before January 1, 1998. For the rules applicable after January 1, 1998, see 31 CFR part 285.

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

[FR Doc. 98–23380 Filed 8–28–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11–98–007]

RIN 2115–AE46

Special Local Regulations; Northern California Annual Marine Events

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to remove a number of outdated sections of Special Local Regulations in 33 CFR part 100 and replace them with a single section containing an updated master list of recurring marine events in Northern California, including various fireworks demonstrations, for which Special Local Regulations are required. The Special Local Regulations are necessary to control vessel traffic within the immediate vicinity of these marine events to ensure the safety of life and property during each event. The comprehensive, permanent listing will enable mariners and members of the public to better anticipate major marine events, and will also greatly ease the administration of these marine events by the Coast Guard.

DATES: Comments should be received on or before October 30, 1998.

ADDRESSES: Comments may be mailed to Petty Officer Douglas Adams, U.S. Coast Guard Group San Francisco, Yerba Buena Island, San Francisco, California, 94130–9309, or delivered to the same address between 9 and 5 pm., Monday through Friday, except holidays. The telephone number is (415) 399–3440.

Commander, Coast Guard Group San Francisco maintains the public docket for this rulemaking. Comments, and any documents referenced in this preamble, will become part of this docket and will be available for inspection and copying at Group San Francisco between 9 a.m. and 5 p.m., Monday through Friday, except holidays. Please call before visiting.

FOR FURTHER INFORMATION CONTACT: Petty Officer Douglas Adams, U.S. Coast Guard Group San Francisco, Yerba Buena Island, San Francisco, California, 94130–9309. The telephone number is (415) 399–3440.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views or arguments. Persons submitting comments should include their names

and addresses, identifying this rulemaking (CGD11–98–007) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and attachments in unbound format, no larger than 8.5 by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Coast Guard San Francisco at the address under **ADDRESSES.** The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid in this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Background and Purpose

In accordance with the Coast Guard's responsibility to promulgate special local regulations to insure the safety of life and protection of property on the navigable waters where marine events are held, Commander, Eleventh Coast Guard District, proposes to replace the outdated text of 33 CFR 100.1103 with a complete table of the annually recurring marine events in the Northern California area. The regulations currently contained in 33 CFR 100.1104 and 33 CFR 100.1203, which have also become outdated, will be deleted and superseded by the new text of 33 CFR 100.1103 as part of this proposal as well.

Discussion of Proposed Rule

To streamline the administration of its safety enforcement responsibilities the Coast Guard proposes to revise 33 CFR 100.1103. The current text will be deleted and new Special Local Regulations will replace its content. Within this section will be a listing of recurring marine events involving marine regattas and races, non-competitive marine parades, and fireworks displays for which, in the interest of public safety, Special Local Regulations are required. This listing will be placed under the heading ''Table 1''.

Generic requirements for all Special Local Regulations will be explained in the paragraphs that precede Table 1. Any requirements that are event-specific will accompany the individual listings to which they apply in Table 1. Notification of the implementation of these Special Local Regulations for the duration of each individual event will be effectuated by announcement in the Local Notice to Mariners, as well as by publication in the **Federal Register** when practicable and/or otherwise required. This list of regulated events does not necessarily reflect all recurring marine events in the Northern California area. Only those recurring events that the Coast Guard has knowledge of, and that are necessary to ensure the safety of life and protection of property on the navigable waters of Northern California, are listed.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under Section 3(f) of Executive Order 12886 and does not require assessment of potential cost and benefits under Section 6(a)(3) of that Order. It has been exempted from review of 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). Due to the short duration of these marine events and the advance notice provided to the maritime community, the Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under Paragraph 10(a) of the regulatory policies and procedures of the Department of Transportation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000.

Because it expects the impact of this proposal to be so minimal, the Coast Guard certifies under Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this proposal, if adopted, will not have a substantial impact on a significant number of small entities. If, however, a business or organization feels it qualifies as a small entity and that this proposed rule will have a significant economic impact on its business or organization, comments may be submitted (see **ADDRESSES**) explaining why the business qualifies, and in what way and to what degree this proposed rule will economically affect it.

Assistance for Small Entities

In accordance with 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this proposal so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Petty Officer Douglas Adams, U.S. Coast Guard Group San Francisco at (415) 399–3440.

Collection of Information

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

Federalism

The Coast Guard has analyzed this proposed 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 has considered the environmental impact of this proposed rule and concluded that under Chapter 2.B.2. of Commandant Instruction M16475.1C, Figure 2–1, paragraph (35), it will have no significant environmental impact and it is categorically excluded from further environmental documentation. The individual events listed in Table 1 have, in connection with the marine events permit process, either been environmentally assessed and found to have no significant impact, or are otherwise categorically excluded from further environmental documentation. For those events that are not categorically excluded from further environmental documentation, Environmental Assessments and Findings of No Significant Impact have been prepared and are available for inspection and copying at the location listed under **ADDRESSES**. For those events that are categorically excluded from further environmental documentation, environmental assessment checklists and Categorical Exclusion Determinations have, when required, been prepared. They are also available for inspection and copying at the location listed under **ADDRESSES**.

Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), the Coast Guard must consider whether this proposed rule will result in an annual expenditure by state, local, and tribal governments, in the aggregate of $100 million (adjusted annually for inflation). If so, the Act requires that a reasonable number of regulatory alternatives be considered, and that from those alternatives, the least costly, most cost-effective, or least burdensome alternatives that achieves the objective of the rule be selected.

No state, local, or tribal government entities will be affected by this rule, so this rule will not result in annual or aggregate costs of $100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

List of Subjects in 33 CFR Part 100

Regattas and Marine Parades.

Proposed Regulation

As set forth in the preamble, the Coast Guard proposes to amend 33 CFR Part 100 as follows:

PART 100—MARINE EVENTS

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

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

§ 100.1104 [Removed]

2. Remove § 100.1104.

§ 100.1203 [Removed]

3. Remove § 100.1203.

4. Revise § 100.1103 to read as follows:

§ 100.1103 Northern California Annual Marine Events

(a) Special local regulations are established for the events listed in Table 1. Further information on exact dates, times, details concerning number and type of participants, and an exact geographical description of the regulated area for each event is published by the Eleventh Coast Guard District in the Local Notice to Mariners. Sponsors of events listed in Table 1 of this section must submit an application each year as required by section 100.15 of this part to Commander, Coast Guard Group San Francisco, Yerba Buena Island, San Francisco, CA 94130–9309.

(b) The areas in which these marine events take place are designated ''regulated areas'' during the dates and/or times set forth for each event in Table 1. No vessels of any type, except those approved by Commander, Coast Guard Group San Francisco, or his/her designated representatives, will be allowed in these areas.

(c) All persons and/or vessels not registered with the sponsor as participants or with Commander, Coast Guard Group San Francisco as official patrol vessels are considered spectators. The ''official patrol'' consists of any Coast Guard, other Federal, state or local law enforcement, and any public and/or sponsor-provided vessels assigned and/or approved by Commander, Coast Guard Group San Francisco, to patrol each event.

(1) No spectator shall transit through, anchor, block, loiter in, nor impede the through transit of participants of official patrol vessels, in the regulated areas during all applicable effective dates and times, unless cleared for such entry or activity by or through an official patrol vessel.

(2) When hailed and/or signaled by an official patrol vessel, any spectator located within a regulated area during all applicable effective dates and times shall come to an immediate stop.

(d) The ''Patrol Commander'' (PATCOM) will be the lead official patrol vessel and shall have on board a U.S. Coast Guard commissioned officer, warrant officer or petty officer to act as the Group Commander's official representative.

(1) The Patrol Commander (PATCOM) may forbid or control the movement of all vessels in the regulated area. The Patrol Commander shall be designated by Commander, Coast Guard Group San Francisco. As the Group Commander's representative, the PATCOM may terminate the event any time it is deemed necessary for the protection of life and property. PATCOM may be reached on VHF–FM Channel 13 (156.65 MHz) when required, by the call sign ''PATCOM''.

(2) The Patrol Commander may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

Table 1

Golden Gate Challenge

Sponsor: Pacific Offshore Powerboat Racing Association.

Event Description: Professional high-speed powerboat race.

Date: Saturday or Sunday in April.

Location: San Francisco waterfront to south tower of Golden Gate Bridge.

Regulated Area: 37° – 49′ – 10″ N, 122° – 24′ – 07″ W; thence to 37° – 48′ – 50″ N, 122° – 24′ – 07″ W; thence to 37° – 48′ – 56″ N, 122° – 28′ – 48″ W, thence to 37° – 48′ – 48″ N, 122° – 28′ – 48″ W, thence returning to the point of origin.

Blessing of the Fleet, San Francisco Bay

Sponsor: Corinthian Yacht Club.

Event Description: Boat parade during which vessels pass by a pre-designated platform or vessel.

Date: Last Sunday in April.

Location: Raccoon Strait.

Regulated Area: The area between a line drawn from Bluff Point on the southeastern side of Tiburon Peninsula to Point Campbell on the northern edge of Angel Island, and a line drawn from Peninsula Point on the southern edge of Tiburon Peninsula to Point Stuart on the western edge of Angel Island.

Opening Day on San Francisco Bay

Sponsor: Pacific Inter-Club Yacht Association.

Event Description: Boat parade during which vessels pass by a pre-designated platform or vessel.

Date: Last Sunday in April.

Location: San Francisco waterfront from Crissy Field to Pier 35.

Regulated Area: The area defined by a line drawn from Fort Point (37° – 48.66′N, 122° – 28.64′W) 079° True for approximately 5,000 yards to a point located at 37°49.15″N, 122° – 25.61′W, thence 091° True to the Blossom Rock Bell Buoy (in approximate position 37° – 49.10′N, 122° – 24.20′W), thence 200° True to the northeastern corner of Pier 35.

Special Requirements. All vessels entering the regulated area shall follow the parade route established by the sponsor and be capable of maintaining an approximate speed of 6 knots.

Commercial Vessel Traffic Allowances. The parade will be interrupted, as necessary, to permit the passage of commercial vessel traffic. Commercial traffic must cross the parade route at a no-wake speed and perpendicular to the parade route.

KFOG Sky Concert

Sponsor: KFOG Radio, San Francisco.

Event Description: Fireworks display.

Date: Last Saturday in May.

Location: Approximately 1,000 feet off of Pier 30/32.

Regulated Area: That area of navigable waters within a 1,000-foot radius of the launch platform.

Fourth of July Celebration

Sponsor: Port of Oakland.

Event Description: Fireworks display.

Date: July 4th.

Location: Oakland Estuary off of Jack London Square.

Regulated Area: That area of navigable waters within a 1,000-foot radius of the launch platform.

Fourth of July Fireworks, City of Monterey

Sponsor: City of Monterey Recreation and Community Services Department.

Event Description: Fireworks display.

Date: July 4th.

Location: Monterey Bay, east of Municipal Wharf #2.

Regulated Area: That area of navigable waters within a 1,000-foot radius of the launch platform.

Fourth of July Fireworks, City of Sausalito

Sponsor: City of Sausalito.

Event Description: Fireworks display.

Date: July 4th.
Location: 1,000 feet offshore from the Sausalito waterfront, north of Spinnaker Rest.
Regulated Area: That area of navigable waters within a 1,000-foot radius of the launch platform.

Fourth of July Fireworks, Lake Tahoe

Sponsor: Anchor Trust.
Event Description: Fireworks display.
Date: July 4th.
Location: 1,000 feet off of Incline Village, Nevada, in Crystal Bay.
Regulated Area: That area of navigable waters within a 1,000-foot radius of the launch platform.

Fourth of July Fireworks, South Lake Tahoe Gaming Alliance

Sponsor: Harrah's Lake Tahoe.
Event Description: Fireworks display.
Date: July 4th.
Location: Off of South Lake Tahoe, California, near the Nevada border.
Regulated Area: That area of navigable waters within a 1,000-foot radius of the launch platform.

Independence Day Fireworks

Sponsor: North Tahoe Fire Protection District.
Event Description: Fireworks display.
Date: July 4th.
Location: Offshore from Kings Beach State Beach.
Regulated Area: That area of navigable waters within a 1,000-foot radius of the launch platform.

July 4th Fireworks Display

Sponsor: North Tahoe Fire Protection District.
Event Description: Fireworks display.
Date: July 4th.
Location: Offshore of Common Beach, Tahoe City, California
Regulated Area: That area of navigable waters within a 1,000-foot radius of the launch platform.

San Francisco Chronicle Fireworks Display

Sponsor: San Francisco Chronicle.
Event Description: Fireworks display.
Date: July 4th.
Location: San Francisco, 1,000 feet off Municipal Pier and Pier 39.
Regulated Area: Black Point: 37°48′30″ N, 122°25′42″ W thence to NW Corner: 37°48′52″ N, 122°25′42″ W thence to NE Corner: 37°49′10″ N, 122°24′30″ W thence to SE Corner: 37°48′42″ N, 122°24′30″ W.

Vallejo Fourth of July Fireworks

Sponsor: Vallejo Marina.
Event Description: Fireworks display.
Date: July 4th.
Location: Mare Island Strait.
Regulated Area: That area of navigable waters within a 1,000-foot radius of the launch platform.

Race the Straits

Sponsor: Pacific Offshore Powerboat Racing Association.
Event Description: Professional high-speed powerboat race.
Date: Sunday in July.
Location: Carquinez Strait and San Pablo Strait.
Regulated Area: 38°02′12″ N, 122°08′31″ W thence to 38°02′38″ N, 122°10′00″ W thence to 38°03′20″ N, 122°10′20″ W thence to 38°03′47″ N, 122°13′32″ W thence to 38°03′36″ N, 122°17′37″ W thence to 38°03′19″ N, 122°17′34″ W thence to 38°03′35″ N, 122°13′32″ W thence to 38°03′24″ N, 122°12′01″ W thence to 38°02′58″ N, 122°10′58″ W thence to 38°01′55″ N, 122°09′47″ W thence to 38°01′58″ N, 122°08′31″ W thence returning to the point of origin.

Delta Thunder

Sponsor: Pacific Offshore Powerboat Racing Association.
Event Description: Professional high-speed powerboat race.
Date: Sunday in September.
Location: Off Pittsburgh, California, in the waters around Winter Island and Brown Island.
Regulated Area: The entire water area of Suisun Bay east of a line drawn from Simmons Point on Chips Island to Stake Point to the southwest on the opposite side of Suisun Bay; thence easterly through Suisun Bay and continuing easterly through New York Slough to Buoy 13; thence north-northwesterly to the eastern edges of Fraser Shoal; thence continuing northwesterly along the entire southern shores of Chain Island; thence southwesterly through the entire waters of Suisun Bay and returning to the point of origin.

Festival of the Sea

Sponsor: San Francisco Maritime National Historical Park.
Event Description: Tugboat race.
Date: Sunday in September.
Location: From Crissy Field to Hyde Street Pier.
Regulated Area: San Francisco Bay immediately off of Golden Gate Yacht Club, Gashouse Cove, Aquatic Park and the Hyde Street Pier. All mariners may proceed with caution but must keep at least 500 feet from the competing tugboats.

Dated: 28 July 1998.

R.D. Sirois,

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

[FR Doc. 98–23372 Filed 8–28–98; 8:45 am]
BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NJ31–1–182, FRL–6153–9]

Approval and Promulgation of Implementation Plans; Reasonably Available Control Technology for Oxides of Nitrogen for the State of New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes approval of revisions to the New Jersey State Implementation Plan (SIP) for ozone. This portion of the implementation plan was submitted by the State as an amendment to New Jersey's rules for the application of reasonably available control technology (RACT) for oxides of nitrogen (NO_X) in the entire State. The Clean Air Act (the Act) requires implementation of NO_X RACT at major stationary sources of NO_X emissions in the State of New Jersey by May 31, 1995.

DATES: Comments must be received on or before September 30, 1998.

ADDRESSES: All comments should be addressed to: Ronald Borsellino, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of the state submittal and other information are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th floor, New York, New York 10007–1866.

New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Quality Planning, 401 East State Street, CN418, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: Ted Gardella, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th floor, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION:

I. Background

The air quality planning requirements for the reduction of NO_X emissions through application of RACT are set out in section 182(f) of the Act. The EPA described § 182(f) requirements in a notice entitled ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (NO_X Supplement) which was published on November 25, 1992 (57 FR 55620). For detailed information on the NO_X requirements, refer to the NO_X Supplement and to additional NO_X guidance memoranda released subsequent to the NO_X Supplement.

The EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering

technological and economic feasibility (44 FR 53762; September 17, 1979).

Section 182 of the Act provides requirements for marginal and above nonattainment areas. Within ozone nonattainment areas classified moderate or above and areas within an ozone transport region, § 182(f) requires that States apply the same requirements to major stationary sources of NO_X (''major'' as defined in § 302 and § 182(c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs). For more information on what constitutes a major source, see section 2 of the NO_X Supplement to the General Preamble.

Section 182(b)(2) of the Act requires submissions, by November 15, 1992, of SIP revisions which provide for implementation of RACT as expeditiously as practicable but no later than May 31, 1995, where for a source category EPA has issued a control technique document (CTG) before November 15, 1990, or for all major stationary sources that the Agency has not issued a CTG. For sources covered by a CTG between November 15, 1990 and the date of attainment, § 182(b)(2) requires SIP revisions within the period set forth by the Administrator in issuing the CTG document.

EPA did not issue any CTGs for major stationary sources of NO_X either before or after November 15, 1990. Therefore, § 182(b)(2) of the Act requires submission, by November 15, 1992, of all SIP revisions which provide for implementation of RACT on major stationary sources of NO_X for all ozone nonattainment areas classified moderate or above and for all ozone transport regions. New Jersey, which is within the Northeast ozone transport region established by § 184(a) of the Act, should have submitted SIP revisions, by November 15, 1992, which provided for implementation of the NO_X RACT revisions as expeditiously as practicable but no later than May 31, 1995. Sections 182(f) and 184(b) of the Act require the application of NO_X RACT requirements Statewide.

II. State Submittal

On November 15, 1993, New Jersey submitted to EPA, as a revision to the SIP, Subchapter 19 of Chapter 27, Title 7 of the New Jersey Administrative Code. Subchapter 19 is entitled ''Control and Prohibition of Air Pollution From Oxides of Nitrogen.'' This Subchapter provides the NO_X RACT requirements for New Jersey and is effective on December 20, 1993. New Jersey held public hearings on Subchapter 19 in March 1993 and adopted it on November 15, 1993. On January 27, 1997, EPA published final approval of Subchapter 19 in the **Federal Register** (62 FR 3804) and the rule became effective on February 26, 1997.

New Jersey held public hearings on the amendments to Subchapter 19 in September 1994 and the Commissioner signed and adopted these amendments on March 24, 1995. On June 21, 1996, New Jersey submitted, to EPA, as a revision to the SIP, the amendments to Subchapter 19. EPA reviewed the submittal to determine completeness in accordance with criteria set out at 40 CFR 51. In a letter to the Commissioner dated September 26, 1996, EPA indicated it had found the submittal administratively and technically complete.

The June 1996 submittal includes six new provisions and various amendments to Subchapter 19. For a more detailed discussion of New Jersey's submittal and EPA's proposed action on the submittal, refer to the Technical Support Document developed as part of this proposed action located at the previously mentioned addresses.

III. Analysis of New Jersey's SIP Submission

A. New Provisions

1. Fuel Switching

Section 19.20 of Subchapter 19 permits any combustion source to attain compliance through seasonal combustion of natural gas or any other fuel that is cleaner than the base year fuel. Section 19.20 replaces section 19.4(b) which allowed fuel switching only to certain utility boilers whereas this new provision applies to all combustion sources. The new fuel switching provision requires a combustion source to meet specified emission limits each day during the ozone season, a 30-day rolling average during the non-ozone season, and an annual NO_X emission limit. The fuel switching limits are enforceable through appropriate averaging times, test methods, compliance schedules, and reporting and recordkeeping requirements.

2. Phased Compliance—Repowering

Section 19.21 of Subchapter 19 permits any combustion source to attain compliance through repowering. Repowering is the permanent ceasing of operations of the steam generator and either the installation of a new combustion source or the purchase of heat or power from the owner of a new combustion source that is located in New Jersey. Section 19.21 requires a combustion source to submit an analysis that defines RACT for the interim period between May 31, 1995 and the date the source will be repowered which will be no later than May 1, 1999; and to submit the dates for completion of repowering milestones. The source also must commit to meeting emission limits, after the repowering is completed, which rely on advanced control techniques. The maximum allowable NO_X emission rate, expressed in pounds per million BTUs (lb/MM BTU), for repowered utility boilers ranges from 0.1 to 0.2 depending upon the type of boiler and type of fuel.

Section 19.21 replaces § 19.4(c) which allowed repowering only to utility boilers whereas this new provision applies to all combustion sources. New Jersey's repowering provision in § 19.21 is consistent with EPA's repowering guidance issued in March 1994. The phased compliance repowering requirements are enforceable through appropriate averaging times, test methods, compliance schedules, and reporting and recordkeeping requirements.

3. Phased Compliance—Impracticality of Full Compliance by May 31, 1995

Section 19.22 permits a combustion source to implement RACT after May 31, 1995 if it is impracticable to attain full compliance by that date despite the best efforts of the owners/operators. Under this circumstance, New Jersey allows an owner/operator to meet RACT requirements by complying with a plan for phased compliance. In its application to New Jersey for approval of a phased compliance plan, the owner/operator must describe the efforts taken to bring the source into full compliance by May 31, 1995 and must explain the circumstances that make full compliance by that date impracticable. The compliance plan must include a compliance schedule and the proposed NO_X control measure that the source will employ during the interim period between May 31, 1995 and the date when the source will achieve full compliance. Section 19.22 requires the interim period be less than twelve months, i.e., by May 31, 1996.

Section 19.22 is consistent with EPA guidance for phased compliance as published in the **Federal Register** (57 FR 55620, November 23, 1992) and is enforceable through compliance schedules and the applicable averaging time, test methods, and reporting and recordkeeping requirements.

4. Phased compliance—Use of Innovative Control Technology

Section 19.23 allows a combustion source to attain compliance through the use of innovative control technology. Section 19.23 applies to all combustion

sources. Innovative control technology is a control measure which has a substantial likelihood of achieving lower continuous levels of NO_X emissions as required under Subchapter 19, but which has not been adequately demonstrated and is not available to be implemented before May 31, 1995. In this situation, the combustion source is not expected to attain full compliance with Subchapter 19 by May 31, 1995 but instead, New Jersey requires the source to achieve a greater emission reduction at a later date. In its compliance plan application, the owner/operator must submit a RACT analysis for determining ''interim RACT,'' a milestone schedule for implementing the innovative control technology, and a demonstration that the innovative technology to be implemented is technically sound and sufficiently developed to be implemented by May 1, 1999.

New Jersey's innovative control technology provision in § 19.23 is consistent with EPA's July 1994 guidance. The phased compliance requirements through the use of innovative control technology are enforceable through appropriate averaging times, test methods, compliance schedules, and reporting and recordkeeping requirements.

5. Maximum Emergency Generation (MEG) Alerts

Section 19.24 provides that during a MEG alert which occurs on or before November 15, 2005, an emergency generating unit operating at emergency capacity is exempt from the NO_X emission limits applicable under Chapter 27 including Subchapter 19 and any limit set forth in the unit's permit. Subchapter 19 defines MEG alert as a period in which one or more electric generating units are operated at emergency capacity at the direction of the load dispatcher, in order to prevent or mitigate voltage reductions or interruptions in electrical service or both. When an electrical generating unit is operating beyond its normal maximum capacity during a MEG alert, its rate of NO_X emissions is likely to increase significantly. New Jersey requires that the generating unit obtain offsetting NO_X emission reductions, at a ratio of 1.3 to 1.0, to compensate for the excess NO_X emissions. The affected source is required to report the MEG alert to New Jersey along with the determination of excess NO_X emissions and compensation.

MEG alerts most typically occur during the summer ozone season when high demand for electricity occurs due to high usage of air conditioners and industrial cooling equipment. MEG alerts could also occur during bitterly cold weather or as a result of a catastrophic event or some major failure at a generating unit. New Jersey has reported (26 *New Jersey Register* 3304, August 15, 1994) that one of the major utilities in the State responded to alerts for a total of sixteen hours during the ozone and non-ozone seasons of the three-year period of 1990 to 1992.

EPA considers MEG alerts to have minimal impact on air quality during these emergency situations when the security and safety of the public could be at risk if an exemption were not granted. In addition, New Jersey has limited the NOx exemption period for MEG alerts until November 15, 2005 which is the primary standard attainment date for ozone established under § 181(a)1 of the Act for most of New Jersey. Beyond November 15, 2005, the MEG alert exemption no longer applies and affected sources must comply with the emission limits of Chapter 27 including Subchapter 19.

6. Exemption for Emergency Use of Fuel Oil

Section 19.25 permits an exemption to sources that combust natural gas or refinery gas as its primary year-round fuel and to sources that combust natural gas during the ozone season. The exemption allows the use of fuel oil or other liquid fuels during the periods when natural gas/refinery gas is unavailable. During this period the source is exempt from the applicable emission limits of Subchapter 19. Section 19.25 establishes requirements for a source to be eligible for an exemption including a 500 hour rolling annual limit on the use of fuel oil/liquid fuel, recordkeeping and reporting requirements, and the resumption to natural gas as soon as it becomes available in sufficient supply. Future revisions to Subchapter 19 should include language to § 19.25(c) that clearly establishes that the exemption eligibility criteria apply to sources that combust refinery gas as well as to those combusting natural gas. Currently, § 19.25 directly states that the exemption eligibility criteria apply to sources that combust natural gas but only infers that it applies to sources that combust refinery gas.

Section 19.25 is enforceable through appropriate averaging times, recordkeeping and reporting requirements. Furthermore, emergency sources that operate with fuel oil more than 500 hours per consecutive 12 month period are subject to emission controls and/or enforcement action in accordance with Subchapter 19. Finally, natural gas curtailments historically occur in the winter months when ozone formation is minimal and therefore an ozone exceedance is highly improbable.

B. Amendments

1. Ozone Season

Sections 19.2 (Purpose, scope and applicability), 19.6 (Emissions averaging), 19.7 (non-utility boilers and other indirect heat exchangers), 19.15 (Procedures and deadlines for demonstrating compliance), 19.19 (Recordkeeping and reporting) are amended to revise the start of the ozone season from May 15 to May 1 whereas the September 15 end date remains unchanged. This revision to the start of the ozone season is in agreement with EPA's general requirement for ozone monitoring (40 CFR Part 58, Appendix D, section 2.5).

2. Non-utility Boilers and Other Indirect Heat Exchangers

Section 19.7 is amended to include the source category ''other indirect heat exchangers'' requiring the same RACT limitations as non-utility boilers. New Jersey provides a definition and examples of indirect heat exchangers to include boilers, duct burners and process heaters. Section 19.7 requires a new emission limit of 0.20 lb/MM BTU for tangential and face-fired affected units that combust refinery gas and which have a maximum gross heat input of at least 50 MM BTU/hr.

New Jersey's emission limits are consistent with EPA's guidance. The emission limits are enforceable through appropriate averaging times, test methods, compliance schedules, and reporting and recordkeeping requirements.

3. Exemption for Thermal Oxidizers

Section 19.13 is amended to include an exemption to owners/operators of thermal oxidizers from the requirements to submit a facility-specific NO_X Control Plan that would establish RACT for the source. New Jersey has reviewed NO_X Control Plans for these sources and has determined that there is no existing NO_X control technology that could appropriately be considered RACT. Although EPA has not provided NO_X RACT guidance for thermal oxidizers, New Jersey has demonstrated that there are no NO_X control measures which represent RACT for these sources. Therefore, EPA proposes approval of this amendment.

4. Other Amendments

The following include administrative and procedural provisions to Subchapter 19 which were amended by New Jersey and reviewed by EPA: definitions; purpose, scope and

applicability; general provisions; utility boilers; stationary gas turbines; emissions averaging; non-utility boilers and other indirect heat exchangers; stationary internal combustion turbines; asphalt plants; glass manufacturing furnaces; facility-specific NO_X emission limits; procedures for obtaining approvals under this subchapter; procedures and deadlines for demonstrating compliance; recordkeeping and reporting; and penalties. EPA has evaluated the amendments to these provisions in Subchapter 19 for consistency with EPA policy and has determined that they meet the requirements. Therefore, EPA proposes approval of these amendments.

IV. Summary

The EPA is proposing full approval of the new provisions and amendments to Subchapter 19, ''Control and Prohibition of Air Pollution From Oxides of Nitrogen.'' The new provisions and amendments to Subchapter 19 were submitted by the State of New Jersey on June 21, 1996 for the marginal, moderate, and severe ozone nonattainment areas. New Jersey has applied Subchapter 19 to the entire State, regardless of the nonattainment status.

Administrative Requirements

Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

Executive Order 13045

The proposed rule is not subject to E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because it is not an ''economically significant'' action under E.O. 12866.

Unfunded Mandates

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

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

Submission to Congress and the General Accounting Office

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

Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 30, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: August 19, 1998.

Jeanne M. Fox,

Regional Administrator, Region 2.

[FR Doc. 98–23323 Filed 8–28–98; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 63, No. 168

Monday, August 31, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Passenger Vessel Access Advisory Committee; Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) gives notice of the dates, times, and location of the first meeting of the Passenger Vessel Access Advisory Committee (Committee).

DATES: The first meeting of the Committee is scheduled for September 24 and 25, 1998, beginning at 9:00 a.m. and ending at 5:00 p.m. each day.

ADDRESSES: The meetings will be held at the Smithsonian Institution's Ripley Center, 1100 Jefferson Drive, SW., Washington, DC in Room 3111.

FOR FURTHER INFORMATION CONTACT: Paul Beatty, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC, 20004–1111. Telephone number (202) 272–5434 extension 19 (Voice); (202) 272–5449 (TTY). E-mail pvaac@access-board.gov. This document is available in alternate formats (cassette tape, Braille, large print, or computer disk) upon request. This document is also available on the Board's Internet Site at http://www.access-board.gov/notices/pvaacmtg.htm).

SUPPLEMENTARY INFORMATION: The Architectural and Transportation Barriers Compliance Board (Access Board) established a Passenger Vessel Access Advisory Committee (Committee) to assist the Board in developing proposed accessibility guidelines for newly constructed and altered passenger vessels covered by the Americans with Disabilities Act. 63 FR 43136 (August 12, 1998). The Committee is composed of owners and operators of various passenger vessels; persons who design passenger vessels; organizations representing individuals with disabilities; and other individuals affected by these guidelines.

The Committee will meet on the dates and at the location announced in this notice. The meetings are open to the public. The facility is accessible to individuals with disabilities. Sign language interpreters, assistive listening systems and real-time captioning will be provided. Persons attending the meetings are strongly encouraged to use public transportation since parking is extremely limited. The Smithsonian Metro Station is located two blocks from the meeting site. Decisions with respect to future meetings will be made at the first meeting and from time to time thereafter. Notices of future meetings will be published in the **Federal Register**.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 98–23369 Filed 8–28–98; 8:45 am]

BILLING CODE 8150–01–P

ASSASSINATION RECORDS REVIEW BOARD

Sunshine Act Meetings

DATE: September 8, 9 and 14, 1998.

PLACE: ARRB, 600 E Street, NW, Washington, DC.

STATUS:

September 8: 9:00 a.m.—Closed

September 9: 1:30 p.m.—Open

September 14: 9:00 a.m.—Closed

MATTERS TO BE CONSIDERED:

Closed Meeting:

1. Review and Accept Minutes of Closed Meeting
2. Review of Assassination Records
3. Other Business

Open Meeting:

1. Discussion of Final Report
2. Review and Accept Minutes of August 26, 1998 Open Meeting
3. Other Business

CONTACT PERSON FOR MORE INFORMATION: Eileen Sullivan, Press Officer, 600 E Street, NW, Second Floor, Washington, DC 20530. Telephone: (202) 724–0088; Fax: (202) 724–0457.

Laura Denk,

Executive Director.

[FR Doc. 98–23464 Filed 8–27–98; 1:13 pm]

BILLING CODE 6118–01–P

CIVIL RIGHTS COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: Friday, September 18, 1998, 9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, N.W., Room 540, Washington, DC 20425.

STATUS:

Agenda

I. Approval of Agenda
II. Approval of Minutes of June 23, and July 10, 1998 Meetings
III. Announcements
IV. Staff Director's Report
V. State Advisory Committee Appointments for Alaska, Arizona, California, Iowa, New Hampshire, New Mexico and Oregon
VI. Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination—Los Angeles Hearing Report
VII. Asian Pacific American Petition Briefing—Executive Summary
VIII. Draft Code of Federal Regulations
IX. Executive Session to Discuss Personnel Matters
X. Future Agenda Items

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications, (202) 376–8312.

Stephanie Y. Moore,

General Counsel.

[FR Doc. 98–23498 Filed 8–27–98; 2:27 pm]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Individual Fishing Quota for Pacific Halibut and Sablefish in the Alaska Fisheries.

Agency Form Number(s): None.

OMB Approval Number: 0648–0272.

Type of Request: Revision of a currently approved collection.

Burden: 18,770 hours.

Number of Respondents: 6,700 (multiple responses).

Avg. Hours Per Response: Ranges between 0.1 and 2 hours depending on the requirement.

Needs and Uses: Participants of the Individual Fishing Quota Program for Pacific halibut and sablefish managed by the National Marine Fisheries Service (NMFS), Alaska Region, are required to report certain information to NMFS. This information is used for monitoring and managing Pacific halibut and sablefish caught with fixed gear in and off Alaska's waters for purposes of conservation of the fisheries and enforcement of fisheries regulations.

Affected Public: Businesses or other for-profit organizations, individuals.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

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

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: August 25, 1998.

Linda Engelmeier,

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

[FR Doc. 98–23292 Filed 8–28–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

Title: Monthly Cold Storage Report.

Agency Form Number(s): NOAA 88–16.

OMB Approval Number: 0648–0015.

Type of Request: Revision of a currently approved collection.

Burden: 176 hours.

Number of Respondents: 110 (monthly responses).

Avg. Hours Per Response: 8 minutes.

Needs and Uses: The Monthly Cold Storage Report collects information on the quantity of fish and shellfish in holdings in the U.S. The data are used by the National Marine Fisheries Service, as well as the Department of Agriculture and state and local governments in the study of seasonal demand of fishery products. The report is also a primary tool for industry in its purchase, sales, and price planning. The objective of collecting this type of information is to avoid boom and/or bust cycles in fisheries.

Affected Public: Businesses or other for-profit organizations.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

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

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: August 25, 1998.

Linda Engelmeier,

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

[FR Doc. 98–23293 Filed 8–28–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Survey of Intent and Capacity to Harvest and Process Fish and Shellfish (Northwest Region).

Agency Form Number(s): None.

OMB Approval Number: 0648–0243.

Type of Request: Extension of a currently approved collection.

Burden: 10 hours.

Number of Respondents: 60 (semi-annually reporting).

Avg. Hours Per Response: 5 minutes.

Needs and Uses: A telephone survey is conducted of fishery processors, joint venture companies, and fishermen's trade associations in the Pacific Northwest to determine the tonnage of fish processed or harvested, and their estimated tonnage for the next year. The information is used to help form preseason and in-season allocations of groundfish quotas.

Affected Public: Businesses or other for-profit organizations.

Frequency: Semi-annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

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

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: August 25, 1998.

Linda Engelmeier,

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

[FR Doc. 98–23294 Filed 8–28–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: Bureau of the Census.

Title: 1998 Company Organization Survey.

Form Number(s): NC–9901, NC–9901a.

Agency Approval Number: 0607–0444.

Type of Request: Revision of a currently approved collection.

Burden: 140,000.

Number of Respondents: 90,000.

Avg. Hours Per Response: 1 hour and 33 minutes.

Needs and Uses: The Census Bureau conducts the annual Company Organization Survey (COS) in order to update and maintain a central, multipurpose business register, known as the Standard Statistical Establishment List (SSEL). In particular, the COS supplies critical information to the SSEL concerning the establishment composition, organizational structure, and operating characteristics of multi-establishment enterprises. The SSEL serves two fundamental purposes:

First and most important, it provides sampling populations and enumeration lists for the Census Bureau's economic surveys and censuses, and it serves as an integral part of the statistical foundation underlying those programs.

Second, it provides establishment data that serve as the basis for the annual County Business Patterns (CBP) statistical series.

The COS is typically conducted as a detailed inquiry sent to a sample of multi-establishment companies. In years ending in 2 & 7, the COS is conducted in conjunction with the economic censuses and is sent to the universe of multi-establishment companies but requests much less detailed information. This is done to coordinate the COS with the quinquennial economic census and minimize burden for both collections. The Census Bureau will conduct the 1998 COS similar to the 1996 COS, the most recent non-census COS.

Affected Public: Businesses or other for-profit organizations, Not-for-profit institutions, Farms, State, local or Tribal government.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., Sections 131, 182, 224, and 225.

OMB Desk Officer: Nancy Kirkendall, (202) 395–7313.

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

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Nancy Kirkendall, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: August 25, 1998.

Linda Engelmeier,

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

[FR Doc. 98–23295 Filed 8–28–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Economics and Statistics Administration

Performance Review Board Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Economics and Statistics Administration Senior Executive Service (SES) Performance Appraisal System:

Cynthia Z.F. Clark
Nancy M. Gordon
Karen F. Gregory
James F. Holmes
Bradford R. Huther
Frederick T. Knickerbocker
Hugh W. Knox
J. Steven Landefeld
Rosemary D. Marcuss
Brent R. Moulton
Michael S. McKay
Gerald A. Pollack
Sumiye Okubo
Nancy A. Potok
James L. Price
Marvin D. Raines
Paula J. Schneider
John H. Thompson
Katherine K. Wallman
James K. White

Dated: August 25, 1998.

James K. White,

Executive Director, Performance Review Board.

[FR Doc. 98–23381 Filed 8–28–98; 8:45 am]

BILLING CODE 3510–BS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–834–803, A–821–803, A–823–803, A–588–020]

Revocation of Antidumping Findings and Antidumping Duty Order and Termination of Five-Year (''Sunset'') Reviews: Titanium Sponge From Kazakhstan, Russia, Ukraine, and Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: Pursuant to section 751(b) of the Tariff Act of 1930, as amended (''the Act''), the United States International Trade Commission (''the Commission'') issued its determinations that revocation of the antidumping findings on titanium sponge from Kazakhstan, Russia, and Ukraine and the antidumping duty order on titanium sponge from Japan is not likely to lead to continuation or recurrence of material injury to an industry in the United States (63 FR 43414, August 13, 1998). Therefore, the Department of Commerce (''the Department'') is notifying the public of the revocation of the antidumping findings on titanium sponge from Kazakhstan, Russia, and Ukraine, and the antidumping duty order on titanium sponge from Japan pursuant to section 751(d)(1) of the Act. The effective date of these revocations is August 13, 1998, the date of publication in the **Federal Register** of the Commission's determinations. In addition, we are terminating the five-year (''sunset'') reviews of these antidumping findings and antidumping duty order initiated on July 6, 1998 (63 FR 36389).

EFFECTIVE DATE: August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Wendy J. Frankel, Office IV, or Melissa G. Skinner, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C., at (202) 482–5849 or 482–1560, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 23, 1998, the Commission instituted investigations pursuant to Section 751(b) of the Act to determine whether revocation of the antidumping findings covering imports of titanium sponge from Kazakhstan, Russia, and Ukraine and the antidumping duty order covering imports of titanium sponge from Japan is likely to lead to continuation or recurrence of material injury to an industry in the United States. In accordance with section 751(c)(6) of the Act and 19 CFR 351.218(c)(4) (1998), on July 6, 1998, the Department initiated sunset reviews of the antidumping findings on titanium sponge from Kazakhstan, Russia, and Ukraine, and the antidumping duty order on titanium sponge from Japan (63 FR 36389). On July 21, 1998, we received a Notice of Intent to Participate in each of these sunset reviews from a domestic producer of titanium sponge. On August 13, 1998, the Commission notified us of its determination in its section 751(b) review that revocation of the antidumping findings and

antidumping duty order is not likely to lead to continuation or recurrence of material injury.

Scope of the Antidumping Findings and Antidumping Duty Order

The product covered by these determinations is titanium sponge. Titanium sponge is chiefly used for aerospace vehicles, specifically, in the construction of compressor blades and wheels, stator blades, rotors, and other parts in aircraft gas turbine engines. Imports of titanium sponge are currently classifiable under subheading 8108.10.50.10 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). The HTSUS subheading is provided for convenience and U.S. Customs purposes. Our written description of the scope of these antidumping findings and antidumping duty order remains dispositive.

Determination

As a result of the determination by the Commission that revocation of these antidumping findings and antidumping duty order is not likely to lead to continuation or recurrence of dumping, pursuant to section 751(d)(1) of the Act, the Department hereby revokes the antidumping findings on titanium sponge from Kazakstan, Russia and Ukraine and the antidumping duty order on titanium sponge from Japan. The revocation is effective August 13, 1998, the date of publication in the **Federal Register** of the Commission's determination. The Department will instruct the Customs Service to liquidate without regard to dumping duties entries of the subject merchandise entered or withdrawn from warehouse on or after August 13, 1998 (the effective date), and to discontinue collection of cash deposits on entries of the subject merchandise as of the same date. For all entries of the subject merchandise entered or withdrawn from warehouse prior to the effective date of revocation (*i.e.*, through August 12, 1998), the Department shall determine, and the Customs Service shall assess, antidumping duties at either (1) the rate determined in the context of ongoing administrative reviews of imports of titanium sponge from Kazakstan and Russia during the period August 1, 1996 through July 31, 1997 [62 FR 50292, September 25, 1997], (2) the rate determined in the context of a review conducted in response to an appropriately filed request [August is the opportunity month for Kazakhstan, Russia, and Ukraine; November is the opportunity month for Japan], or (3) in the absence of a request for review, at the duty deposit rate in effect at the time of entry. In addition, the Department is terminating the sunset reviews of these antidumping findings and antidumping duty order.

Dated: August 26, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–23465 Filed 8–28–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Texas A&M University; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC.

Docket Number: 98–022. *Applicant:* Texas A&M University, College Station, TX 77843–2474. *Instrument:* Robot, Model X8000. *Manufacturer:* Genetix Ltd., United Kingdom. *Intended Use:* See notice at 63 FR 25015, May 6, 1998.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides a unique multi-tasking robot for selecting recombinant bacterial colonies containing DNA inserts from noninfectious sources based on routing blue/white selection at a rate of 3500 colonies per hour. The National Institutes of Health advises in its memorandum dated June 8, 1998 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–23382 Filed 8–28–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Application to Amend Certificate.

SUMMARY: The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review. This notice summarizes the proposed amendment and requests comments relevant to whether the amended Certificate should be issued.

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 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five copies, plus two copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1800H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential

versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 92–5A001.''

The Aerospace Industries Association of America, Inc.'s (''AIA'') original Certificate was issued on April 10, 1992 (57 FR 13707, April 17, 1992) and previously amended on September 8, 1992 (57 FR 41920, September 14, 1992); October 8, 1993 (58 FR 53711, October 18, 1993); November 17, 1994 (59 FR 60349, November 23, 1994); and June 26, 1995 (60 FR 36262, July 14, 1995). A summary of the application for an amendment follows.

Summary of the Application

Applicant: Aerospace Industries Association of America, Inc. (''AIA''), 1250 I Street, NW, Washington, DC 20005.

Contact: Mac S. Dunaway, Legal Counsel, Telephone: (202) 862–9700.

Application No.: 92–5A001.

Date Deemed Submitted: August 19, 1998.

Proposed Amendment: AIA seeks to amend its Certificate to:

1. Add the following companies as new ''Members'' of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): The Aerostructures Corporation, Nashville, TN (Controlling Entity: The Carlyle Group, Washington, DC); Alliant Techsystems Incorporated, Hopkins, MN; Barnes Aerospace, Windsor, CT (Controlling Entity: Barnes Group, Inc., Bristol, CT); CMS, Inc., Tampa, FL (Controlling Entity: Daimler-Benz North American Corporation, New York, NY); Ducommun Incorporated, Long Beach, CA; Dynamic Engineering Incorporated, Newport News, VA; Esterline Technologies, Bellevue, WA; Intertubine Corporation, Peabody, MA (Controlling Entity: NV Interturbine, The Netherlands); Kistler Aerospace Corporation, Kirkland, WA; Litton Industries, Inc., Woodland Hills, CA; MOOG Inc., East Aurora, NY; Pacific Scientific Company, Duarte, CA; Robinson Helicopter Company, Inc., Torrance, CA; Rockwell Collins, Inc., Cedar Rapids, IA (Controlling Entity: Rockwell International Corporation, Costa Mesa, CA); Rolls-Royce North America, Inc., Reston, VA (Controlling Entity: Rolls Royce plc, London, England); Triumph Controls, Inc., North Wales, PA (Controlling Entity: Triumph Group, Inc., Wayne, PA); United Defense, L.P., Arlington, VA (Controlling Entity: The Carlyle Group, Washington, DC); Veridian Corporation, Alexandria, VA; and Woodward Governor Company, Rockford, IL.;

2. Delete as ''Members'' of the Certificate: Ceridian Corporation, Minneapolis, MN; Chrysler Technologies Corporation, Arlington, VA; E-Systems, Inc., Dallas, TX; FMC Corporation, Chicago, IL; Heath Tecna Aerospace Co., Kent, WA; Hercules Incorporated, Wilmington, DE; Loral Vought Systems Corporation, Dallas, TX; Lord Corporation, Erie, PA; Martin Marietta Corporation, Bethesda, MD; McDonnell Douglas Corporation, Berkeley, MO; Rockwell International Corporation, Seal Beach, CA; Rohr, Inc., Chula Vista, CA; Teledyne, Inc., Los Angeles, CA; Texas Instruments Incorporated, Dallas, TX; Westinghouse Electric Corporation, Pittsburgh, PA; and Williams International Corporation, Walled Lake, MI; and

3. Change the listing of the company name for the current ''Members'' cited in this paragraph to the new listing cited in parenthesis as follows: GEC-Marconi Electronic Systems Corporation (Marconi North America Inc.); General Motors Hughes Electronics (Hughes Electronics Corporation); Lockheed Corporation (Lockheed Martin Corporation); and Thiokol Corporation (Cordant Technologies Inc.).

Dated: August 26, 1998.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

[FR Doc. 98–23354 Filed 8–28–98; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On August 17, 1998, the CINSA, S.A. de C.V. and Esmaltaciones de Norte America, S.A. de C.V. filed a First Request for Panel Review with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final Antidumping Duty Administrative Review made by the International Trade Administration, respecting Porcelain-on-Steel Cookware from Mexico. This determination was published in the **Federal Register** (63 FR 38,373), on July 16, 1998. The NAFTA Secretariat has assigned Case Number USA–MEX–98–1904–04 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the United States Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on August 17, 1998, requesting panel review of the final antidumping duty administrative review described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is September 16, 1998);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is October 1, 1998); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and

substantive defenses raised in the panel review.

Dated: August 21, 1998.

Caratina L. Alston,

Deputy United States Secretary, NAFTA Secretariat.

[FR Doc. 98–23276 Filed 8–28–98; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082198B]

Endangered Species; Permits

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

ACTION: Receipt of an application for a scientific research permits (1176) and for a modifications to a scientific research permit (944).

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement: NMFS has received a permit application from Mr. W. Coleman Long, Chief of US Army Corps of Engineers, Wilmington (COE)(1176); and NMFS has received an application for a modification to an existing permit from Dr. Boyd Kynard, Section Leader, Fish Behavior of U.S. Geological Survey (USGS)(944).

DATES: Written comments or requests for a public hearing on any of the applications must be received on or before September 30, 1998.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

For permit 1176: Director, Southeast Region, NMFS, NOAA, 9721 Executive Center Drive, St. Petersburg, FL 33702–2432 (813–893–3141).

For permit 944: Director, Northeast Region, NMFS, NOAA, One Blackburn Drive, Glouster, MA, 01930–2298 (978–281–9250).

All documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401).

FOR FURTHER INFORMATION CONTACT: Terri Jordan, Endangered Species Division, Silver Spring, MD (301–713–1401).

SUPPLEMENTARY INFORMATION:

Authority

Permits are requested 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).

Those individuals requesting a hearing on these requests for permits 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. All statements and opinions contained in the below application summaries are those of the applicant and do not necessarily reflect the views of NMFS.

New Application Received

COE (1176) has requested a 1-year permit to use hatchery bred shortnose sturgeon, (*Acipenser brevirostrum*), to test the potential impacts of deepening Wilmington harbor in North Carolina. The applicant proposes to place hatchery raised sturgeon in wire cages below the surface and subject them to a series of tests blasts to determine the effect that the harbor deepening will have on wild sturgeon in the harbor. During the test blasting, additional protective measures will be taken to prevent wild sturgeon from being affected - these measures include: relocation of any wild sturgeon found to be in the area prior to the blasts and air bubble curtains. Due to contract awards schedule, the test blast schedule would likely begin in December of 1998 and may continue through January, 1999.

Modification Request Received

USGS requests a modification to permit #944, which would grant permission to relocate endangered shortnose sturgeon located below Holyoke Dam, Massachusetts, above the dam and to modify the technique currently being used for tagging shortnose sturgeon to an IE tag placed internally with the antennae extending through the body wall.

Dated: August 24, 1998.

Kevin Collins,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–23358 Filed 8–28–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082198A]

Endangered Species; Permits

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

ACTION: Receipt of an application for a scientific research/enhancement permit (1177).

SUMMARY: Notice is hereby given that the U.S. Army Corps of Engineers, Portland District at Portland, OR (Corps) has applied in due form for a permit that would authorize takes of a threatened anadromous fish species for the purpose of scientific research/enhancement.

DATES: Written comments or requests for a public hearing on the application must be received on or before September 30, 1998.

ADDRESSES: The application and related documents are available for review in the following offices, by appointment:

Protected Resources Division (PRD), F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400); and

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401).

Written comments or requests for a public hearing should be submitted to the Chief, PRD in Portland, OR.

FOR FURTHER INFORMATION CONTACT: Tom Lichatowich (503–230–5438).

SUPPLEMENTARY INFORMATION: The Corps 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).

The Corps requests a two-year permit (1177) that would authorize an annual take of adult, threatened, Southern Oregon/Northern California coast coho salmon (*Oncorhynchus kisutch*) associated with an adult fish transportation program at Elk Creek Dam on the Rogue River in Oregon. The purpose of the transportation program is to move returning ESA-listed adult fish above Elk Creek Dam, an impassable barrier for adult salmonids, so that the fish may use the habitat upstream of the dam for natural spawning. The Oregon Department of Fish and Wildlife (ODFW) has determined that coho salmon transported above the dam in

previous years have spawned successfully and that the Corps' transportation program appears to have maintained and potentially increased levels of coho salmon natural production in the Elk Creek Basin. ESA-listed adult fish are proposed to be captured at a weir below the dam, anesthetized, transported above the dam, allowed to recover from the anesthetic, and released. In addition to transporting the ESA-listed adult fish, the Corps proposes to tag the fish with opercule punches to estimate the number of fish that pass downstream over the weir and are then captured a second time. ESA-listed adult fish indirect mortalities associated with the transportation program are requested. The Corps also requests that ODFW be authorized to act as an agent of the Corps under the permit.

Those individuals requesting a hearing on the permit 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. All statements and opinions contained in the above application summary are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: August 24, 1998.

Kevin Collins,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–23359 Filed 8–28–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

Technology Administration

Technology Administration Performance Review Board Membership, September 1998

The Technology Administration Performance Review Board reviews performance appraisals, agreements, and recommended actions pertaining to employees in the Senior Executive Service and reviews performance-related pay increases for ST–3104 employees. The Board makes recommendations to the appropriate appointing authority concerning such matters so as to ensure the fair and equitable treatment of these individuals.

The following is the full membership of the Board:

Kelly H. Carnes (NC), Deputy Assistant Secretary for Technology Policy, Technology Administration, Washington, DC 20230, Appointment Expires: 12/31/98

Karl E. Bell (C), Deputy Director of Administration, Office of the Director of Administration, National Institute of Standards and Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/99

B. Stephen Carpenter (C), Director, Office of International & Academic Affairs, Office of International and Academic Affairs, National Institute of Standards & Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/00

Stephen W. Frieman (C), Chief, Ceramics Division, Materials Science and Engineering Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/99

Kent Hughes (C), Associate Deputy Secretary of Commerce, U.S. Department of Commerce, Washington, DC 20230, Appointment Expires: 12/31/99

Frederick Johnson (C), Associate Director of Computing, Information Technology Laboratory, National Institute of Standards & Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/00

Richard F. Kayser, (C), Chief, Physical and Chemical Properties Division, Chemical Science and Technology Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/98

Ronald E. Lawson (C), Associate Director for Financial and Administrative Management, National Technical Information Service, Springfield, VA 22161, Appointment Expires: 12/31/99

Harry I. McHenry (C), Chief, Materials Reliability Division, Materials Science and Engineering Laboratory, National Institute of Standards and Technology, Boulder, CO 80303, Appointment Expires: 12/31/00

Rosalie T. Ruegg (C), Director, Economic Assessment Office, Advanced Technology Program, National Institute of Standards and Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/99

Dr. Barry N. Taylor (C), Manager, Fundamental Constants Data Center, Physics Laboratory Office, National Institute of Standards & Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/00

Samuel P. Williamson (C), Deputy Director, Office of Systems Development, National Weather Service, National Oceanic and Atmospheric Administration, Silver Spring, MD 20910, Appointment Expires: 12/31/98

Dated: August 24, 1998.

Gary Bachula,

Acting Under Secretary for Technology, Technology Administration, Department of Commerce.

[FR Doc. 98–23355 Filed 8–28–98; 8:45 am]

BILLING CODE 3510–18–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, September 4, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–23432 Filed 8–27–98; 11:52 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday September 11, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–23433 Filed 8–27–98; 11:52 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., Monday, September 14, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–23434 Filed 8–27–98; 11:52 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, September 18, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–23435 Filed 8–27–98; 11:52 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., Monday, September 21, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–23436 Filed 8–27–98; 11:52 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, September 25, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–23437 Filed 8–27–98; 11:52 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., Monday, September 28, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–23438 Filed 8–27–98; 11:52 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Preparation of a Final Programmatic Environmental Assessment for the Air Drop Target System Program

AGENCY: Ballistic Missile Defense Organization (BMDO).

ACTION: Notice of Availability (NOA).

SUMMARY: This notifies the public that BMDO is issuing a Final Programmatic Environmental Assessment (PEA) for the Air Drop Target System Program. The PEA assesses the potential impacts associated with technology and deployment activities of the program. The proposed action is to provide the capability to produce, deploy, and maintain the Air Drop Target System. The Air Drop Target System program would provide a realistic target for current and evolving interceptor programs. The Air Drop Target System program would provide a highly flexible, short-range target system allowing multi-shot engagements with high azimuth variability. The Air Drop Target System would provide an air launch target delivery system using standard C–130 cargo aircraft, rather a fixed land-based site.

Lead Agency: Ballistic Missile Defense Organization.

Proposed Action: The BMDO proposes to provide the capability to produce, deploy, and maintain the Air Drop Target System. The Air Drop Target System program would provide a realistic target for current and evolving interceptor programs.

Findings: It has been determined, after consideration of all factors presented in the PEA and pertinent environmental legislation, that, provided the mitigation measures discussed in the PEA are implemented and future site-specific analysis be performed, the action would not be anticipated to significantly affect the quality of the human environment, and there would be no significant environmental effects associated with this action. For the foregoing reasons, a Finding of No Significant Impact (FNSI) is appropriate, and an environmental impact statement will not be prepared.

ADDRESSES: Forward comments and recommendations on the FNSI and PEA to Mr. Crate J. Spears, Room 1E1081, Ballistic Missile Defense Organization, 7100 Defense Pentagon, Washington, DC 20301–7100.

FOR FURTHER INFORMATION CONTACT: To request more information on the FNSI and PEA or to obtain a copy of the FNSI or PEA, please write to the above address, or call Mr. Crate J. Spears at 703–604–3893.

Dated: August 24, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–23267 Filed 8–28–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Fall 1998 Conference Meeting of the Defense Advisory Committee on Women in the Services (DACOWITS)

AGENCY: Department of Defense, Advisory Committee on Women in the Services.

ACTION: Notice.

SUMMARY: Pursuant to Section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming semiannual conference of the Defense Advisory Committee on Women in the Services (DACOWITS). The purpose of the Fall 1998 DACOWITS Conference is to assist the Secretary of Defense on matters relating to women in the Services. Conference sessions will be held daily and will be open to the public, unless otherwise noted below.

DATES: October 21–25, 1998.

ADDRESSES: Double Tree Hotel, Austin Airport, 6505 North IH–35 Austin, 78752; telephone: (512) 454–3737 or 1–800–222–TREE.

FOR FURTHER INFORMATION CONTACT: LTC Sandy Lewis, ARNGUS or GySgt Brenda L. Warren, USMC, DACOWITS and Military Women Matters, OASD (Force Management Policy), 4000 Defense Pentagon, Room 3D769, Washington, DC 20301–4000; telephone (703) 697–2122.

SUPPLEMENTARY INFORMATION: The following rules will govern the participation by members of the public at the conference:

(1) Members of the public will not be permitted to attend the OSD Reception and Dinner and Conference Field Trip.

(2) The Opening Session, General Session, all subcommittee sessions and the Voting Session will be open to the public.

(3) Interested persons may submit a written statement for consideration by the Committee and/or make an oral presentation of such during the conference.

(4) Persons desiring to make an oral presentation or submit a written statement to the Committee must notify the point of contact listed above no later than October 7, 1998.

(5) Length and number of oral presentations to be made will depend on the number of requests received from members of the public.

(6) Oral presentations by members of the public will be permitted only on Sunday, October 25, 1998, before the full Committee.

(7) Each person desiring to make an oral presentation must provide the DACOWITS office with one (1) copy of the presentation by October 7, 1998 and bring 175 copies of any material that is intended for distribution at the conference.

(8) Persons submitting a written statement for inclusion in the minutes of the conference must submit to the DACOWITS staff one (1) copy of the statement by the close of the conference on Sunday, October 25, 1998.

(9) Other new items from members of the public may be presented in writing to any DACOWITS member for transmittal to the DACOWITS Chair or Military Director, DACOWITS and Military Women Matters, for consideration.

(10) Members of the public will not be permitted to enter oral discussions conducted by the Committee members at any of the sessions; however, they will be permitted to reply to question directed to them by the members of the Committee. After the official participants have asked questions and/or made comments to the scheduled speakers, members of the public will be permitted to ask questions if recognized by the Chair and if time allows.

(12) Non-social agenda events that are not open to the public are for administrative matters unrelated to substantive advice provided to the Department of Defense and do not involve DACOWITS deliberations or decision-making issues before the Committee. Conference sessions will be conducted according to the following agenda:

Wednesday, October 21, 1998

Conference Registration
Field Trip (DACOWITS Members and Senior Military Representatives Only)
Subcommittee Rules and Procedures Meeting (DACOWITS Members Only)
Military Representatives Meeting (Senior Military Representatives Only)
OSD Social (Invited Guests Only)

Thursday, October 22, 1998

Opening Session and General Session (Open to Public)
Luncheon (Paid Registered Conference Participants Only)
Subcommittee Session (Open to Public)

Friday, October 23, 1998

Subcommittee Session (Open to Public)
Luncheon (Paid Registered Conference Participants Only)
Executive Committee Rules and Procedures Meeting (DACOWITS Members Only)
OSD Reception and Dinner (Invited Guests Only)

Saturday, October 24, 1998

Subcommittee Sessions (Open to Public)
Tri-committee Review (Open to Public)
Executive Committee Rules and Procedures Meeting (DACOWITS Members Only)
Strategic Planning Meeting (DACOWITS Members Only)

Sunday, October 25, 1998

Final Review (Open to Public)
Voting Session (Open to Public)

Dated: August 25, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–23268 Filed 8–28–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Navy

Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designated for Closure: U.S. Marine Corps Air Station El Toro, California

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: This notice provides information regarding the local redevelopment authority that has been established to plan the reuse of U.S. Marine Corps Air Station El Toro, California, and the surplus property that is located at that base closure site.

FOR FURTHER INFORMATION CONTACT: Richard Anderson, Real Estate and Base Closure Section Head, Commandant of the Marine Corps (Code LFL3), Headquarters U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–1775, Telephone (703) 6958240. For more detailed information regarding particular properties identified in this Notice (i.e., acreage, floor plans, condition, exact street address, etc.), contact Pete Ciesla, Base Realignment and Closure Office, COMCABWEST, Code 1AS, Headquarters U.S. Marine Corps Air Station El Toro, PO BOX 95001, Santa Ana, California 92709–5001, Telephone (714) 726–2679.

SUPPLEMENTARY INFORMATION: In 1993, U.S. Marine Corps Air Station El Toro was designated for closure under the authority of the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended (the Act). Pursuant to this designation, on October 1, 1993, land and facilities at this installation were declared excess to the Department of Navy and available to other Department of Defense components and other federal agencies. With the exception of the land and facilities excluded from this Notice, we have evaluated all timely Federal requests and have made our decisions on property required by the Federal Government.

Notice of Surplus Property

Pursuant to paragraph (7)(B) of Section 2905 (b) of the Act, the following information regarding the redevelopment authority for and surplus property at U.S. Marine Corps Air Station El Toro, CA, is published in the **Federal Register**.

Redevelopment Authority

The local redevelopment authority for U.S. Marine Corps Air Station El Toro for purposes of implementing the provisions of the Act, is the Orange County Board of Supervisors. The Board of Supervisors has an advisory commission which provides recommendations to the Board concerning the redevelopment plan for the Air Station. This commission is known as the ''El Toro Airport Citizens Advisory Commission''. A cross section of community interests is represented on the committee. Daily operations of the local redevelopment authority are managed by Courtney Wiercioch, Program Manager of the MCAS El Toro Master Development Program Office, 10 Civic Center Plaza, Suite 720, Santa Ana, California 92703, Telephone (714) 834–5111, and Gary Simon, Real Estate/Operations Manager, Telephone (714) 834–2095.

Surplus Property Descriptions

The following is a list of the land and facilities at U.S. Marine Corps Air Station El Toro that are surplus to the needs of the Federal Government.

Land

U.S. Marine Corps Air Station El Toro consists of approximately 4,738 acres of improved and unimproved fee simple land located within the County of Orange and the City of Irvine. In general, all areas will be available when the installation closes in July 1999. Of this total acreage, approximately 3067 acres is undeveloped land of which approximately 837 acres are currently being utilized for agricultural activities.

Excluded from this determination of surplus are two parcels of property. The first parcel is approximately 975 acres includes an ammunition storage area and a pistol range. This area will be transferred to the Fish and Wildlife Service, Department of Interior on or before operational closure. The second parcel consisting of approximately 21.5 acres includes storehouses, administrative facilities, and communications equipment maintenance shops. Upon operational closure of the U.S. Marine Corps Air Station, this parcel will be conveyed to the Local Redevelopment Authority with a lease back to the Department of the Air Force Readiness Command.

Buildings

The following is a summary of the buildings and other improvements located on the above-described land that will also be available when the installation closes. Property numbers are available on request. Excluded from this determination are six facilities at various locations consisting of transmitter, receiver, radar, VORTAC, tower sites and equipment and maintenance spaces, and the perpetual easements for the sites and utility and roadway easements required for the Federal Aviation Administration to operate and maintain a critical portion of the National Air Space System. The above sites will be conveyed to the Local Redevelopment Authority with a lease back to the FAA upon operational closure of the U.S. Marine Corps Air Station.

—Administrative/office facilities (64 structures) Comments: Approx. 629,871 square feet.

—Airfield operations facilities and lighting (33 structures) Comments: Approx. 44,510 square feet. Includes airfield obstruction lights, control tower, airfield terminal, line maintenance shelters, arresting gear, etc.

—Auditorium (1 structure) Comments: Approx. 26,733 square feet.

—Aviation maintenance facilities (44 structures) Comments: Approx. 894,519 square feet. Includes aircraft maintenance hangars, aviation paint areas, engine test cells, aircraft wash racks, etc.

—Bachelor quarters housing (29 structures) Comments: Approx. 1,768,437 square feet.

—Bowling Alley (1 structure) Comments: Approx. 14,664 square feet.

—Chapel/Religious Ministries (2 structures) Comments: Approx. 19,408 square feet.

—Child care facilities (2 structures) Comments: Approx. 36,108 square feet.

—Community support facilities (2 structures) Comments: Approx. 28,800 square feet

—Fire protection (10 structures) Comments: Approx. 31,086 square feet.

—Gymnasium (1 structure) Comments: Approx. 23,123 square feet.

—Hazardous materials storage facilities (28 structures) Comments: Approx. 59,853 square feet.

—Hazardous waste storage facilities (7 structures) Comments: Approx. 1,963 square feet.

—Housing units (1,188 units) Comments: 2, 3, 4 bedroom townhouse, duplexes, and apartments.

—Instructional facilities (34 structures) Comments: Approx. 233,615 square feet. Classroom and general training-type facilities and approx. six training and wading pools.

—Library (1 structure) Comments: Approx. 6,480 square feet.

—Maintenance production facilities (51 structures) Comments: Approx. 305,327 square feet. Includes ground support equipment shops, auto/truck repair shops, paint booths, wash and grease racks, public works shops, electronic maintenance shops, etc.

—Medical/dental facility (2 structures) Comments: Approx. 83,223 square feet.

—Mess and dining facilities (8 structures) Comments: Approx. 135,064 square feet. Includes club facilities, enlisted mess hall, cafeteria, restaurant.

—Miscellaneous facilities (48 structures) Comments: Approx: 57,479 square feet. Includes post office, museum, credit unions, security gate houses and guard towers, veterinarian facility, liquid oxygen/liquid nitrogen storage, etc.

—Paved areas (airfield) Comments: Approx. 2,739,761 square yards. Includes runways, taxiways, aprons, van pads, wash racks, and other associated airfield pavements.

—Paved areas (roads and other surface areas) Comments: Approx. 1,286,443 square yards consisting of roads and other similar pavements. Approx. 1,343,068 square yards consisting of other surface areas, i.e., sidewalks, parking lots, etc.

—Recreational facilities (44 structures) Comments: Measuring systems vary; Tennis, basketball, volleyball, and racquetball courts. Football, baseball, and softball fields. Picnic and play grounds with ancillary facilities. Hobby shops, golf course with clubhouse and support facilities, horse stables with barn, bunkhouse, and other support facilities, kennel, etc.

—Retail facilities (10 structure) Comments: Approx. 159,439 square feet. Includes supermarket, retail gas stations, snack bars, and retail stores.

—Utility facilities (approx. 57 structures) Comments: Measuring systems vary; Gas, telephone, electric, storm drainage, potable and non-potable water, sewer, oil-water separators, fire alarm system, fire protection systems, aviation fuel pipeline, etc.

—Warehouse/storage facilities (72 structures) Comments: Approx. 963,277 square feet. Includes high-bay storage, general warehousing, retail storage, ammunition magazines, etc.

Redevelopment Planning

Pursuant to Section 2905(b)(7)(F) of the Act, the local redevelopment authority has prepared a redevelopment plan that considered the interests of state and local governments, representatives of the homeless, and other interested parties located in the vicinity of U.S. Marine Corps Air Station El Toro, California, and has submitted that plan to the Secretary of Housing and Urban Development pursuant to Section 2905(b)(7)(G).

Dated: August 26, 1998.

Ralph W. Corey,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 98–23333 Filed 8–28–98; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

President's Advisory Commission on Educational Excellence for Hispanic Americans; Meeting

AGENCY: President's Advisory Commission on Educational Excellence for Hispanic Americans; ED.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the President's Advisory Commission on Educational Excellence for Hispanic Americans (Commission). Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act in order to notify the public of their opportunity to attend.

DATES AND TIMES: Tuesday, September 22, 1998, 2:00 p.m.–5:00 p.m. (est) and Wednesday, September 23, 1998, 9:00 a.m.–3:30 p.m. (est).

ADDRESSES: On Tuesday, September 22, the meeting will be held at the White House Conference Center in the Truman room, 726 Jackson Place, N.W., Washington, D.C. On Wednesday, September 23, the meeting will be held at the White House Old Executive Office Building in the Indian Treaty room, 17th and Pennsylvania Ave., N.W., Washington, D.C. To gain access into the Indian Treaty room, clearance must be approved by the White House security personnel. As a result, attendees need to begin clearance procedures no later than September 17th by calling Richard Toscano of the White House Initiative on Educational Excellence for Hispanic Americans (WHI) at 202–401–2147 and providing the following information for each attendee: full name (as it appears on a driver license or building pass), social security number and date of birth.

FOR FURTHER INFORMATION CONTACT: Edmundo DeLeon, WHI Hispanic Serving Institutions Program Manager, at 202–401–1411 (telephone), 202–401–8377 (FAX), ed__deleon@ed.gov (e-mail) or mail: U.S. Department of Education, 600 Independence Ave., S.W., room 2115; Washington, D.C. 20202–3601.

SUPPLEMENTARY INFORMATION: The Commission was established under Executive Order 12900 (February 22, 1994) to provide the President and the Secretary of Education with advice on (1) the progress of Hispanic Americans toward achievement of the National Goals and other standards of educational accomplishment; (2) the development, monitoring, and education for Hispanic Americans; (3) ways to increase, State, county, private sector and community involvement in improving education; and (4) ways to expand and complement Federal education initiatives.

At the meeting, the Commission will announce the appointment of Guillermo Linares as the Vice Chair of the Commission and discuss the following educational issues: the role of community colleges, outcomes of Commission committees (Children, Families, and Communities, Public Policy, K–12; Higher Education; and Assessment), capacity building of Hispanic Serving Institutions, the White House's response to the Commission report on the condition of Hispanic Education, the work plan of the WHI, role of the federal Inter-Department Council for Hispanic Educational Improvement and inventory update, reports by agencies (Department of Defense, Department of Energy, Department of Health and Human Services, and the Smithsonian), and dates for 1999 Executive Board and Commission meetings (especially the October conference: *Excelencia en Educación*). The meeting will end with briefings on the role of the White House by Marie Echaveste, White House Deputy Chief of Staff, and Mickey Ibarra, White House Assistant to the President for Intergovernmental Affairs.

Records of all Commission proceedings are available for public inspection at the WHI, U.S. Department of Education, 600 Independence Ave., S.W., Room 2145, Washington, D.C. from 9:00 a.m. to 5:00 p.m. (est).

Dated: August 25, 1998.

G. Mario Moreno,

Assistant Secretary.

[FR Doc. 98–23287 Filed 8–28–98; 8:45 am]

BILLING CODE 4000–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6154–2]

National Advisory Council for Environmental Policy and Technology; Environmental Capital Markets Committee; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act, Pub. L. 92463, EPA gives notice of a meeting of the Environmental Capital Markets Committee of the National Advisory Council for Environmental Policy and Technology (NACEPT), which provides advice and recommendations to the Administrator of EPA on a broad range of environmental policy issues.

The Environmental Capital Markets Committee has been evaluating practical ways for the financial services industry to include the environmental performance of its clients as an integral part of its core credit, investment, and underwriting processes. Some of the major issues the Committee has been addressing are:

- The extent to which—and why—the financial services industry currently takes environmental factors into account in its credit, investment, and underwriting processes.
- The characteristics of current (and projected) environmental management systems (EMS) and practices that could help correlate environmental performance and financial performance.
- How information flowing from these EMSs/practices might be quantified in a manner that could be integrated into the financial service industry's credit, investment, and underwriting processes.

The ultimate goal of the Committee is to identify concrete actions that EPA, on its own or in cooperation with other Federal or state agencies, could take to help the financial services industry incorporate this environmental information into its core decision-making processes.

DATES: The Environmental Capital Markets Committee will hold a one day public meeting at the Crystal City Marriott Courtyard, 2899 Jefferson Davis Highway, Arlington, Virginia on Friday, September 25, 1998 from 9 a.m. to 6 p.m.

ADDRESSES: Materials or written comments may be transmitted to the Committee through Mark Joyce, Designated Federal Officer, U.S. EPA, Office of Cooperative Environmental Management (1601F), 401 M Street SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mark Joyce, Designated Federal Officer, Environmental Capital Markets Committee, at 202–260–6889.

Dated: August 20, 1998.

Mark Joyce,

Designated Federal Officer.

[FR Doc. 98–23331 Filed 8–28–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Affordable Housing Advisory Board Meeting

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of final meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., established by the Resolution Trust Corporation Completion Act, Pub. L. No. 103–204, § 14(b), 107 Stat. 2369, 2393–2395 (1993), announcement is hereby published of the final meeting of the Affordable Housing Advisory Board (AHAB). The meeting is open to the public.

DATES: The Federal Deposit Insurance Corporation, Affordable Housing Advisory Board will hold its final meeting on Wednesday, September 16, 1998 in Washington, D.C., from 2:00 pm to 4:00 pm.

ADDRESSES: The meeting will be held at the following location: Federal Deposit Insurance Corporation, Board Room 6010, 550 17th Street, Northwest, Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Danita M.C. Walker, Committee Management Officer, Federal Deposit Insurance Corporation, 1776 F Street, NW, Room 3064, Washington, D.C. 20429, (202) 898–6711.

SUPPLEMENTARY INFORMATION: The Board consists of the Secretary of Housing and Urban Development (HUD) or delegate; the Chairperson of the Board of Directors of the FDIC, or delegate; the Chairperson of the Thrift Depositor Protection Oversight Board, or delegate; four persons appointed by the General Deputy Assistant Secretary of HUD who represent the interests of individuals and organizations involved in using the affordable housing programs, and two former members of the Resolution Trust Corporations Regional Advisory Boards. The AHAB's original charter was issued March 9, 1994 and re-chartered on February 26, 1996, and January 15, 1998. The affordable Housing Advisory Board will terminate by operation of law on September 30, 1998.

Agendas: An agenda will be available at the meeting. At this session, the Board will (1) Discuss that status of the transition of the Affordable Housing Program to the FDIC Dallas office and, (2) Report on the status of the FDIC Affordable Housing Program Sales and Monitoring and Compliance. The AHAB will develop its final recommendations at the conclusion of the Board meeting. The AHAB's chairperson or its Delegated Federal Officer may authorize a member or members of the public to address the AHAB during the public forum portion of the session.

Statements: Interested persons may submit, in writing, data, information or views or the issues pending before the Affordable Housing Advisory Board prior to or at the meeting. Seating for the public is available on a first-come first-served basis.

Dated: August 26, 1998.

Danita M.C. Walker,

Committee Management Officer, Federal Deposit Insurance Corporation.

[FR Doc. 98–23378 Filed 8–28–98; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:35 a.m. on Tuesday, August 25, 1998, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate and supervisory activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Joseph H. Neely (Appointive), concurred in by Ms. Leann Britton, acting in the place and stead of Director Julie Williams (Acting Comptroller of the Currency), Director Ellen S. Seidman (Director, Office of Thrift Supervision), and Chairman Donna Tanoue, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: August 26, 1998.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 98–23422 Filed 8–27–98; 11:01 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register.**

Agreement No.: 232–011562–001.

Title: The KL/YM TransAtlantic Vessel Sharing Agreement.

Parties: Yangming Transportation Corporation (''YM''), Kawasaki Kisen Kaisha, Ltd. (''KL'').

Synopsis: The proposed amendment would increase the number of vessels the parties may operate under the Agreement to a total of six and would increase the maximum vessel capacity to 2,800 TEUs.

By Order of the Federal Maritime Commission.

Dated: August 25, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–23272 Filed 8–28–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 224–201045–001.

Title: NYSA–ILA Master Contract Agreement.

Parties:

The International Longshoremen's Association

New York Shipping Association, Inc.

Synopsis: The proposed amendment sets the assessment of container royalties paid to the Carrier–ILA Container Freight Station Trust Fund.

By Order of the Federal Maritime Commission.

Dated: August 25, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–23340 Filed 8–28–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 224–201008–001.

Title: South Carolina–P&O Nedlloyd Service Agreement.

Parties:

South Carolina State Ports Authority

P&O Nedlloyd Limited

Synopsis: The proposed amendment reflects a name change of one of the parties, provides for a changed vessel unit fee and makes arrangements for a preferential berth. The amendment also extends the terms of the agreement through May 12, 1999.

Dated: August 26, 1998.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 98–23353 Filed 8–28–98; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–133]

Availability of the Interagency Workgroup Document, A Draft Report on Multiple Chemical Sensitivity (MCS)

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces the availability of the draft document, A Report on Multiple Chemical Sensitivity (MCS), by the Interagency Workgroup on Multiple Chemical Sensitivity. The public is invited to comment on this draft report.

DATES: Comments must be received by October 30, 1998.

ADDRESSES: The report is available by contacting ATSDR's Information Center, 1600 Clifton Road, Mail Stop E57, Atlanta, GA 30333, 1–800–447–1544, attention Alice Knox.

Please submit written comments relating to the report to the same location. Because these comments may be made available upon public request, please do not send any personal, medical, or other information that you do not wish to make public.

FOR FURTHER INFORMATION CONTACT: ATSDR's Information Center at the above address.

SUPPLEMENTARY INFORMATION: Multiple chemical sensitivity (MCS) is the term most commonly applied to a health condition of interest to patients, health care providers, and health and environmental agencies alike. Symptoms range from minor discomfort to extreme disability and isolation.

Because of the concern for the health and well-being of persons with symptoms of MCS, several federal agencies formed a workgroup in 1995 to review scientific literature pertinent to MCS, consider recommendations from various expert panels on MCS, and develop technical and policy recommendations for the agencies to consider. The departments and agencies represented on the Interagency Workgroup on Multiple Chemical Sensitivity are: Department of Defense, Department of Energy, Department of Health and Human Services (Agency for Toxic Substances and Disease Registry, Centers for Disease Control (CDC), National Center for Environmental Health, CDC, National Institute for Occupational Safety and Health, National Institute of Environmental Health Sciences), Department of Veterans Affairs, and the U.S. Environmental Protection Agency.

The Department of Health and Human Services' Environmental Health Policy Committee (EHPC), chaired by the Assistant Secretary for Health, has monitored the preparation of the interagency report. The EHPC is the senior level policy committee for environmental health issues in the Department. The committee has liaison members from other federal departments that have environmental and public health responsibilities.

The Agency for Toxic Substances and Disease Registry (ATSDR) is providing administrative support for the Interagency Workgroup's report. Comments on the report will be provided by ATSDR to the Interagency Workgroup for consideration.

The workgroup has developed a draft document entitled, A Report on Multiple Chemical Sensitivity. Summary findings, research recommendations and policy recommendations are provided in this report.

This document, A Report on Multiple Chemical Sensitivity (MCS), and its availability for public comment is being announced through this **Federal Register** notice.

Dated: August 25, 1998.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 98–23290 Filed 8–28–98; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Information Collection from applicants who will respond to Request for Applications for funding of 6 OCS competitive grants

OMB No.: 0970–0062

Description: The Office of Community Services is requesting approval to continue the use of its program announcements to collect information which will enable the agency to determine which projects to fund and the amount of the grant awards. The programs covered include: Community Food and Nutrition; Discretionary Grants Program; Low Income Home Energy Assistance Program; Job Opportunities for Low-Income Individuals; Training and Technical Assistance and Capacity Building; and Family Violence Prevention and Services Program. Information collected from the requirements contained in these 6 program announcements will be the sole source of information available to OCS in reviewing applications leading to awards of discretionary grants to eligible applicants.

The application forms that will be used contain information for competitive review in accordance with the program announcements' guidelines. The data provided is necessary to compute the amount of the grant in relation to proposed project activities by the ACF Grant Officers.

OMB recommended that ACF submit one information collection package covering all OCS program announcements, since the same application form is used in each announcement. This information collection was last approved in 1995 and is due to expire September 30,

1998. Since the last approval, the Demonstration Partnership Program no longer exists. Therefore, this request covers 6 programs, rather than the 7 programs previously covered.

Respondents: Not-for-profit institutions.

Instrument	Estimated number of respondents	Number of responses per respondent	Average burden hours per respondent	Total burden hours
CFN Announcement	250	1	10	2500
LIHEAP Announcement	10	1	24	240
Community Economic Dev. Announcement	200	1	35	7000
JOLI Announcement	150	1	40	6000
CSBG T&TA Announcement	25	1	24	600
Family Violence Annoncement	100	1	40	4000

Estimated Total Annual Burden: 20,340.

Additional Information:

Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503; Attn: Ms. Wendy Taylor.

Dated: August 25, 1998.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 98–23298 Filed 8–28–98; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Notice of Office of Management and Budget Approval of Information Collection

Title: Computerized Support Enforcement Systems—Final rule.

Description: Notice is hereby given that the Office of Management and Budget (OMB) has approved the information collections requirements in sections 302.85(a)(1) and (2), 307.11(e) and (f), 307.13(a) and (c), and 307.15(b)(2) of the subject final rule. This final rule was published August 21, 1998 (Volume 63, Number 162, Page 44795–44817). The OMB control number is 0980–0271.

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

Dated: August 25, 1998.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 98–23299 Filed 8–28–98; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–0714]

Asahi Denka Kogyo K.K.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Asahi Denka Kogyo K.K. has filed a petition proposing that the food additive regulations be amended to provide for the expanded safe use of 2, 2′-methylenebis (4,6-di-*tert*-butylphenyl) 2-ethylhexyl phosphite as an antioxidant and/or stabilizer in linear low density polyethylene articles intended for contact with food.

FOR FURTHER INFORMATION CONTACT: Ellen M. Waldron, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3089.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 8B4617) has been filed by Asahi Denka Kogyo K.K., c/o Japan Technical Information Center, Inc., 775 South 23d St., Arlington, VA 22202. The petition proposes to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the expanded safe use of 2, 2′-methylenebis (4,6-di-*tert*-butylphenyl) 2-ethylhexyl phosphite as an antioxidant and/or stabilizer in linear low density polyethylene articles intended for contact with food.

The agency has determined under 21 CFR 25.32(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: August 12, 1998.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–23269 Filed 8–28–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–0716]

Dainippon Ink and Chemicals, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Dainippon Ink and Chemicals, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the expanded safe use of a polyester-polyurethane resin-acid dianhydride adhesive in retortable pouches for use in contact with fatty food.

FOR FURTHER INFORMATION CONTACT: Mark A. Hepp, Center for Food Safety

and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3098.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 8B4619) has been filed by Dainippon Ink and Chemicals, Inc., c/o Center for Regulatory Services, 2347 Paddock Lane, Reston, VA 20191. The petition proposes to amend the food additive regulations in § 177.1390 *Laminate structures for use at temperatures of 250* °F and above (21 CFR 177.1390) to provide for the expanded safe use of a polyester-polyurethane resin-acid dianhydride adhesive in retortable pouches for use in contact with fatty food.

The agency has determined under 21 CFR 25.32(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: August 17, 1998.

George H. Pauli,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–23270 Filed 8–28–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

General Hospital and Personal Use Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: General Hospital and Personal Use Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 14, 1998, 10:30 a.m. to 5 p.m.

Location: Corporate Bldg., conference room 020B, 9200 Corporate Blvd., Rockville, MD.

Contact Person: Martha T. O'Lone, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8913, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12520. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss and make recommendations on the classification of unclassified washers and washer-disinfectors intended to process reusable medical devices.

Procedure: On September 14, 1998, from 11 a.m. to 5 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person before September 4, 1998. Oral presentations from the public will be scheduled between approximately 11 a.m. and 12 m. and between approximately 3:45 p.m. and 4:15 p.m. Time allotted for each presentation may be limited. Those individuals desiring to make formal oral presentations should notify the contact person before September 4, 1998, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On September 14, 1998, from 10:30 a.m. to 11 a.m., the meeting will be closed to permit FDA to present to the committee trade secret and/or confidential commercial information (5 U.S.C. 552b(c)(4)) regarding pending issues and applications.

FDA regrets that it was unable to publish this notice 15 days prior to the September 14, 1998, General Hospital and Personal Use Devices Panel of the Medical Devices Advisory Committee meeting. Because the agency believes there is some urgency to bring these issues to public discussion and qualified members of the General Hospital and Personal Use Devices Panel of the Medical Devices Advisory Committee were available at this time, the Commissioner concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 25, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–23305 Filed 8–28–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0646]

Global Harmonization Task Force: Draft Documents on Adverse Event and Vigilance Reporting of Medical Device Events; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of five draft documents entitled ''Comparison of Device Adverse Report Systems'' (SG2–N6), ''Guidance on How to Handle Information Concerning Vigilance Reporting Related to Medical Devices'' (SG2–N8), ''Global Medical Devices Vigilance Report (Form and Instructions)'' (SG2–N9), ''Pre' cis'' (Vigilance and Postmarket Surveillance) (SG2–N12), and ''Adverse Event Reporting Guidelines for Manufacturers'' (SG–N21). These documents have been prepared by members of the Global Harmonization Task Force (GHTF), study group 2 on Medical Devices Vigilance/Postmarket Surveillance Reporting Systems. The documents are intended to provide information only and represent a harmonized group of proposals. Elements of the approach set forth in these documents may not be consistent with current U.S. regulatory requirements. FDA is requesting comments on these documents.

DATES: Written comments by September 30, 1998. After the close of the comment period, written comments may be submitted at any time to Larry G. Kessler (address below).

ADDRESSES: Submit written comments on the draft documents to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. If you do not have access to the World Wide Web (WWW), submit written requests for single copies on a 3.5'' diskette of the draft documents entitled ''Draft Documents on Adverse Event and Vigilance Reporting of Medical Device

Events'' to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your requests, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to these draft documents.

FOR FURTHER INFORMATION CONTACT: Larry G. Kessler, Office of Surveillance and Biometrics (HFZ–500), Center for Devices and Radiological Health, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2812.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has participated in a number of activities to promote the international harmonization of regulatory requirements, as described in an FDA notice on these activities published in the **Federal Register** of October 11, 1995 (60 FR 53078). As part of this effort, FDA has been actively involved since 1992 with GHTF. GHTF has formed four study groups, each tasked with assignments to draft documents and carry on other activities, designed to facilitate global harmonization. The purpose of this notice is to seek public comments on draft documents that have been prepared by one of the GHTF study groups.

Study group 2 was formed by GHTF in February 1996 and tasked with the responsibility to examine the requirements for the reporting of adverse incidents involving medical devices; consider postmarket surveillance and other forms of vigilance; and recommend ways of harmonizing these requirements. Study group 2 was also requested to promote the dissemination of relevant information concerning these matters. Study group 2 helps to improve protection of the health and safety to patients, users, and others; evaluate reports and disseminate information which may reduce the likelihood of or prevent repetitions of adverse events, or alleviate consequences of such repetitions; and define postmarket medical device reporting and surveillance requirements and guidelines on an international basis.

Reporting of adverse events involving medical devices is an important element in any good postmarketing surveillance system and can be achieved only through mutual confidence among all parties concerned. The obligation to report adverse events differs widely among countries. Some systems are voluntary, while others are mandatory. The common thread that could tie all of the worldwide reporting systems together is the obligation for the manufacturer to report adverse events or incidents of which they are aware that involve medical devices.

It is the premise of the work of GHTF study group 2 that an international system for reporting adverse events can be developed to handle information provided by the manufacturer to the authorities.

1. In the draft document entitled ''Comparison of the Device Adverse Report Systems'' (SG2–N6), study group 2 compares 11 aspects of the regulatory systems of each of these countries with respect to the purpose of the device adverse event report systems, applicability, report timing, reporting criteria, not reportable incidents/events, procedures to report, applicable forms, content of the forms, role of the authority, definitions, and responsible entity for the investigation of the adverse event.

2. In the draft document entitled ''Guidance on How to Handle Information Concerning Vigilance Reporting Related to Medical Devices'' (SG2–N8), information and guidance is provided that represents a harmonized proposal. This document contains information on communication between National Competent Authorities on events related to medical devices; when and how to inform publicly about adverse events; concerns with releasing information nationally; a list of criteria on how to disseminate information on adverse events, nationally; and recommendations on when an authority decides to disseminate information to the public.

3. In the draft document entitled ''Global Medical Devices Vigilance Report (Form and Instructions)'' (SG2–N9), information and guidance is provided about relevant measurers and/or recommendations relating to the prevention of adverse incidents concerning medical devices.

4. In the draft document entitled ''Pre'cis'' (SG2–N12R6), an overview and focus is provided of the mission, scope, and activities of the GHTF–SG–2.

5. In the draft document entitled ''Adverse Event Reporting Guideline for Decisions for Manufacturers'' (SG2–N21), a ''Decision Tree'' matrix is presented for manufacturers and their representatives to decide when an adverse event should be reported.

It should be noted that these GHTF draft documents represent the current thinking and directions for harmonized postmarket surveillance, adverse event, and vigilance reporting aspects worldwide. These draft documents are presented for review and comment so that industry and other members of the public may express their views regarding global harmonization of medical device adverse event reporting.

II. Electronic Access

Persons interested in obtaining a copy of these draft documents may also do so using the WWW. CDRH maintains an entry on the WWW for easy access to the Web. Updated on a regular basis, the CDRH Home Page includes ''Draft Documents on Adverse Event and Vigilance Reporting of Medical Device Events,'' device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video-oriented conferencing and electronic submissions, mammography matters, and other device oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh.

III. Comments

Interested persons may on or before September 30, 1998, submit to the Dockets Management Branch (address above) written comments regarding the draft documents. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document and with the full title of these documents. The draft documents and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

After September 30, 1998, written comments regarding the draft documents may be submitted at any time to the contact person (address above).

Dated: August 19, 1998.

D.B. Burlington,

Director, Center for Devices and Radiological Health.

[FR Doc. 98–23271 Filed 8–28–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Pub. L. 92–463, the Annual Report for the following Health Resources and Services Administration's Federal Advisory Committee has been filed with the Library of Congress:

Health Professions and Nurse Education Special Emphasis Panel

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE, Washington, DC. Copies may be obtained from: Ms. Sherry Whipple, Program Analyst, Peer Review Branch, Bureau of Health Professions, Room 8C–23, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–5926.

Dated: August 25, 1998.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 98–23307 Filed 8–28–98; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Pub. L. 92–463, the Annual Report for the following Health Resources and Services Administration's Federal Advisory Committee has been filed with the Library of Congress:

Maternal and Child Health Research Grants Review Committee

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE, Washington, DC. Copies may be obtained from: Grontran Lamberty, Dr. P.H., Executive Secretary, Maternal and Child Health Research Grants Review Committee, Room 18A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–2190.

Dated: August 25, 1998.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 98–23308 Filed 8–28–98; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration (HRSA)

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration publishes abstracts of information collection requests under review by the office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance request submitted to OMB for review, call the HRSA Reports Clearance Office at (301) 443–1129. The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: The National Health Service Corps (NHSC) and Native Hawaiian Health (NHH) Scholarship Programs Data Collection Worksheets

In Use Without Approval—The NHSC and NHH Scholarship Programs were established to assure an adequate supply of trained primary care health professionals to the neediest communities in the Health Professional Shortage Areas (HPSAs) of the United States. Under these programs, allopathic physicians, osteopathic physicians, dentists, nurse practitioners, nurse midwives, physician assistants, and, if needed by the NHSC or NHH program, students of other health professions are offered the opportunity to enter into a contractual agreement with the Secretary under which the Public Health Service agrees to pay the total school tuition, required fees, other reasonable costs (ORC) and a stipend for living expenses. In exchange, the scholarship recipient agrees to provide full-time clinical services at a site in a federally designated HPSA.

In order to accurately determine the amount of scholarship support that students will need during their academic training, the Bureau of Primary Health Care must contact each scholar's school for an estimate of tuition, fees, and ORC. The Data Collection Worksheet collects these itemized costs for both resident and nonresident students.

The estimated reporting burden is as follows:

Type of report	Number of respondents	Minutes per response	Total burden hours
Worksheet	600	30	300

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Laura Oliven, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: August 25, 1998.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 98–23309 Filed 8–28–98; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information

collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Ryan White Comprehensive AIDS Resources Emergency Act of 1990, As Amended—Title IV (OMB No. 0915–0206)

Extension—The HRSA HIV–AIDS Bureau proposes to continue to collect aggregated data from 43 grantees and their 90 local service providers that are funded under Section 2671 of the Public Health Service Act (42 USC 300ff–71). Data are collected from grantees and providers on the organizational structures, service delivery approaches, numbers and demographic characteristics of clients served, service utilization, and activities related to outreach, education, and prevention. The data collection strategy includes tables that the grantees and their local service providers use to submit information annually about program and client characteristics. The data collected are used by grantees and the HIV–AIDS Bureau for other planning and policy efforts.

Burden estimates are as follows:

Type of form	Number of respondents	Responses per respondent	Avg hours per response	Total burden Hours
Designation of Local Reporting Entities	43	1	.25	10.75
Local Network Profile	133	1	.5	66.5
Demographic and Clinical Status	133	1	30	3,990
Service Utilization Summary	133	1	20	2,660
Prevention and Education Activities	133	1	4	532
Total	133			7,260

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Laura Oliven, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: August 25, 1998.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 98–23310 Filed 8–28–98; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Health Professions and Nurse Education Special Emphasis Panel (SEP) Meetings.

Name: Public Health Traineeships Peer Review Group.

Date and Time: October 5–6, 1998, 8:00 a.m. to 6:00 p.m.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: October 5, 1998, 8:00 a.m. to 10:00 a.m.

Closed on: October 5, 1998, 10:00 a.m. to 6:00 p.m.; October 6, 1998, 8:00 a.m. to 6:00 p.m.

Name: Graduate Training in Family Medicine Peer Review Group.

Date and Time: November 16–19, 1998, 8:00 a.m. to 6:00 p.m.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: November 16, 1998, 8:00 a.m. to 10:00 a.m.

Closed on: November 16, 1998, 10:00 a.m. to 6:00 p.m.; November 17–19, 1998, 8:00 a.m. to 6:00 p.m.

Name: GIM/GP Residency Training Peer Review Group.

Date and Time: December 1–4, 1998, 8:00 a.m. to 6:00 p.m.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: December 1, 1998, 8:00 a.m. to 10:00 a.m.

Closed on: December 1, 1998, 10:00 a.m. to 6:00 p.m.; December 2–4, 1998, 8:00 a.m. to 6:00 p.m.

Name: Faculty Development Peer Review Group.

Date and Time: December 7–9, 1998, 8:00 a.m. to 6:00 p.m.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: December 7, 1998, 8:00 a.m. to 10:00 a.m.

Closed on: December 7, 1998, 10:00 a.m. to 6:00 p.m.; December 8–9, 1998, 8:00 a.m. to 6:00 p.m.

Name: Advanced General Dentistry Peer Review Group.

Date and Time: January 11–13, 1999, 8:00 a.m. to 6:00 p.m.

Place: * Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: January 11, 1999, 8:00 a.m. to 10:00 a.m.

Closed on: January 11, 1999, 10:00 a.m. to 6:00 p.m.; January 12–13, 1999, 8:00 a.m. to 6:00 p.m.

Name: Nursing Education Opportunities Peer Review Group.

Date and Time: January 19–21, 1999, 8:00 a.m. to 6:00 p.m.

Place: * Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: January 19, 1999, 8:00 a.m. to 10:00 a.m.

Closed on: January 19, 1999, 10:00 a.m. to 6:00 p.m.; January 20–21, 1999, 8:00 a.m. to 6:00 p.m.

Name: Predoctoral Training in Family Medicine Peer Review Group.

Date and Time: January 25–27, 1999, 8:00 a.m. to 6:00 p.m.

Place: * Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: January 25, 1999, 8:00 a.m. to 10:00 a.m.

Closed on: January 25, 1999, 10:00 a.m. to 6:00 p.m.; January 26–27, 1999, 8:00 a.m. to 6:00 p.m.

Name: Nurse Practitioner/Nurse Midwifery Review Group.

Date and Time: February 16–19, 1999, 8:00 a.m. to 6:00 p.m.

Place: * Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: February 16, 1999, 8:00 a.m. to 10:00 a.m.

Closed on: February 16, 1999, 10:00 a.m. to 6:00 p.m.; February 17–19, 1999, 8:00 a.m. to 6:00 p.m.

Name: Geriatric Education Centers Review Group.

Date and Time: February 22–24, 1999, 8:00 a.m. to 6:00 p.m.

Place: * Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: February 22, 1999, 8:00 a.m. to 10:00 a.m.

Closed on: February 22, 1999, 10:00 a.m. to 6:00 p.m.; February 23–24, 1999, 8:00 a.m. to 6:00 p.m.

Name: Nursing Special Projects Review Group.

Date and Time: March 1–3, 1999, 8:00 a.m. to 6:00 p.m.

*Place:** Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: March 1, 1999, 8:00 a.m. to 10:00 a.m.

Closed on: March 1, 1999, 10:00 a.m. to 6:00 p.m.; March 2–3, 1999, 8:00 a.m. to 6:00 p.m.

Name: Advanced Nurse Education/Nurse Anesthetist Review Group.

Date and Time: March 8–10, 1999, 8:00 a.m. to 6:00 p.m.

*Place:** Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: March 8, 1999, 8:00 a.m. to 10:00 a.m.

Closed on: March 8, 1999, 10:00 a.m. to 6:00 p.m.; March 9–10, 1999, 8:00 a.m. to 6:00 p.m.

Name: Minority Faculty Fellowship Program Review Group.

Date and Time: March 22–24, 1999, 8:00 a.m. to 6:00 p.m.

*Place:** Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: March 22, 1999, 8:00 a.m. to 10:00 a.m.

Closed on: March 22, 1999, 10:00 a.m. to 6:00 p.m.; March 23–24, 1999, 8:00 a.m. to 6:00 p.m.

Name: Basic AHEC Review Group.

Date and Time: March 29–30, 1999, 8:00 a.m. to 6:00 p.m.

*Place:** Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: March 29, 1999, 8:00 a.m. to 10:00 a.m.

Closed on: March 29, 1999, 10:00 a.m. to 6:00 p.m.; March 30, 1999, 8:00 a.m. to 6:00 p.m.

Name: Model AHEC Review Group.

Date and Time: March 31–April 1, 1999, 8:00 a.m. to 6:00 p.m.

*Place:** Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: March 31, 1999, 8:00 a.m. to 10:00 a.m.

Closed on: March 31, 1999, 10:00 a.m. to 6:00 p.m.; April 1, 1999, 8:00 a.m. to 6:00 p.m.

Name: Interdisciplinary Training for Health Care for Rural Areas Review Group.

Date and Time: April 12–14, 1999, 8:00 a.m. to 6:00 p.m.

*Place:** Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: April 12, 1999, 8:00 a.m. to 10:00 a.m.

Closed on: April 12, 1999, 10:00 a.m. to 6:00 p.m.; April 13–14, 1999, 8:00 a.m. to 6:00 p.m.

Name: Health Education Training Centers Review Group.

Date and Time: April 19–21, 1999, 8:00 a.m. to 6:00 p.m.

*Place:** Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: April 19, 1999, 8:00 a.m. to 10:00 a.m.

Closed on: April 19, 1999, 10:00 a.m. to 6:00 p.m.; April 20–21, 1999, 8:00 a.m. to 6:00 p.m.

Name: Allied Health Project Grants Review Group.

Date and Time: April 19–22, 1999, 8:00 a.m. to 6:00 p.m.

*Place:** Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: April 19, 1999, 8:00 a.m. to 10:00 a.m.

Closed on: April 19, 1999, 10:00 a.m. to 6:00 p.m.; April 20–22, 1999, 8:00 a.m. to 6:00 p.m.

Name: Health Career Opportunity Programs Review Group.

Date and Time: May 10–13, 1999, 8:00 a.m. to 6:00 p.m.

*Place:** Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: May 10, 1999, 8:00 a.m. to 10:00 a.m.

Closed on: May 10, 1999, 10:00 a.m. to 6:00 p.m.; May 11–13, 1999, 8:00 a.m. to 6:00 p.m.

Name: Departments of Family Medicine Peer Review Group.

Date and Time: May 17–19, 1999, 8:00 a.m. to 6:00 p.m.

*Place:** Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: May 17, 1999, 8:00 a.m. to 10:00 a.m.

Closed on: May 17, 1999, 10:00 a.m. to 6:00 p.m.; May 18–19, 1999, 8:00 a.m. to 6:00 p.m.

Name: Health Career Opportunity Review Group.

Date and Time: May 24–27, 1999, 8:00 a.m. to 6:00 p.m.

*Place:** Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: May 24, 1999, 8:00 a.m. to 10:00 a.m.

Closed on: May 24, 1999, 10:00 a.m. to 6:00 p.m.; May 25–27, 1999, 8:00 a.m. to 6:00 p.m.

Name: Centers of Excellence Review Group.

Date and Time: June 7–8, 1999, 8:00 a.m. to 6:00 p.m.

*Place:** Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: June 7, 1999, 8:00 a.m. to 10:00 a.m.

Closed on: June 7, 1999, 10:00 a.m. to 6:00 p.m.; June 8, 1999, 8:00 a.m. to 6:00 p.m.

* Expected hotel for meeting location. However, final decision will not be made until October–November.

Purpose: The Health Professions and Nurse Education Special Emphasis Panel shall advise the Director of the Bureau of Health Professions on the technical merit of grants to improve the training, distribution, utilization, and quality of personnel required to staff the Nation's health care delivery system.

Agenda: The open portion of each meeting will cover welcome and opening remarks, financial management and legislative implementation updates, and overview of the review process. The meetings will be closed at approximately 10:00 a.m. on the first day of each meeting until adjournment for the review of grant applications. The closing is in accordance with the provision set forth in section 552b(c)(6), Title 5 U.S. Code, and the Determination by the Administrator, Health Resources and Services Administration, pursuant to Public Law 92–463.

Anyone wishing to obtain a roster of members or other relevant information should write or contact Mrs. Sherry Whipple, Program Analyst, Peer Review Branch, Parklawn Building, Room 8C–23, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–5926.

Dated: August 17, 1998.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 98–23306 Filed 8–28–98; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Evaluation of High-Risk Youth Substance Abuse Prevention

Initiatives—0930–0178 (Extension, no change)—The Center for Substance Abuse Prevention (CSAP) is conducting a cross-site evaluation of 47 demonstration projects targeting high-risk youth to assess the effectiveness of the demonstration program in : (1) preventing and/or reducing substance abuse among at-risk youth; and (2) intervention strategies for reducing selected risk factors and enhancing protective factors. Youth participating in the programs and comparison group youth complete self-administered questionnaires at four points in time: baseline; at program exit; 6 months after program exit; and 18 months after program exit. The annual burden estimate is shown below:

	Number of respondents	Number of responses/respondent	Average burden/response (hours)	Total burden hours
Youth	11,300	1	.433	4,893

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: August 27, 1998.

Patricia S. Bransford,

Acting Executive Officer, SAMHSA.

[FR Doc. 98–23291 Filed 8–28–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–020–1990–10]

Intent to Prepare Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Correction.

SUMMARY: This action corrects the dates of the scheduled public meetings stated in a Notice Of Intent published in the **Federal Register** on page 44921, **Federal Register**, August 21, 1998 (Volume 63, Number 162) FR Doc. 98–22517.

EFFECTIVE DATE: August 21, 1998.

FOR FURTHER INFORMATION CONTACT: Gerald Moritz, EIS Project Manager, 5100 E. Winnemucca Blvd., Winnemucca, Nevada 89445, (702) 623–1500.

SUPPLEMENTARY INFORMATION: The Notice of Intent published in the **Federal Register**, page 44921, August 21, 1998 (Volume 63, Number 162) is hereby corrected as follows:

1. Tuesday, October 6, 1998.

2. Wednesday, October 7, 1998.

Dated: August 24, 1998.

Michael R. Holbert,

Acting Field Office Manager, Winnemucca.

[FR Doc. 98–23356 Filed 8–28–98; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–070–1430–01, MTM–88336]

Notice of Realty Action: Recreation and Public Purposes (R&PP) Act Classification, Madison County, MT

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice.

SUMMARY: The following public lands in Madison County, Montana, have been examined and found suitable for classification for conveyance to Madison County under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). Madison County proposes to use the lands for historic monument purposes and dedication as a Pioneer Memorial.

Principal Meridian Montana

T. 5 S., R. 4 W.,
Sec. 34, SW¼
Containing 160 acres more or less.

The lands are not needed for Federal purposes. Conveyance of these lands is consistent with current Bureau of Land Management (BLM) land use planning and would be in the public interest. A patent will be issued for these lands. The patent, when issued, will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States (Act of August 30, 1890).

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

4. The lands will be conveyed subject to all valid, existing rights (e.g., rights-of-way, easements and leases of record).

5. Those rights for a road granted to James Edwards by right-of-way grant serial number MTM–84877.

6. Those rights for a road granted to Craig and Marilee Bobzien by right-of-way grant serial number MTM–87364.

7. A permit for a Community Gravel Pit authorized under serial number MTM–89389.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this action is available for review at the Bureau of Land Management's Dillon Field Office, 1005 Selway Drive, Dillon, Montana 59725–9431.

SUPPLEMENTARY INFORMATION: Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws and the mineral leasing laws, except for conveyance under the Recreation and Public Purposes Act. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the classification of the lands or the proposed conveyance to the Field Manager at the address listed above.

Classification Comments

Interested parties may submit comments involving the suitability of the land for historic monument purposes. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to

the suitability of the land for historic monument purposes.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

Dated: August 21, 1998.

Scott Powers,

Field Manager.

[FR Doc. 98–23277 Filed 8–28–98; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

National Park Service

Delaware Water Gap National Recreation Area Draft Environmental Assessment (EA)

AGENCY: National Park Service, Interior.

ACTION: Notice of release of draft environmental assessment.

SUMMARY: This notice announces the release of a draft environmental assessment (EA) on a proposal to implement Phase I of road rehabilitation for US Route 209 within the park.

EA Comment Period: Comments on or before September 26, 1998.

Copies available at: Website: www.nps.gov/dewa

Park Headquarters, River Road, Bushkill, PA 18324

Warren County Library, Belvidere, NJ 07823

Kemp Library, East Stroudsburg University, E Stroudsburg PA 18301

State Library of PA, PO Box 1601, Harrisburg, PA 17105

Easton Area Public Library, 6th and Church Street, Easton, PA 18042

Sussex County Library, 125 Morris Turnpike, Newton, NJ 07860

New Jersey State Library, 185 West State Street CN 520, Trenton, NJ 08625

Eastern Monroe Public Library, 1002 North Ninth Street, Stroudsburg, PA 18360

Pike County Library, 201 Broad Street, Milford, PA 18337

This draft environmental assessment, prepared by the National Park Service, deals with the environmental consequences of Phase I of proposed road rehabilitation of US Route 209. The project is proposed just south of the Milford town limits, with the rehabilitation of culverts, bridges and retaining walls between Bushkill and Milford. Specifically, this project proposes road rehabilitation between mile markers 18.1 and 20.8, and road structure rehabilitation at mile marker 7.8, 10.9, 14.6, 17.4 and 18.3. There will be traffic control and potential traffic delays associated with this work.

SUPPLEMENTARY INFORMATION: US Route 209 is a primary north-south road along the Pennsylvania -side of the Delaware River, connecting Interstate-80 (I–80) and Interstate-84 (I–84). Within the boundaries of Delaware Water Gap National Recreation Area, US Route 209 is a two-lane, undivided highway connecting the towns of Bushkill and Milford, Pennsylvania. This section of road is maintained by the National Park Service under the Federal Highways Program. The existing road surface has deteriorated and presents some potential safety-hazards. US Route 209 is an important north-south road within the park, and is a critical link for surrounding communities. The maintenance and repair of this road is vital to the annual average of 8,000 vehicles/day which use it.

The EA is available for public comment. Any member of the public may file a written comment. Comments should be addressed to the Superintendent, Delaware Water Gap National Recreation Area, River Road, Bushkill, PA 18324.

FOR FURTHER INFORMATION CONTACT: Superintendent, Delaware Water Gap National Recreation Area, Bushkill, PA 18324, 717–588–2418.

Dated: August 19, 1998.

William G. Laitner,

Superintendent.

Congressional Listing for Delaware Water Gap NRA

Honorable Frank Lautenburg, U.S. Senate, SH–506 Hart Senate Office Building, Washington, DC 20510–3002

Honorable Robert G. Torricelli, U.S. Senate, Washington, DC 20510–3001

Honorable Richard Santorum, U.S. Senate, SR 120 Senate Russell Office Bldg., Washington, DC 20510

Honorable Arlen Specter, U.S. Senate, SH–530 Hart Senate Office Bldg. Washington, DC 20510–3802

Honorable Paul McHale, U.S. House of Representatives, 511 Cannon House Office Bldg., Washington, DC 20515–3815

Honorable Joseph McDade, U.S. House of Representatives, 2370 Rayburn House Office Bldg., Washington, DC 20515–3810

Honorable Margaret Roukema, U.S. House of Representatives, 2244 Rayburn House Office Bldg., Washington, DC 20515–3005

Honorable Tom Ridge, State Capitol, Harrisburg, PA 17120

Honorable Christine Whitman, State House, Trenton, NJ 08625

[FR Doc. 98–23274 Filed 8–28–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Keweenaw National Historical Park, Michigan

AGENCY: National Park Service, Interior.

ACTION: Notice—Record of Decision.

SUMMARY: The Department of the Interior, National Park Service, has prepared a Record of Decision on The Final General Management Plan and Final Environmental Impact Statement for the Keweenaw National Historical Park, in Houghton County, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Fiala, Superintendent, Keweenaw National Historical Park, P.O. Box 471, Calumet, Michigan 49931–0471. Telephone number 906–337–3168.

SUPPLEMENTARY INFORMATION:

Introduction

The Department of the Interior, National Park Service, has prepared this Record of Decision on the Final General Management Plan/Environmental Impact Statement (FGMP/EIS) for Keweenaw National Historical Park, in Houghton County, Michigan. This Record of Decision is a statement of the decision made, the background of the project, other alternatives considered, the basis for the decision, the environmentally preferable alternative, measures to minimize environmental harm, and public involvement in the decision-making process.

Decision

The National Park Service will implement the proposed action as described in the Alternative 4 and Actions Common to All sections in the Final General Management Plan/ Environmental Impact Statement issued in June 1998.

The intent of the proposed action is to create a dynamic national park area that commemorates the significance of copper mining on the Keweenaw Peninsula. Over time, the National Park Service will establish a strong public presence in the Quincy and Calumet park units through ownership, management, and interpretation of key resources. Also, through technical and financial assistance to the community, the National Park Service will be a contributing member of an organized and active partnership of local

government and community groups that will work toward preservation and interpretation of park and area resources. This approach will in the long term best meet the purposes of Public Law 102–543 and provide the broadest level of resource protection and visitor services for the park and its cooperating sites.

In concept, this plan would be implemented by gradually building park funding and a staff of professionals to provide increased financial and technical assistance to the partners and cooperating sites and other community groups to facilitate the preservation, maintenance, and interpretation of resources. Once a strong assistance program is established, the NPS would begin a concerted program to acquire or otherwise protect and interpret significant properties in the Calumet and Quincy units of the park, as funding and staffing levels and legal constraints permit.

Initially, visitors will depend primarily on the preservation accomplishments and interpretive programs of park cooperating sites and others to gain an understanding of the park and region and its significance. Gradually visitors will experience a much more traditional national park visit as more resources within the park boundary are preserved and interpreted by the park and community. At least one property in each unit will be leased or acquired for park administrative and visitor use facilities, with the intent that a Quincy visitor facility will provide most visitors the first point of introduction and orientation to the park, and that the park headquarters and additional visitor orientation services will be located in Calumet.

The Keweenaw National Historical Park Advisory Commission was established as part of Public Law 102–543 to, among other things, advise and assist the Secretary of the Interior in the planning and implementation of this general management plan. Toward this end, the commission will serve as the catalyst to bring interested public and private agencies on the Keweenaw Peninsula together and help facilitate and organize their activities toward achieving the intent of Public Law 102–543 and the park's general management plan. While the responsibility and authority for the management of the park will remain with the NPS, the Park Service will pursue through appropriate methods the amendment of Public Law 102–543 to activate the commission's operating authorities. These authorities will allow the Commission the ability to conduct educational programs, accept donations, and acquire real property to further the purposes of Public Law 102–543.

A limited number of cooperative sites will be established that represent a unique story that is not well represented within park boundaries. These sites would be eligible for funding or assistance from the Commission and the partnership and consultative assistance from the NPS. The NPS would have no liability for the sites. Within park boundaries, the NPS can enter into cooperative agreements with owners of nationally significant historic properties and they would be eligible for specific NPS financial and technical assistance, regardless of whether they are designated cooperating sites.

The NPS will use various methods of leasing, acquiring, or otherwise protecting properties primarily in the core industrial areas in the park. Department of the Interior policy 602 DM 2, section 2.4, regulates acquisition of real property contaminated by hazardous material. This policy allows a degree of flexibility that is not permitted by language in the legislation that created Keweenaw National Historical Park (KEWE). The NPS will seek, through legislative processes, to modify that language, thereby assuring KEWE is on the same footing as other parks in the system with regard to property acquisition. A land protection plan will be developed for the park and will establish priorities for acquisition of lands or interests in lands.

Additional future studies and plans will be needed to implement the broad guidance of the general management plan, such as historic structure reports, a historic resource study, a cultural landscape report, an ethnographic overview, oral history interviews, a comprehensive interpretive plan, a resource management plan, a boundary study, and hazardous substances surveys for lands proposed for acquisition.

Background of Project

The concept of a park to commemorate the significance of copper mining on the Keweenaw Peninsula surfaced in northern Michigan in 1974. In response to a congressional request, the National Park Service prepared national historic landmark nominations that resulted in the establishment in 1989 of the Quincy Mining Company Historic District and the Calumet Historic District. A Study of Alternatives, Proposed Keweenaw National Historical Park, was prepared in 1991 and its findings led Congress to pass Public Law 102–543 on October 27, 1992. Public Law 102–543 established Keweenaw National Historical Park as a unit of the National Park System. The purposes of the legislation are to (1) preserve the nationally significant historical and cultural sites, structures, and districts of a portion of the Keweenaw Peninsula in the State of Michigan for the education, benefit, and inspiration of present and future generations; and (2) to interpret the historic synergism between the geological, aboriginal, sociological, cultural, technological, and corporate forces that relate the story of copper on the Keweenaw Peninsula.

The legislation also established the Keweenaw National Historical Park Advisory Commission to advise and assist the Secretary of Interior. While the legislation identified operating authorities for the Commission, President Bush did not activate those authorities due to incongruities in the language related to how Commission members were appointed. These operating authorities, once activated, will provide the avenue by which much of the legislative intent, especially as it relates to the preservation and interpretation of resources outside the park boundaries, can be realized.

The Quincy unit, with about 1,120 acres, is just northeast of the city of Hancock and adjacent to Portage Lake. It includes the remnant structures and mines of the Quincy Mining Company and its associated historic landscape, including the Quincy Smelter. About 11 miles to the northeast is the Calumet unit. It includes about 750 acres of remnant administrative and mine buildings and the associated historic landscape of the Calumet and Hecla Mining Company, and the supporting commercial and residential areas of the Village of Calumet and Calumet Township.

Other Alternatives Considered

The Final General Management Plan/Environmental Impact Statement describes four alternatives for management actions, the environment that would be affected by those alternatives, and the environmental consequences of implementing the alternative actions. The major topic areas covered in each alternative are visitor experience and interpretation, financial and technical preservation assistance, acquisition of properties, development and use of properties, administration and operation, and implementation. An earlier preliminary management concept looked at NPS acquisition and management of virtually every significant property in the two park units. This was considered but rejected due to cost and contradiction of the partnership approach to

management envisioned by the park's enabling legislation.

The three alternatives that have been considered in addition to the Alternative 4 proposed action can be characterized as follows:

Alternative 1, the no-action alternative, proposes no changes in the current management direction. Visitors would still rely primarily on the services provided by groups like the Quincy Mine Hoist Association and Coppertown USA and other sites to learn about the historic resources and the history of copper mining on the Keweenaw. Calumet would remain primarily a self-discovery area, although some information would be available at park headquarters and other places. The park staff would continue to work in partnership with the community to find ways to protect resources and provide visitor services. These efforts would be limited by minimal NPS staffing and funding.

The community assistance alternative, alternative 2, would place the community at the forefront of implementing preservation actions and interpretive and educational programs at sites throughout the park. The protection of the park's significant resources would be vested in the local governments through the designation of local historic districts and preservation ordinances. The National Park Service would remain primarily in the background in a support role, providing a comprehensive program of technical and financial assistance to the community to help make their actions a success. The primary areas of interaction between NPS staff and visitors would be at a destination visitor facility in the Quincy unit; basic visitor services and administrative offices would be provided in a facility at Calumet.

Alternative 3 proposes a much more traditional park experience in the core industrial areas of each park unit. As funding and staffing levels allowed, the NPS would invest substantially in each of the core industrial areas by acquiring significant properties, conducting resource preservation, and adaptively using the structures. Interpretive staff and media would be located at key sites. Partnerships would be established and technical and financial assistance provided in order to advance preservation of core industrial area resources. Preservation and interpretation of resources outside the core areas would be dependent on the efforts of the community.

Basis For Decision

Alternative 4, the selected action, combines the best aspects of alternatives 2 and 3. This results in potentially the broadest level of resources protection, interpretation, visitor services, and the optimum opportunity for high quality visitor experiences. This approach remains true to a major partnership approach by placing significant emphasis on the role of the advisory commission and park partners, yet ensures the National Park Service will have a very public role in the management and interpretation of resources.

Environmentally Preferable Alternative

Environmentally preferable is defined as ''the alternative that will promote the national environmental policy as expressed in NEPA's section 101. Ordinarily, this means the alternative that causes the least damage to the biological and physical environment; it also means the alternative which best protects, preserves, and enhances historic, cultural, and natural resources'' (Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations, 1981).

Alternative 4, the selected action, is the environmentally preferable action. It best meets the full range of national environmental policy goals as stated in NEPA's section 101. Alternative 4 combines the two major resource preservation strategies presented in alternatives 2 and 3. A comprehensive financial and technical assistance program will provide more opportunities for the community to accomplish preservation and education efforts within the park and surrounding community. A strong partnership between all entities will help ensure good communication and effective decision making regarding the highest and best use of available funds and expertise. And, a strong NPS presence will show Federal commitment to and leadership in resource preservation and management. The NPS acquisition program will result in additional protection of structures and landscapes. The emphasis on preserving and adaptively using the many historic structures limits the future need for significant new development and natural resource disturbance.

Measures To Minimize Environmental Harm

All practicable measures to avoid or minimize environmental impacts that could result from implementation of the selected action have been identified and incorporated in the selected action. These measures are presented in the FGMP/EIS. However, due to the programmatic nature of the general management plan, specific implementation projects will be reviewed as necessary for compliance with the National Historic Preservation Act, National Environmental Policy Act, Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and other applicable Federal and State laws and regulations prior to project clearance and implementation. Specific measures to minimize environmental harm will be included in implementation plans called for (as necessary) by the FGMP/EIS. These plans include: a historic resource study, a cultural landscape report, historic structure reports, an ethnographic assessment, a resource management plan, development concept plans, schematic design documents, archeological surveys, a land protection plan, level 1, 2, and 3 hazardous substances surveys, and a boundary study.

The following measures will be implemented by Keweenaw National Historical Park to avoid or minimize environmental harm as a result of implementing the selected action, or to enhance protection of resources on the Keweenaw Peninsula.

- Keweenaw National Historical Park will work cooperatively with the advisory commission, state, county, township, city, and village agencies, community organizations, and individual landowners to preserve and manage resources and provide for public use. Key to this is assisting local jurisdictions in establishing local historic districts and preservation ordinances. Ordinances would promote both preservation of historic properties and compatible design of new development in the park. This will lead to enhanced protection of landscapes and structures, as well as to enhanced enjoyment of these resources by the public.
- The park will establish preservation financial assistance grants to encourage preservation projects by private property owners. Grant criteria would include adherence to the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- The park will engage in additional study, data collection, and monitoring, especially of archeological and ethnographic resources, cultural landscapes, historic structures, and visitor uses to provide the knowledge base needed to make informed decisions for the long-term protection and preservation of park resources.
- The park will acquire and provide appropriate architectural treatment and use of some historic structures. Treatments will conform to the Secretary of the Interior's Standards. Prior to acquisition the resources proposed for acquisition will be surveyed to

determine the nature and extent of hazardous materials contamination, if any.

- Short- and long-term soil disturbance and vegetation loss from construction activities, including parking areas, pulloffs, walkways, utility lines, public facilities, and landscape restoration, will be minimized through appropriate erosion control and revegetation and placement of facilities on previously disturbed areas wherever possible.

Public Involvement

Public scoping meetings for the general management plan were held in the Keweenaw area in 1994 and 1995, including meetings with the Commission and park partners. A scoping newsletter with comment form was distributed in May 1995. Park issues, vision statements, purpose and significance statements, and interpretive themes were drafted as part of this process.

In September 1995, a briefing booklet on conceptual planning alternatives was distributed for review and comment, and public meetings were held in Houghton, Calumet, Marquette, and Lansing during the week of September 12, 1995. In February 1996, meetings and briefings were held with members of the advisory commission and park partners on the preliminary draft plan. Substantial revisions were made per those meetings and a revised preliminary draft plan and environmental document was distributed for review during the fall of 1996. On December 10 and 11, 1996, further meetings were held with the advisory commission and other park partners, local agencies, and cooperating sites. Substantive comments focused on concern that the seriousness of the hazardous materials issue had been overstated and presented too negatively; the need to formalize the current informal arrangements between the NPS and cooperating sites; and that formal recognition and establishment of a workable partnership arrangement was needed that did not weaken the authority of the park's advisory commission and treated other groups as partners, not as ''friends'' of the park.

Reflecting many revisions in response to comments on the preliminary draft, the Draft General Management Plan/ Environmental Impact Statement was printed and made available to the public on September 1, 1997. The official review period closed on October 31, 1997. Copies were placed on review in local libraries and government offices and were mailed primarily to the park's mailing list of agencies and organizations. A summary newsletter was distributed to others announcing public meetings and the availability of the draft document. The first meeting was held at Calumet Elementary on September 22, 1997 and approximately 35 attended. A second public meeting was held on September 23, 1997 at Suomi College in Hancock, with about 15 attending. During the 60-day public comment period, seven letters were received. These letters were reproduced in the final document along with agency responses.

The Final General Management Plan/ Environmental Impact Statement was made available for a 30-day no-action period on June 19, 1998. Approximately 250 copies of the FGMP/EIS were distributed primarily to key agencies and organizations. Copies were made available in local libraries and government agencies and upon request. The FGMP/EIS contains a full summary of the public involvement process and substantive comments received.

Approved: August 13, 1998.

David Given,

Acting Regional Director, Midwest Region, National Park Service.

[FR Doc. 98–23273 Filed 8–28–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Death Valley National Park Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Death Valley National Park Advisory Commission will be held September 16 and 17, 1998; assemble at 8:00 AM at the Quality Inn, 1520 East Main Street, Barstow, California.

The main agenda will include:

- Overview of the General Management Plan (GMP)
- Discussion of GMP alternatives
- Items for Discussion at Upcoming Meetings

The Advisory Commission was established by Pub. L. 3–433 to provide for the advice on development and implementation of the General Management Plan.

Members of the Commission are Janice Allen, Kathy Davis, Michael Dorame, Mark Ellis, Pauline Esteves, Stanley Haye, Sue Hickman, Cal Jepson, Joan Lolmaugh, Gary O'Connor, Alan Peckham, Michael Prather, Robert Revert, Wayne Schulz, and Gilbert Zimmerman.

This meeting is open to the public.

Richard H. Martin,

Superintendent, Death Valley National Park.

[FR Doc. 98–23275 Filed 8–28–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Delaware and Lehigh Navigation Canal National Heritage Corridor Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

Meeting Date and Time: Friday, September 11, 1998; 1:30–4:00 p.m.

Address: Residence of Ben and Carole Walbert, 87 Broadway, Jim Thorpe, PA 18229.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh Canal National Heritage Corridor and State Heritage Park. The Commission was established to assist the Commonwealth of Pennsylvania and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

SUPPLEMENTARY INFORMATION: The Delaware and Lehigh Navigation Canal National Heritage Corridor Commission was established by Pub. L. 100–692, November 18, 1988.

FOR FURTHER INFORMATION CONTACT: Denise G. Holub, Chief Financial Officer/Grants Administrator, Delaware and Lehigh Navigation Canal, National Heritage Corridor Commission, 10 E. Church Street, Room A–208, Bethlehem, PA 18018, (610) 861–9345.

Dated: August 20, 1998.

Denise G. Holub,

Chief Financial Officer/Grants Administrator, Delaware and Lehigh Navigation Canal NHC Commission.

[FR Doc. 98–23297 Filed 8–28–98; 8:45 am]

BILLING CODE 6820–PE–M

DEPARTMENT OF THE INTERIOR

National Park Service

Revision—Notice of Inventory Completion for Native American Human Remains, Associated Funerary Objects, and Unassociated Funerary Objects in the Control of the United States Marine Corps, Department of the Navy, Honolulu, HI; and in the Possession of the Bernice Pauahi Bishop Museum, Honolulu, HI

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains, associated funerary objects, and unassociated funerary objects in the control of the United States Marine Corps, Department of the Navy, Honolulu, HI; and in the possession of the Bernice Pauahi Bishop Museum, Honolulu, HI. **This notice modifies the culturally affiliated Native Hawaiian organizations in the Notice of Inventory Completion published April 22, 1998.**

A detailed assessment of the human remains was made by United States Marine Corps and Bishop Museum professional staff in consultation with representatives of Hui Malama I Na Kupuna O Hawai'i Nei and the Office of Hawaiian Affairs.

Based on skeletal and cranial morphology, dentition, style and type of associated funerary objects, manner of interments, and recovery locations, the human remains listed above have been determined to be Native Hawaiian. In consultation with Native Hawaiian organizations, the U.S. Marine Corps and the Bishop Museum decided that no attempt would be made to determine the age of the human remains. The various ohana, or families, listed below are Native Hawaiian organizations under 43 CFR 10.2 (**b**)(3)(i).

Based on the above mentioned information, officials of the U.S. Marine Corps and the Bishop Museum have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains referred to above represent the physical remains of a minimum of 1,582 individuals of Native American ancestry. Officials of the U.S. Marine Corps and the Bishop Museum have also determined that, pursuant to 43 CFR 10.2 (d)(2), the 251 objects referred to above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Officials of the U.S. Marine Corps and the Bishop Museum have further determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), these 30 cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual. Lastly, officials of the U.S. Marine Corps and the Bishop Museum have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains, associated funerary objects, and unassociated funerary objects and **Sam Monet/Fannie L. Moniz Ohana, Nalani Olds Ohana, Terrilee Napua Keko'olani-Raymond Ohana, Carlos Manuel Ohana, Eric Po'ohina on his behalf and on behalf of Huna Research Institute, the Princess Nahoa Olelo o Kamehameha Society, Ka Ohana O Na Iwi o Mokapu representing Gladys Pualoa and Ipolani Tano; Auld/Shaw Ohana; Victor Keli'imaika'i Boyd Ohana; VanHorn Diamond Ohana; Kekumano Ohana; Hui Malama I Na Kupuna O Hawai'i Nei; Ka Lahui Hawaii; Ko'olauloa Hawaiian Civic Club; O'ahu Island Burial Council; the Office of Hawaiian Affairs; Delilah Ortiz Ohana; Ella Paguyo Ohana; Paoa/Kea/Lono Ohana; Herbert Pratt Ohana; and the Prince Kuhio Hawaiian Civic Club**.

This notice has been sent to **Sam Monet/Fannie L. Moniz Ohana, Nalani Olds Ohana, Terrilee Napua Keko'olani-Raymond Ohana, Carlos Manuel Ohana, Eric Po'ohina on his behalf and on behalf of Huna Research Institute, the Princess Nahoa Olelo o Kamehameha Society, Ka Ohana O Na Iwi o Mokapu representing Gladys Pualoa and Ipolani Tano; Auld/Shaw Ohana; Victor Keli'imaika'i Boyd Ohana; VanHorn Diamond Ohana; Kekumano Ohana; Hui Malama I Na Kupuna O Hawai'i Nei; Ka Lahui Hawaii; Ko'olauloa Hawaiian Civic Club; O'ahu Island Burial Council; the Office of Hawaiian Affairs; Delilah Ortiz Ohana; Ella Paguyo Ohana; Paoa/Kea/Lono Ohana; Herbert Pratt Ohana; and the Prince Kuhio Hawaiian Civic Club**. Questions regarding this notice should be directed to Ms. June Cleghorn, Staff Archeologist, Marine Corps Base Hawaii, Kaneohe Bay, HI 96863–3002; telephone: (808) 257–6920, ext. 230. Repatriation of the human remains and associated funerary objects to **Sam Monet/Fannie L. Moniz Ohana, Nalani Olds Ohana, Terrilee Napua Keko'olani-Raymond Ohana, Carlos Manuel Ohana, Eric Po'ohina on his behalf and on behalf of Huna Research Institute, the Princess Nahoa Olelo o Kamehameha Society, Ka Ohana O Na Iwi o Mokapu representing Gladys Pualoa and Ipolani Tano; Auld/Shaw Ohana; Victor Keli'imaika'i Boyd Ohana; VanHorn Diamond Ohana; Kekumano Ohana; Hui Malama I Na Kupuna O Hawaiyi Nei; Ka Lahui Hawaii; Ko'olauloa Hawaiian Civic Club; O'ahu Island Burial Council; the Office of Hawaiian Affairs; Delilah Ortiz Ohana; Ella Paguyo Ohana; Paoa/Kea/Lono Ohana; Herbert Pratt Ohana; and the Prince Kuhio Hawaiian Civic Club** may begin after September 30, 1998, and at such time as the requesting parties agree upon their disposition or the dispute is otherwise resolved pursuant to the provisions of NAGPRA or by a court of competent jurisdiction [25 U.S.C. 3005 (e)].

Dated: August 25, 1998.

Veletta Canouts,

Acting Departmental Consulting Archeologist,

Deputy Manager, Archeology and Ethnography Program.

[FR Doc. 98–23296 Filed 8–28–98; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree

Under 28 CFR 50.7, notice is hereby given that on August 24, 1998, a proposed Consent Decree in *United States* v. *Zeneca Inc.*, Civ. No. 1–98–0096, was lodged with the United States District Court for the Middle District of Tennessee.

In this action against Zeneca, Inc., (''Zeneca'') the United States sought to recover civil penalties and enjoin violations of the Safe Drinking Water Act, 42 U.S.C. 300f, *et seq.*, and the implementing Underground Injection Control regulations, 40 CFR 144.28, the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*, the Clean Water Act, 33 U.S.C. 1251 *et seq.*, and the Clean Air Act, 42 U.S.C. 7413. The United States also sought relief under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9606. Zeneca operates a chemical manufacturing facility in Mount Pleasant, Tennessee.

This settlement resolves civil claims pending against Zeneca at its Mount Pleasant facility. The proposed Decree provides that Zeneca will pay a civil penalty of $3.5 million, and undertake two pollution prevention Supplemental Environmental Projects (''SEPs'') at a

cost of $2.5 million. Under the Decree, up to $500,000 of the penalty can be mitigated through SEPs. The proposed Decree provides for cessation of underground injection by May 1999, interim reductions in the underground injection of contaminants, and extensive RCRA corrective action at nine hazardous waste disposal sites.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Zeneca, Inc.*, D.J. Ref. 90–7–1–849.

The consent decree may be examined at the Office of the United States Attorney, 110 Ninth Avenue South, Nashville, TN 37203–3870, at U.S. EPA Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303, and at the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005, (202) 624–0892. A copy of the consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $21.75 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–23334 Filed 8–28–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 98–41; Exemption Application No. D–10372, et al.]

Grant of Individual Exemptions; Lehman Brothers Inc. (Lehman) and Lehman Brothers Trust Company and Affiliates (LBTC), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Lehman Brothers Inc. (Lehman) and Lehman Brothers Trust Company and Affiliates (LBTC), Located in New York, New York

[Prohibited Transaction Exemption 98–41; Exemption Application No. D–10327]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) the lending of securities to Lehman or to any other U.S. registered broker-dealer who is an affiliate of Lehman (collectively, Lehman Broker-Dealers) by employee benefit plans, including commingled investment funds holding plan assets (the Client Plans), with respect to which the Lehman Broker-Dealer is a party in interest, or for which LBTC or any other affiliate of Lehman, acts as directed trustee or custodian and/or securities lending agent (or sub-agent) for such Client Plan; and (2) the receipt of compensation by LBTC in connection with these transactions, provided that the following conditions are met:

1. Neither the Lehman Broker-Dealers nor LBTC has or exercises discretionary authority or control with respect to the investment of the assets of Client Plans involved in the transaction (other than with respect to the investment of cash collateral after the securities have been loaned and collateral received), or renders investment advise (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets, including decisions concerning a Client Plan's acquisition or disposition of securities available for loan;

2. Before a Client Plan participates in a securities lending program and before any loan of securities to the Lehman Broker-Dealers is affected, a Client Plan fiduciary who is independent of LBTC and the Lehman Broker-Dealers must have:

(a) Authorized and approved a securities lending authorization agreement with LBTC (the Agency Agreement), where LBTC is acting as the direct securities lending agent;

(b) Authorized and approved the primary securities lending authorization agreement (the Primary Lending Agreement) with the primary lending agent, where LBTC is lending securities under a sub-agency arrangement with the primary lending agent;[1]

(c) Approved the general terms of the securities loan agreement (the Basic Loan Agreement) between such Client Plan and the borrower, the Lehman Broker-Dealers, the specific terms of which are negotiated and entered into by LBTC;

3. A Client Plan may terminate the securities lending agency agreement at any time without penalty on five (5) business days notice, whereupon the Lehman Broker-Dealers shall deliver

[1] When LBTC acts as sub-agent, rather than the primary lending agent, the primary lending agent is receiving no section 406(b) of the Act relief herein. In such situations, the primary lending agent may be provided relief by Prohibited Transaction Class Exemption (PTE) 81–6 and PTE 82–63. PTE 81–6 was published at 46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987, and PTE 82–63 was published at 47 FR 14804, April 6, 1982.

securities identical to the borrowed securities (or the equivalent in the event of reorganization, recapitalization or merger of the issuer of the borrowed securities) to the plan within (a) the customary delivery period for such securities, (b) five (5) business days, or (c) the time negotiated for such delivery by the Client Plan and the Lehman Broker-Dealers, whichever is less;

4. LBTC (or another custodian on behalf of the Client Plan) will receive from the Lehman Broker-Dealers either by physical delivery, book entry in a securities depository, wire transfer or similar means collateral consisting of U.S. dollars, securities issued or guaranteed by the U.S. Government or its agencies or irrevocable U.S. bank letters of credit (issued by an entity other than the Lehman Broker-Dealers) or other collateral permitted under Prohibited Transaction Exemption (PTE) 81–6 (as amended from time to time or, alternatively, any additional or superceding class exemption that may be issued to cover securities lending by employee benefit plans) by the close of business on or before the day the loaned securities are delivered to the Lehman Broker-Dealers;

5. The market value of the collateral will initially equal at least 102 percent of the market value of the loaned securities. If the market value of the collateral on the close of trading on a business day falls below 100 percent of the market value of the borrowed securities at the close of business on that day, the Lehman Broker-Dealers will deliver additional collateral on the following day such that the market value of the collateral will again equal 102 percent. The Basic Loan Agreement will give the Client Plans a continuing security interest in, and a lien on, the collateral. LBTC will monitor the level of the collateral daily;

6. All the procedures regarding the securities lending activities will at a minimum conform to the applicable provisions of PTE 81–6 and PTE 82–63;

7. In the event the Lehman Broker-Dealer fails to return securities within a designated time, the Client Plan will have the right under the Basic Loan Agreement to purchase securities identical to the borrowed securities and apply the collateral to payment of the purchase price. If the collateral is insufficient to satisfy the Lehman Broker-Dealer's obligation to return the Client Plan's securities, the Lehman Broker-Dealer will indemnify the Client Plan with respect to the difference between the replacement cost of securities and the market value of the collateral on the date the loan is declared in default, together with expenses incurred by the Client Plan plus applicable interest at a reasonable rate, including any attorneys fees incurred by the Client Plan for legal action arising out of default on the loans, or failure by the Lehman Broker-Dealer to properly indemnify the Client Plan;

8. The Client Plan will receive the equivalent of all distributions made to the holders of the borrowed securities during the term of the loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits and rights to purchase additional securities, or other distributions;

9. Only Client Plans with total assets having an aggregate market value of at least $50 million are permitted to lend securities to the Lehman Broker-Dealers; provided, however, that—

(a) In the case of two or more Client Plans which are maintained by the same employer, controlled group of corporations or employee organization (the Related Client Plans), whose assets are commingled for investment purposes in a single master trust or any other entity the assets of which are ''plan assets'' under 29 CFR 2510.3–101 (the Plan Asset Regulation), which entity is engaged in securities lending arrangements with the Lehman Broker-Dealers, the foregoing $50 million requirement shall be deemed satisfied if such trust or other entity has aggregate assets which are in excess of $50 million; provided that if the fiduciary responsible for making the investment decision on behalf of such master trust or other entity is not the employer or an affiliate of the employer, such fiduciary has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

(b) In the case of two or more Client Plans which are not maintained by the same employer, controlled group of corporations or employee organization (the Unrelated Client Plans), whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are ''plan assets'' under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with the Lehman Broker-Dealers, the foregoing $50 million requirement is satisfied if such trust or other entity has aggregate assets which are in excess of $50 million (excluding the assets of any Plan with respect to which the fiduciary responsible for making the investment decision on behalf of such group trust or other entity or any member of the controlled group of corporations including such fiduciary is the employer maintaining such Plan or an employee organization whose members are covered by such Plan). However, the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(i) Has full investment responsibility with respect to plan assets invested therein; and

(ii) Has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million. (In addition, none of the entities described above are formed for the sole purpose of making loans of securities.)

10. With respect to any calendar quarter, at least 50 percent or more of the outstanding dollar value of securities loans negotiated on behalf of Client Plans will be to unrelated borrowers.

11. The terms of each loan of securities by the Client Plans to the Lehman Broker-Dealer will be at least as favorable to such plans as those terms which would exist in a comparable arm's-length transaction between unrelated parties;

12. Each Client Plan will receive monthly reports on the transactions, so that an independent fiduciary of such plan may monitor the securities lending transactions with the Lehman Broker-Dealer;

13. Before entering into the Basic Loan Agreement and before a Client Plan lends any securities to the Lehman Broker-Dealer, an independent fiduciary of such Client Plan will receive sufficient information, concerning the financial condition of the Lehman Broker-Dealer, including the audited and unaudited financial statements of the Lehman Broker-Dealer;

14. The Lehman Broker-Dealer will provide to a Client Plan prompt notice at the time of each loan by such plan of any material adverse changes in the Lehman Broker-Dealer's financial condition, since the date of the most recently furnished financial statements;

15. With regard to the ''exclusive borrowing'' agreement (as described below), the Lehman Broker-Dealer will directly negotiate the agreement with a Client Plan fiduciary who is independent of the Lehman Broker-Dealers and LBTC, and such agreement may be terminated by either party to the agreement at any time; [2]

[2] The termination will be without penalty to the Client Plan, except for the return to the Lehman Broker-Dealers of a part of any flat fee paid by the

Continued

16. The Client Plan: (a) receives a reasonable fee that is related to the value of the borrowed securities and the duration of the loan, or (b) has the opportunity to derive compensation through the investment of cash collateral. In the case of cash collateral, the Client Plan may pay a loan rebate or similar fee to the Lehman Broker-Dealer, if such fee is not greater than the fee the Client Plan would pay an unrelated party in an arm's length transaction;

17. In the event that a Lehman Broker-Dealer is also the securities lending agent for a Client Plan, LBTC shall act as securities lending sub-agent in connection with any loan of securities to the Lehman Broker-Dealer;

18. Prior to the Client Plan's approval of the lending of its securities to the Lehman Broker-Dealers, a copy of this exemption (and a copy of the notice of proposed exemption as published in the **Federal Register** on June 19, 1998 at 63 FR 33717) will be provided to the Client Plan; and

19. Lehman maintains or causes to be maintained within the United States for a period of six years from the date of such transaction such records as are necessary to enable the persons described in paragraph (20) below to determine whether the conditions of this exemption have been met; except that a party in interest with respect to an employee benefit plan, other than Lehman or the Lehman Broker-Dealers, shall not be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975(a) or (b) of the Code, if such records are not maintained, or are not available for examination as required by this section, and a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of Lehman or the Lehman Broker-Dealers, such records are lost or destroyed prior to the end of such six year period;

20. (i) Except as provided in subparagraph (ii) of this paragraph (20) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (19) are unconditionally available at their customary location for examination during normal business hours by—

(a) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or the Securities and Exchange Commission,

(b) Any fiduciary of a Client Plan or any duly authorized representative of such fiduciary,

(c) Any contributing employer to any Client Plan, or any duly authorized employee or representative of such employer, and

(d) Any participant or beneficiary of any Client Plan, or any duly authorized representative of such participant or beneficiary.

(ii) None of the persons described in subparagraphs (b)–(d) of this paragraph (20) shall be authorized to examine trade secrets of Lehman or the Lehman Broker-Dealers, or commercial or financial information which is privileged or confidential.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption (the Notice) published on June 19, 1998 at 63 FR 33717.

Written Comments

The Department received one written comment with respect to the Notice and no requests for a public hearing. The comment was filed by Lehman. The comment concerns footnote 2 of the Notice, which stated that:

> The Department notes that this proposed exemption would provide relief from the restrictions of section 406(a) as well as section 406(b)(1) and (b)(2) of the Act, whereas PTE 81–6 provides relief only for securities lending transactions which would violate section 406(a) of the Act. Thus, any amendments that may be made by the Department to PTE 81–6 which would permit different types of assets to be used as collateral for a securities loan would not allow the use of such assets as collateral under this proposed exemption to the extent that the transactions covered by this exemption (if granted) would require relief from section 406(b) of the Act.

Lehman requests that this footnote be deleted from the final exemption.

Footnote 2 of the Notice was also included by the Department in the written comments contained in PTE 98–23 (63 FR 29435), an individual exemption for securities lending transactions by Bankers Trust Company and its affiliates (Bankers Trust) published in the **Federal Register** on May 29, 1998.

However, subsequent comments made to the Department by Bankers Trust also requested that the Department withdraw its comments on this matter with respect to PTE 98–23. The requests by Bankers Trust and Lehman were made with the intent of avoiding possible confusion and preserving the availability of relief under the Bankers Trust and Lehman individual exemptions when different types of assets are permitted to be used as collateral under an amended version of PTE 81–6 or a superceding class exemption. In this regard, Lehman (and Bankers Trust) state that nothing in the record suggests that the type of collateral available under the individual exemptions should be different in any manner from the collateral requirements of PTE 81–6.

Upon consideration of these comments, the Department has modified the final exemption for Lehman by deleting Footnote 2, as it appeared in the Notice. In addition, the Department has indicated to Bankers Trust that it should consider the Department's comments on this issue withdrawn with respect to PTE 98–23.

Accordingly, the Department has determined to grant the proposed exemption as modified.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

Van Ness Plastic Molding Co., Inc., Employees' Money Purchase Pension Plan (the Plan), Located in Belleville, NJ

[Prohibited Transaction Exemption 98–42; Exemption Application No. D–10483]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the making to the Plan of a restoration payment (the Restoration Payment) with respect to certain defaulted third-party notes (Note 1, Note 2 and Note 3; collectively, the Notes) by the Van Ness Plastic Molding Co., Inc. (the Employer), a party in interest with respect to the Plan; and (2) the potential future receipt by the Employer of recapture payments (the Recapture Payments) made to the Plan pursuant to bankruptcy proceedings involving the issuer/assignor of the Notes.

This exemption is subject to the following conditions:

(a) Mr. William Van Ness, the Plan trustee, agrees to have excluded from his individual account in the Plan (the Account) any benefit attributable to the Restoration Payment, such that the total Restoration Payment is allocated to the Accounts of the other Plan participants and does not include any portion related to the interest of Mr. Van Ness's Account in the Notes.

(b) The Restoration Payment, which is calculated based upon the Account balances in the Plan of participants other than Mr. Van Ness, covers—

Lehman Broker-Dealers to the Client Plan, if the Client Plan has terminated its exclusive borrowing agreement with the Lehman Broker-Dealers.

(1) The aggregate unrecovered principal of the Notes plus accrued, but unpaid, interest on the Notes as of the dates of default, calculated through December 31, 1997;

(2) An additional amount representing interest on the unrecovered principal of Notes 2 and 3, originally scheduled for maturity in 1999, from January 1998 until the date the Restoration Payment is made; and

(3) Lost opportunity costs associated with Note 1, which was originally scheduled for maturity in 1997, from January 1998 until the date the Restoration Payment is made.

(c) Any Recapture Payments are restricted solely to the amounts, if any, recovered by the Plan with respect to the Notes in litigation or otherwise.

(d) The Restoration Payment is made to resolve potential claims for breach of fiduciary duty relating to the management of the Plan.

(e) The Employer receives a favorable ruling from the Internal Revenue Service that the Restoration Payment does not constitute a ''contribution'' or other payment that will disqualify the Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on June 29, 1998 at 63 FR 35281.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, D.C., this 24th day of August, 1998.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 98–23283 Filed 8–28–98; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 98–40; Exemption Application No. D–10429]

Grant of Individual Exemption to Amend and Replace Prohibited Transaction Exemption (PTE) 96–14 Involving Morgan Stanley & Co. Incorporated (MS&Co) and Morgan Stanley Trust Company (MSTC), Located in New York, NY

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor.

ACTION: Grant of individual exemption to modify and replace PTE 96–14.

SUMMARY: This document contains a final exemption which amends and replaces PTE 96–14 (61 FR 10032, March 12, 1996). PTE 96–14, as clarified by a Notice of Technical Correction dated June 4, 1996 (61 FR 28243), permits the lending of securities to MS&Co and to any other U.S. registered broker-dealers affiliated with MSTC (the Affiliated Broker-Dealers; collectively, the MS Broker-Dealers) by employee benefit plans with respect to which the MS Broker-Dealer who is borrowing such securities is a party in interest or for which MSTC acts as directed trustee or custodian and securities lending agent. In addition, PTE 96–14 permits MSTC to receive compensation in connection with securities lending transactions. These transactions are described in a notice of pendency (the Old Notice) that was published in the **Federal Register** on August 11, 1995 at 60 FR 41118.

The current exemption replaces PTE 96–14 but incorporates by reference the facts, representations and virtually all of the conditions that are contained in the Old Notice, the final exemption with respect thereto and the technical correction, except where modified.

EFFECTIVE DATE: This exemption is effective as of March 12, 1996 for transactions that are covered by PTE 96–14.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, telephone (202) 219–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On January 26, 1998, the Department of Labor (the Department) published a notice of proposed exemption (the New Notice) in the **Federal Register** (63 FR 3767) that would amend and replace PTE 96–14. PTE 96–14 provides an exemption from certain prohibited transaction restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1986 (the Code), as amended, by reason of section 4975(c)(1) of the Code. The proposed exemption was requested in an application filed on behalf of MS&Co and MSTC (collectively, the Applicants) pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures (the Procedures) set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Accordingly, this replacement exemption is being issued solely by the Department.

The New Notice gave interested persons an opportunity to comment on the proposed exemption and to request a public hearing. The only written comment submitted to the Department during the comment period was provided by the Applicants.

In their comment, the Applicants state that they wish to modify the operative language of the New Notice by adding MS&Co to the lending agent entities. The Applicants also wish to clarify that the exemption would cover situations where MSTC and MS&Co, as securities lending agents, act in a custodial or non-custodial capacity with respect to loaned securities. The Applicants believe the modification is necessary because MSTC and MS&Co may both act, from time to time, as non-custodial securities lending agents. As securities lending agents, the Applicants note that both MSTC and MS&Co would be confronted with the same issues under the prohibited transaction provisions of the Act and the Code if they were to lend client-plan securities to an MS Broker-Dealer, even though neither MSTC or MS&Co would have physical custody of the collateral for the securities loan. Under such circumstances, the Applicants explain that the collateral pledged by the MS Broker-Dealer would be held in a short-term investment vehicle selected by the client-plan's fiduciary which would be independent of MSTC, MS&Co and the affiliated borrower. The Applicants also point out that in its expanded scope, the exemption would still be subject to the same terms and conditions as set forth in the New Notice.

The Department concurs with the changes requested by the Applicants and has amended the operative language of the current exemption to read as follows:

The restrictions of sections 406(a)(1)(A) through (D) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective March 12, 1996, to (1) the lending of securities to Morgan Stanley & Co. Incorporated (MS&Co) and to any other U.S. registered broker-dealers affiliated with Morgan Stanley Trust Company (MSTC) or MS&Co (the Affiliated Broker-Dealer; collectively, the MS Broker-Dealers) by employee benefit plans with respect to which the MS Broker-Dealer who is borrowing such securities is a party in interest or for which (a) MSTC acts as directed trustee, (b) MSTC or MS&Co acts as custodian and securities lending agent, or (c) MSTC or MS&Co acts as noncustodial securities lending agent; and (2) the receipt of compensation by MSTC or MS&Co in connection with these transactions, provided that the following conditions are met:

Similarly, the Department has revised the first sentence of Representation 5 of the Old Notice as follows:

5. MSTC and MS&Co request an exemption for the lending of securities owned by certain pension plans (client-plans) for which (a) MSTC will serve as directed trustee, (b) MSTC or MS&Co will serve as custodian and securities lending agent, or (c) MSTC or MS&Co will serve as noncustodial securities lending agent to the MS Broker-Dealers,[1] following disclosure of MSTC's and MS&Co's affiliation with the MS Broker-Dealers, under either of the two arrangements described as Plan A and Plan B, and for the receipt of compensation by MSTC or MS&Co in connection with such transactions.

In addition to the foregoing changes and to reflect the expanded scope of the exemption, the Applicants have requested that the Department include references to MS&Co in Footnote 2 as well as in Conditions 3, 7 and 13 of the New Notice.

In response, the Department has decided to adopt the suggested modifications.

The Applicants also comment that Condition 12(b) of the New Notice unnecessarily restricts the ability of a client-plan to effect securities loans under the Applicants' lending program, particularly where the independent investment manager's in-house plan wishes to invest in the commingled investment vehicle. After careful consideration, the Department has decided to revise Condition (12)(b) of the New Notice. As currently drafted, Condition (12)(b) provides that—

In the case of two or more plans which are not maintained by the same employer, controlled group of corporations or employee organization (the Unrelated Plans), whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are ''plan assets'' under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with MS Broker-Dealers, the foregoing $50 million requirement shall be deemed satisfied if such trust or other entity has aggregate assets which are in excess of $50 million; provided that the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(i) Is neither the sponsoring employer, a member of the controlled group of corporations, the employee organization, nor an affiliate;

(ii) Has full investment responsibility with respect to plan assets invested therein; and

(iii) Has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

[1] The Old Notice refers to the MS Broker-Dealers as the ''MS Group'' in Representation 5. Because the Applicants believed that the use of the term ''MS Group'' would cause confusion since clients and internal personnel often refer to Morgan Stanley Group, Inc. (the parent entity of MS&Co and MSTC) as the ''MS Group,'' they requested that all references to the MS Group be replaced with term ''MS Broker-Dealers.'' The Department did not object to this change and made the requested modification in the final exemption.

Accordingly, the Department has modified the Condition (12)(b) to read as follows:

In the case of two or more plans which are not maintained by the same employer, controlled group of corporations or employee organization (the Unrelated Plans), whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are ''plan assets'' under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with the MS Broker-Dealers, the foregoing $50 million requirement is satisfied if such trust or other entity has aggregate assets which are in excess of $50 million (excluding the assets of any plan with respect to which the fiduciary responsible for making the investment decision on behalf of such group trust or other entity or any member of the controlled group of corporations including such fiduciary is the employer maintaining such plan or an employee organization whose members are covered by such plan). However, the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(i) Has full investment responsibility with respect to plan assets invested therein; and

(ii) Has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

The Department wishes to emphasize that although the independent investment manager's own plan may participate in the commingled investment vehicle, for purposes of determining whether the $50 million aggregation requirement is met, the assets of such plan must not be counted.

Therefore, after giving full consideration to the entire record, including the written comment provided by the Applicants, the Department has made the aforementioned changes to the New Notice and has decided to grant the replacement exemption as modified herein.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of

the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The exemption will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) In accordance with section 408(a) of the Act, section 4975(c)(2) of the Code, the Procedures cited above, and based upon the entire record, the Department finds that the exemption is administratively feasible, in the interest of the plan and its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(4) This exemption will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(5) This exemption is subject to the express condition that the New Notice, the Old Notice and the final exemption underlying PTE 96–14, and the notice of technical correction to PTE 96–14, accurately describe, where relevant, the material terms of the transactions to be consummated pursuant to this exemption.

Exemption

Under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the Procedures cited above, the Department hereby replaces PTE 96–14 as follows.

Section I. Covered Transactions

The restrictions of sections 406(a)(1)(A) through (D) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective March 12, 1996, to (1) the lending of securities to Morgan Stanley & Co. Incorporated (MS&Co) and to any other U.S. registered broker-dealers affiliated with Morgan Stanley Trust Company (MSTC) or MS&Co (the Affiliated Broker-Dealer; collectively, the MS Broker-Dealers) by employee benefit plans with respect to which the MS Broker-Dealer who is borrowing such securities is a party in interest or for which (a) MSTC acts as directed trustee, (b) MSTC or MS&Co acts as custodian and securities lending agent, or (c) MSTC or MS&Co acts as noncustodial securities lending agent; and (2) the receipt of compensation by MSTC or MS&Co in connection with these transactions, provided that the following conditions are met:

(1) Neither MS&Co nor MSTC will have any discretionary authority or control over a client-plan's assets involved in the transaction or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets;

(2) The terms of each loan of securities by a client-plan to the MS Broker-Dealer will be at least as favorable to such plan as those of a comparable arm's length transaction between unrelated parties;

(3) Any arrangement for MSTC or MS&Co to lend plan securities to the MS Broker-Dealers will be approved in advance by a plan fiduciary who is independent of MSTC, MS&Co and the MS Broker-Dealers;[2] (In this regard, the independent fiduciary also will approve the general terms of the securities loan agreement between the client-plan and the MS Broker-Dealer, the specific terms of which will be negotiated and entered into by MSTC or MS&Co which will act as a liaison between the lender and the borrower to facilitate the lending transaction.)

(4) A client-plan may terminate the arrangement at any time without penalty on five business days notice;

(5) The client-plans will receive collateral consisting of cash, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities, bank letters of credit or other collateral permitted under PTE 81–6 or any successor, from the MS Broker-Dealers by physical delivery, book entry in a securities depository, wire transfer or similar means by the close of business on or before the day the loaned securities are delivered to the MS Broker-Dealers;

(6) The market value of the collateral will initially equal at least 102 percent of the market value of the loaned securities and, if the market value of the collateral falls below 100 percent, the MS Broker-Dealers will deliver additional collateral on the following day such that the market value of the collateral will again equal 102 percent;

(7) Prior to entering into a loan agreement, the MS Broker-Dealer will furnish its most recent publicly-available audited and unaudited financial statements to MSTC or MS&Co, which, in turn, will provide the statements to the client-plan before the plan is asked to approve the terms of the loan agreement. The loan agreement will contain a requirement that the MS Broker-Dealer must promptly notify lenders at the time of a loan of any material adverse changes in its financial condition since the date of the most recently furnished financial statements. If any such changes have taken place, MSTC or MS&Co will not make any further loans to the MS Broker-Dealer unless an independent fiduciary of the client-plan approves the loan in view of the changed financial condition;

(8) In return for lending securities, the client-plan either will—

(a) Receive a reasonable fee, which is related to the value of the borrowed securities and the duration of the loan, or

(b) Have the opportunity to derive compensation through the investment of cash collateral. (Under such circumstances, the client-plan may pay a loan rebate or similar fee to the borrowing MS Broker-Dealer, if such fee is not greater than the fee the Client Plan would pay in a comparable arm's length transaction with an unrelated party.)

(9) All procedures regarding the securities lending activities will, at a minimum, conform to the applicable provisions of PTE 81–6 and PTE 82–63;

(10) The MS Broker-Dealer will indemnify and hold harmless each lending client-plan against any and all losses, damages, liabilities, costs and expenses (including attorney's fees) incurred by such plan in connection with the lending of securities to the MS Broker-Dealers;

(11) The client-plan will receive the equivalent of all distributions made to holders of the borrowed securities during the term of the loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits and rights to purchase additional securities, or other distributions;

(12) Only plans with total assets having an aggregate market value of at least $50 million will be permitted to lend securities to the MS Broker-Dealers; provided, however that—

(a) In the case of two or more plans which are maintained by the same employer, controlled group of corporations or employee organization (the Related Plans), whose assets are commingled for investment purposes in

[2] The Department, herein, is not providing exemptive relief for securities lending transactions engaged in by primary lending agents, other than MSTC or MS&Co, beyond that provided pursuant to Prohibited Transaction Exemption (PTE) 81–6 (46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987) and PTE 82–63 (47 FR 14804, April 6, 1982).

a single master trust or any other entity the assets of which are ''plan assets'' under 29 CFR 2510.3–101 (the Plan Asset Regulation), which entity is engaged in securities lending arrangements with the MS Broker-Dealers, the foregoing $50 million requirement shall be deemed satisfied if such trust or other entity has aggregate assets which are in excess of $50 million; provided that, if the fiduciary responsible for making the investment decision on behalf of such master trust or other entity is not the employer or an affiliate of the employer, such fiduciary has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million, or

(b) In the case of two or more plans which are not maintained by the same employer, controlled group of corporations or employee organization (the Unrelated Plans), whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are ''plan assets'' under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with the MS Broker-Dealers, the foregoing $50 million requirement is satisfied if such trust or other entity has aggregate assets which are in excess of $50 million (excluding the assets of any plan with respect to which the fiduciary responsible for making the investment decision on behalf of such group trust or other entity or any member of the controlled group of corporations including such fiduciary is the employer maintaining such plan or an employee organization whose members are covered by such plan). However, the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(i) Has full investment responsibility with respect to plan assets invested therein; and

(ii) Has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

(In addition, none of the entities described above must be formed for the sole purpose of making loans of securities.)

(13) No loan of securities will be made by MSTC or MS&Co as securities lending agent to any MS Broker-Dealer on any day on which the market value of the securities proposed to be loaned, when added to the market value of all client-plan securities subject to outstanding loans to MS Broker-Dealers, exceeds 50 percent of the market value of all client-plan securities subject to securities loans, including the market value of securities proposed to be loaned to the MS Broker-Dealer. (For purposes of this paragraph, market value shall be determined in U.S. dollars, based on the last preceding business day's closing prices of the securities and the last preceding business day's closing foreign exchange rates, if applicable.);

(14) With regard to the ''exclusive borrowing'' agreement, the MS Broker-Dealer will directly negotiate the agreement with a plan fiduciary who is independent of the MS Broker-Dealers and MSTC, and such agreement may be terminated by either party to the agreement at any time;

(15) Prior to any plan's approval of the lending of its securities to an MS Broker-Dealer, a copy of this exemption (and the notice of pendency) will be provided to the client-plan;

(16) Each client-plan will receive monthly reports with respect to securities lending transactions so that an independent fiduciary of a client-plan may monitor such transactions with the MS Broker-Dealer;

Section II. General Conditions

(1) MS Broker-Dealers will maintain, or cause to be maintained, for a period of six years from the date of such transactions, in a manner that is convenient and accessible for audit and examination, such records as are necessary to enable the persons described in paragraph (2) to determine whether the conditions of this exemption have been met, except that—

(a) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the MS Broker-Dealers, the records are lost or destroyed prior to the end of the six year period, and

(b) No party in interest other than the MS Broker-Dealers shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required below by paragraph (2);

(2) Notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (1) are unconditionally available at their customary location during normal business hours by—

(i) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the Securities and Exchange Commission (the SEC),

(ii) Any fiduciary of a participating client-plan or any duly authorized representative of such fiduciary, and

(iii) Any contributing employer to any participating client-plan or any duly authorized employee representative of such employer;

(3) None of the persons described above in paragraphs (ii)–(iii) of paragraph (2) are authorized to examine the trade secrets of MS&Co or its affiliates or commercial or financial information which is privileged or confidential.

Section III. Definitions

For purposes of this exemption,

(1) An ''affiliate'' of a person includes—

(a) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(b) Any officer, director, or partner, employee or relative (as defined in section 3(15) of the Act) of such other person; and

(c) Any corporation or partnership of which such other person is an officer, director or partner.

(2) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

EFFECTIVE DATE: This exemption is effective as of March 12, 1996.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the applications change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the New Notice, the Old Notice and the final exemption underlying PTE 96–14, and the notice of technical correction to PTE 96–14, all of which are cited above Signed at Washington, D.C., this 24th day of August, 1998.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 98–23284 Filed 8–28–98; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–09952, et al.]

Proposed Exemptions; RREEF America L.L.C. (RREEF)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

RREEF America L.L.C. (RREEF) Located in San Francisco, California

[Application No. D–09952]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990.)

Section I—Covered Transactions

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the:

(1) The provision of certain leasing services (the Leasing Services) by RREEF's leasing affiliates (the Leasing Affiliates, as defined in Section IV) to certain accounts established by RREEF (the Accounts, as defined in Section IV); and

(2) The payment of leasing commissions in connection with the provision of Leasing Services by the Leasing Affiliates to the Accounts; provided that the conditions set forth in Section II are met.

Section II—Conditions

(1) The arrangement under which the leasing services are performed with respect to any Account is subject to the prior authorization of either (i) an independent plan fiduciary for each employee benefit plan or other plan for which RREEF serves as trustee or investment manager (a Client Plan) that invests in a Single Client Account, or (ii) independent plan fiduciaries with respect to Client Plans or other institutional investors holding at least 60 percent of the units of beneficial interest in a Multiple Client Account, following disclosure of information in the manner described in paragraph (2) below. In the case of a Client Plan whose assets are proposed to be invested in an Account subsequent to the provision of leasing services to the Account, the Client Plan's investment in the Account is subject to the prior written authorization of an authorizing plan fiduciary following disclosure of the information described in paragraph (2).

(2) Not less than 45 days prior to the first date it proposes to provide leasing services for any Account, RREEF, as investment manager, shall furnish the authorizing plan fiduciary with any reasonably available information which RREEF believes to be necessary to determine whether such approval should be given, as well as such information which is reasonably requested by the authorizing plan fiduciary. Such information will include: (a) a description of the leasing services to be performed by the Leasing Affiliate; (b) an explanation of the potential conflicts of interest involved in selecting the Leasing Affiliate; (c) an explanation of the selection process (including the role of the Independent Fiduciaries (as defined in Section IV)); (d) identification of properties for which leasing services will be required; (e) an estimate of the leasing fees to be paid to the Leasing Affiliate if it is selected to provide such services; and (f) a description of the terms upon which a Client Plan may withdraw from an Account.

(3) In the event an authorizing plan fiduciary of any Client Plan whose assets are invested in an Account submits a notice in writing to RREEF, as investment manager, at least 15 days prior to the provision of leasing services, objecting to the provision of the leasing services, and RREEF proposes to proceed with the provision of leasing services, the Client Plan on whose behalf the objection was tendered will be given the opportunity to terminate its investment in the Account, without penalty. With the exception of a Client Plan which has invested in a closed-end Account under which the rights of withdrawal from the Account

may be limited, as provided in the Client Plan's written agreement to invest in the Account, if a written objection to the leasing services is submitted to RREEF any time after 15 days prior to implementation of the leasing services (or after implementation), the Client Plan must be able to withdraw without penalty, within such time as may be necessary to effect such withdrawal in an orderly manner that is equitable to all withdrawing and the non-withdrawing Client Plans. However, the Leasing Affiliate need not discontinue providing the leasing services, once implemented, by reason of a Client Plan electing to withdraw after 15 days prior to the scheduled implementation date of the leasing services. Any Client Plan which invests in a Single Client Account may terminate the Leasing Services arrangement and withdraw from the Account at any time (upon reasonable written notice).

(4)(a) RREEF shall furnish the Independent Fiduciary (as defined in section IV) acting on behalf of the Client Plans participating in the Account with an annual report (the RREEF Annual Report) containing the information described in this paragraph, not less frequently than once a year and not later than 45 days following the end of the period to which the report relates. The RREEF Annual Report shall disclose the total of all fees incurred by the Account during the preceding year under contracts with RREEF and its affiliates and shall include a description of all leasing activities with respect to each property under the responsibility of the Independent Fiduciary for which a Leasing Affiliate provides services, including marketing/advertising activities, leases under negotiation, lease offers rejected (and why), and such other information as shall be reasonably requested by the Independent Fiduciary. The RREEF Annual Report shall also delineate the leasing commissions that are anticipated to be paid to RREEF and its affiliates in the coming year for services provided by these entities in connection with the properties held by the Account. The RREEF Annual Report will contain a description of a method for the termination of the leasing arrangement (see Section II(5)) by the Independent Fiduciary and/or by investing Client Plans in each Account.

(b) The Independent Fiduciary shall furnish RREEF and the authorizing plan fiduciaries with an annual report (the I/F Annual Report), within 90 days following the end of the period to which the report relates, summarizing its activities for the year, indicating its opinion as to the continued validity of the leasing guidelines with respect to any property for the next year, and recommending any amendments to, or termination of the leasing agreement with the Leasing Affiliate. The I/F Annual Report will contain a description of a method for the termination of the leasing arrangement with the Leasing Affiliate and for the confirmation and/or removal of the Independent Fiduciary by the Client Plans investing in the Accounts.

(c) RREEF implements procedures to ensure each authorizing plan fiduciary of a Client Plan investing either in a Multiple Client Account, or a Single Client Account, has an opportunity to vote on the reconfirmation of the Independent Fiduciary on an annual basis. These procedures require that the Independent Fiduciary: (i) provide each authorizing independent client plan fiduciary with a ballot [1] by certified mail (or another method of delivery pursuant to which confirmation of receipt is provided), with the ballot instructions that direct the authorizing independent client plan fiduciary to return the ballot to RREEF; (ii) ensure that the ballot clearly indicates that the authorizing plan fiduciary may vote for or against continuation of the Independent Fiduciary; (iii) ensure that the ballot must be accompanied by a statement that failure to return the ballot within 45 days following the independent plan fiduciaries' receipt of the ballots will be counted as a ''for'' vote (unless holders of a majority of the units of beneficial interests in the Accounts have voted against reconfirmation); and (iv) 30 days after the Independent Fiduciary mails the ballot to the authorizing plan fiduciary, RREEF must make at least one follow-up contact with the authorizing plan fiduciary that has not previously returned the ballot prior to treating the unreturned ballot as a ''for'' vote. If RREEF does not receive a response from the authorizing plan fiduciary within 15 days after initiating contact with the authorizing plan fiduciary, RREEF may treat the unreturned ballot as a vote for reconfirmation. The reconfirmation will become effective on the earlier of the date affirmative ballots are obtained from the holders of a majority of the units of beneficial interests in the Accounts, or 45 days following the authorizing plan fiduciaries' receipt of the ballots (unless holders of a majority of the units of beneficial interests in the Accounts have voted against reconfirmation.)

[1] RREEF will direct the Independent Fiduciary as to the specific form of a ballot. The applicant represents that for a Single Client Account, this will not be a ''ballot'', but a ''direction'' form.

(d) The Independent Fiduciary receives confirmation, and certifies to RREEF that the notice and the ballots sent to the authorizing plan fiduciary pursuant to subparagraphs (b) and (c) regarding the continued retention of the Independent Fiduciary and RREEF have been received by the authorizing plan fiduciary. The method used to confirm notice to the authorizing plan fiduciaries must be sufficient to ensure that the authorizing Client Plan fiduciaries actually receive notice. In all cases, return receipt for certified mail, printed confirmation of facsimile transmissions and manifest or computer data entries of independent courier services will be considered acceptable methods of confirming receipt.

(5)(a) The leasing agreement for any property may also be terminated or modified at any time at the written direction of the Independent Fiduciary, and may be terminated by a vote in favor of such termination by the holders of a majority of the units of beneficial interests in the Account (or such greater percentage, not to exceed 60 percent, as shall be set out in the agreements establishing the Account). Further, any Client Plan which invests in a Single Client Account may terminate the Leasing Services arrangement and withdraw from the Account at any time (upon reasonable notice).

(b) In the event of a vote to terminate the leasing services arrangement pursuant to paragraph (4)(c) or (5)(a), RREEF shall cease submitting to the Independent Fiduciary any new proposals to engage in covered transactions and RREEF will not renew or extend any covered transactions. Moreover, within 180 days after the vote of the Account holders, RREEF shall cease engaging in any existing covered transactions.

(6)(a) Each leasing services agreement shall be in writing and shall be reviewed at least annually and approved by an Independent Fiduciary. However, prior to proposing a transaction to the Independent Fiduciary, RREEF will first determine that such transaction is in the best interest of the Account.

(b) The Independent Fiduciary shall negotiate each leasing services agreement. The Independent Fiduciary shall also consider the cost to the Account of such fiduciary's involvement in connection with its consideration of whether to approve a particular leasing services agreement.

(c) Each leasing agreement and the performance of the Leasing Affiliate under such agreement shall be reviewed at least annually by the Independent Fiduciary, who shall instruct RREEF of any action which should be taken by

RREEF on behalf of the Account with respect to the continuation, termination or other exercise of rights available to the Account under the terms of the leasing agreement. RREEF will carry out such instruction from the Independent Fiduciary to the extent it is legal and permitted by the terms of the leasing agreement.

(d) In the case of any emergency circumstances, RREEF or the Leasing Affiliates may provide leasing services to an Account for a period not exceeding 90 days without entering into a leasing services agreement, but no compensation may be paid by an Account for such services without prior approval of the Independent Fiduciary.

(7) If RREEF holds Account properties, and any RREEF affiliate or principal holds for its own account any properties in the same real estate market during a period when there is leasing competition between those properties, RREEF will hire, during such period, a third party leasing agent for Account properties.

(8)(a) RREEF shall furnish the Independent Fiduciary with any reasonably available information which RREEF reasonably believes to be necessary or which the Independent Fiduciary shall reasonably request to determine whether such approval of the transactions described above should be given, or to accomplish the Independent Fiduciary's periodic reviews of RREEF's performance under such agreements.

(b) With respect to RREEF, such information will include: a description of the leasing services for the Account and the Client Plans investing therein; the qualifications of RREEF to do the job; a statement, supported by appropriate factual representations, of the reasons for RREEF's belief that RREEF is qualified to provide the services; a copy of the proposed leasing services agreement and the terms on which RREEF would provide the services; the reasons why RREEF believes the retention of RREEF would be in the best interest of the Account; information demonstrating why the fees and other terms of the arrangement are reasonable and comparable to the fees customarily charged by similar firms for similar services in comparable locales; the identities of non-affiliated service providers and the terms under which these service providers might perform the services; and whether any RREEF affiliate is a property manager to any properties that are in competition for tenants with the property for which RREEF is under consideration.

(9) Any Independent Fiduciary may be removed at any time by a vote of holders of a majority of the units of beneficial interests in an Account. In the event of the removal of an Independent Fiduciary, existing leasing agreements overseen by that Independent Fiduciary will not be affected; however, RREEF will designate a replacement Independent Fiduciary within sixty (60) days.

(10) Seventy-five percent (75%) or more of the units of beneficial interests in an Account must be held by Client Plans or other investors having total assets of at least $100 million. In addition, 50 percent (50%) or more of the Client Plans investing in an Account must have assets of at least $100 million. For purposes of the 50% test above, a group of Client Plans maintained by a single employer or controlled group of employers, any of which individually has assets of less than $100 million, will be counted as a single Client Plan if the decision to invest in the Account (or the decision to make investments in the Account available as an option for an individually directed account) is made by a fiduciary other than RREEF, who exercises such discretion with respect to Client Plan assets in excess of $100 million.

(11) No Client Plan covering employees of RREEF will be invested in an Account.

(12) Not more than 20 percent of the assets of any Client Plan on whose behalf RREEF proposes to provide leasing services can be invested in RREEF Accounts.

(13) At the time any leasing agreement is entered into, the terms of the agreement must be at least as favorable to the Account as the terms of an arm's length transaction between unrelated parties. In addition, the compensation paid to the Leasing Affiliate for leasing services by any Account must not exceed the amount paid in an arm's length transaction between unrelated parties for comparable properties in similar locales. In any event, such compensation will not exceed reasonable compensation within the meaning of section 408(b)(2) of the Act and regulation 29 CFR 2550.408b-2. (The Independent Fiduciary must certify that an economic advantage to the Accounts exists before consummation of any leasing agreement).

(14)(a) Within one-year of the grant of this exemption, and after the beginning of each subsequent five-year period, each Independent Fiduciary will prepare with the assistance of RREEF a survey of leasing fees for the properties that have similar geographic location and property types to those held by the Accounts for which the Independent Fiduciary is responsible. The survey will include data regarding the fees that have been charged to the Accounts by several firms that are unaffiliated with RREEF for leasing services during the one year period prior to the beginning of the new five-year period. Also, the survey will include data as to the fees paid by RREEF for such services performed for the properties not held by the Accounts during the same period and other market data regarding the cost of leasing services by geographic location and property types.

(b) Based upon its survey and its professional resources and expertise, the Independent Fiduciary will determine a typical range of annual fees for leasing services for the Accounts. The average of the range, as determined from such survey, will serve as the basis of comparison for determining for the next five-year period whether continuation of the leasing services policy has provided cost savings or other benefits to the Accounts.

(c) RREEF will demonstrate to the Independent Fiduciary at the end of the applicable five-year period that leasing fees charged to each Account by RREEF or its affiliates plus the cost of the services of the Independent Fiduciary under the exemption that are allocated to the Accounts, are less than the fees that would have been charged using the benchmark rate established at the beginning of the five year period. In making its determinations, the Independent Fiduciary shall take into account to the extent it deems necessary property management fees paid by the Accounts to RREEF and its affiliates.[2]

(d) The Independent Fiduciary will review the data supplied by RREEF and, to the extent considered necessary by the Independent Fiduciary, data collected from the Independent Fiduciary's own surveys, and will document its findings and analysis of such cost savings in a report to be delivered to each of the Client Plans participating in the Accounts within 90 days after the end of the five year period and each subsequent five-year period and prior to the implementation of the annual confirmation procedure

[2] With respect to Multiple Client Accounts, property management services by RREEF are currently provided in accordance with PTE 82–51 (47 FR 14238/14241, April 2, 1982). PTE 82–51 permits collective investment funds (the Funds) managed by RREEF or any of its affiliates, in which Client Plans participate, to engage in certain transactions with parties in interest with respect to the Client Plans that are investors in the Funds, provided that certain conditions are met. Therefore, the requested exemption is necessary only for the provision of Leasing Services by RREEF's affiliates to the Multiple Client Accounts in connection with the properties held by the Accounts.

described in paragraph (6) of Section II with respect to such period. In the event the Independent Fiduciary finds that cost savings have not been achieved for the Accounts, it will not approve any additional services arrangements until RREEF and its affiliates have demonstrated to the satisfaction of the Independent Fiduciary that policies intended to assure cost savings to the Accounts have been implemented by RREEF and its affiliates. The survey, the Independent Fiduciary's report reviewing the survey, and the final report of the Independent Fiduciary analyzing whether cost savings had been achieved during the five year period to which the survey relates, will be maintained by RREEF in accordance with the recordkeeping requirements of Section III.

(15) The fees paid to RREEF and/or its affiliates for leasing services provided in connection with a property held for an Account shall not exceed: (a) 7 percent of the lease amount for new leases; (b) 2 percent of the lease amount for renewal leases; and (c) for leases in which outside brokers are involved, 2.75 percent of the lease amount.

(16) Before entering into any leasing arrangement pursuant to the terms of this exemption, if granted, copies of the proposed exemption and the final exemption will be delivered to each Client Plan for which RREEF or its affiliate propose to perform leasing services as described herein.

Section III—Recordkeeping

(1) RREEF and any Leasing Affiliate will maintain, for a period of six years, the relevant records necessary to enable the persons described in paragraph (2) of this Section III to determine whether the conditions of this exemption have been met. Included in these records will be the written records of the Independent Fiduciary which had been periodically furnished by the Independent Fiduciary to RREEF, and the records described in paragraph (14) of Section II. However, a prohibited transaction will not be considered to have occurred if, due to circumstances beyond RREEF's, the Leasing Affiliate's, or the Independent Fiduciary's control, the records are lost or destroyed prior to the end of the six-year period.[3]

(2)(a) Except as provided in subsection (b) of this paragraph and notwithstanding any provisions of section 504(a)(2) and (b) of the Act, the records referred to in paragraph (1) of this section shall be unconditionally available at their customary location for examination during normal business hours by:

(1) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(2) Any fiduciary of a Client Plan who has authority to acquire or dispose of the interests of the Client Plan in the Accounts or any duly authorized employee or representative of such fiduciary;

(3) Any contributing employer to any Client Plan that has an interest in the Accounts or any duly authorized employee or representative of such employer;

(4) Any participant or beneficiary of any Client Plan participating in the Accounts, or any duly authorized employee or representative of such participant or beneficiary; and

(5) The Independent Fiduciaries.

(b) None of the persons described above in subparagraphs (2)–(5) of this paragraph shall be authorized to examine the trade secrets of RREEF or any Leasing Affiliate or commercial or financial information which is privileged or confidential.

Section IV—Definitions

(1) The Accounts—The Accounts are any existing or future pooled accounts (i.e., Multiple Client Accounts) or single-customer accounts (i.e., Single Client Accounts), including joint ventures, general or limited partnerships or other real estate investment vehicles established by RREEF for the investment of employee benefit Client Plan assets in real-estate related investments to the extent that (i) such Accounts hold ''plan assets'' within the meaning of the regulations at 29 CFR section 2510.3–101 and (ii) management of their assets is subject to the discretionary authority of RREEF.

(2) RREEF—For purposes of this proposed exemption, the term RREEF means RREEF America L.L.C., and certain of their officers who may serve as trustees of group trusts managed by RREEF America L.L.C., or who may serve in similar fiduciary capacities with respect to other commingled investment vehicles managed by them, and/or any other affiliates of RREEF as defined in paragraph (4) of this section IV which act as investment fiduciaries with respect to any Account.

(3) Leasing Affiliate—RREEF Management Company or other affiliates of RREEF (as defined in paragraph (4) of this Section IV) retained to provide leasing services with respect to an Account.

(4) An affiliate of a person means any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person.

(5) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(6) Independent Fiduciary—A person who:

(a) is not an affiliate of RREEF as defined in Section IV(4);

(b) is not an officer, director, employee of, or partner in, RREEF (or affiliates thereof as defined in Section IV(4));

(c) is not a corporation or partnership in which RREEF has an ownership interest or is a partner;

(d) does not have an ownership interest in RREEF or any of its affiliates;

(e) is not a fiduciary with respect to any Client Plan's investment in the Account;

(f) has represented in writing that it is qualified to perform the services contemplated by the proposed exemption, which qualifications shall include, among other things: (i) demonstrated experience, generally over a period of not less than five years, in the business of commercial real estate, brokerage, management, or appraisal generally and in reviewing or negotiating leasing agreements and commissions specifically; (ii) familiarity with the relevant real estate, specifically as it relates to comparable property types with respect to the specific properties for which the Leasing Affiliate proposes to perform leasing services (for example, in the case of office properties, the Independent Fiduciary's experience shall relate specifically to office properties in the same market); (iii) experience in complying with the fiduciary standards of the Act in connection with the representation of the Client Plans; and

(g) has acknowledged in writing acceptance of fiduciary obligations and has agreed not to participate in any decision with respect to any transaction in which the Independent Fiduciary has an interest that might affect its best judgement as a fiduciary. For purposes of the foregoing, each Independent Fiduciary shall represent in writing that it has no relationship with RREEF or its affiliates, or with any Account, that would affect its best judgement as a fiduciary.

For purposes of this definition of Independent Fiduciary, no organization or individual may serve as an Independent Fiduciary for any fiscal year if the gross income received by

[3] RREEF represents that its contract with each Independent Fiduciary will require that the Independent Fiduciary's written records be maintained in accordance with this section.

such organization or individual (or partnership or corporation of which such organization or individual is an officer, director, or 10 percent or more partner or shareholder) from RREEF or any affiliates of RREEF (including amounts received for services as Independent Fiduciary under any prohibited transaction exemption granted by the Department) for that fiscal year exceeds 5 percent of its or his annual gross income from all sources for such fiscal year.

In addition, no organization or individual who is an Independent Fiduciary, and no partnership or corporation of which such organization or individual is an officer, director or 10 percent or more partner or shareholder, may acquire any property from, sell any property to or borrow any funds from RREEF or any affiliates of RREEF, or any Account maintained by RREEF or any affiliates of RREEF, during the period that such organization or individual serves as an Independent Fiduciary and continuing for a period of 6 months after such organization or individual ceases to be an Independent Fiduciary or negotiates any such transaction during the period that such organization or individual serves as Independent Fiduciary.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Summary of Facts and Representations

1. RREEF America L.L.C and its affiliate, RREEF Management Company, provide investment and property management services to institutional investors, including employee benefit Client Plans and other tax-exempt entities, through various separate accounts (Single Client Accounts) and commingled accounts (Multiple Client Accounts; collectively, the Accounts). On January 27, 1998, RREEF America L.L.C. and its affiliates (collectively, RREEF) were acquired by RoProperty Services, B.V. (RoProperty), a major Dutch investment advisory firm. As a result, the RREEF entities were combined into a newly created Delaware limited liability company which continues to use the name RREEF America L.L.C. RREEF operates as an autonomous entity which continues to provide investment management services, and its affiliate, RREEF Management Company, continues to provide property management services.

RREEF requests an exemption to permit: (i) the provision of certain leasing services (the Leasing Services) by RREEF's leasing affiliates (the Leasing Affiliates) to the Accounts; and (ii) the payment of leasing commissions in connection with the provision of Leasing Services by the Leasing Affiliates to the Accounts, as described below. The Leasing Services that will be performed pursuant to this proposed exemption, if granted, would generally be provided by RREEF Management Company.

2. RREEF acts as an investment manager as defined in section 3(38) of the Act for each Client Plan that invests in a Single or a Multiple Client Account. RREEF has discretion for the day-to-day operation of each Account and, in many cases, has full discretion over an Account's acquisition and disposition decisions. However, in certain cases, final investment authority may remain with independent authorizing plan fiduciaries (Authorizing Client Plan Fiduciaries) for the Account. The applicant requests that the proposed exemption extend relief to both discretionary and non-discretionary Accounts.[4]

3. The Client Plans are various pension plans as defined in section 3(2) of the Act and other plans as defined in section 4975(e)(1) of the Code, for which RREEF serves as a trustee or investment manager. Several of the Client Plans participate in RREEF USA Fund-I (Fund I), a Multiple Client Account in which non-ERISA fiduciary clients may invest. The Client Plans may participate in other Accounts, as described herein. In all instances, an Authorizing Client Plan Fiduciary which is independent of RREEF and its affiliates, will make the decision regarding the investment of Client Plan assets in an Account which may receive leasing services performed by a Leasing Affiliate.

4. A Client Plan may enter into one or more Single Client Account relationships with RREEF pursuant to the individually negotiated investment agreements with RREEF. In each case primary investment discretion will be delegated to RREEF pursuant to an investment management agreement between RREEF and the Account.[5]

Alternatively, a Client Plan may invest in a commingled investment fund (i.e., a Multiple Client Account) managed by RREEF. Currently, Multiple Client Accounts consist primarily of tax-exempt group trusts organized pursuant to IRS Revenue Ruling 81–100, and limited partnerships. RREEF principals and officers serve as trustees for Multiple Client Accounts that are group trusts. Other Multiple Client Accounts may be organized in the future, including title-holding corporations, real estate investment trusts, or limited liability corporations. RREEF principals and officers may serve as directors and officers of these vehicles.

5. The Accounts established to date have been so-called ''blind'' investment relationships where investors initially are not told about any specific properties which the Account may acquire. In such instances, the Account receives cash from the Client Plan and then identifies and acquires real property investments that meet certain investment criteria that have been agreed to by such investors. In the future, RREEF states that so-called ''specified-property'' investment relationships may be established with the Client Plans and/or other investors to invest in pre-identified real property investments that are disclosed to the Client Plans prior to such Plans' cash investment in the Account.

6. RREEF represents that in recent years real estate investments have become increasingly attractive to pension plan investors. The quality of real estate-related services is of central importance in maximizing returns available to such investors. Large real estate investment managers typically manage properties themselves or through property management firms they have acquired. This strategy enables such managers to use a unified leasing strategy and other efficient management techniques, and is a superior alternative to retaining independent managers for property management and leasing services. RREEF maintains that in many instances the provision of leasing services for the properties held by the Accounts would be more effectively provided through in-house personnel or through firms which are affiliated with RREEF, or in which RREEF has an interest. Such firms possess special expertise in the type of properties held by the Accounts and knowledge of the Accounts. RREEF and the Leasing Affiliates represent that they are in the best position to aggressively lease properties held by an Account, and to maximize the value of the properties to the Account.

[4] RREEF's non-discretionary Accounts are generally Accounts over which an independent (in-house) Client Plan Fiduciary retains final discretion with respect to the acquisition and disposition of real property assets. The Client Plan may also retain discretion in setting or approving leasing guidelines for properties held by the Accounts.

[5] Except as set forth in paragraph 2 above.

7. The services provided to the Accounts by the Leasing Affiliates [6] will be day-to-day leasing responsibilities associated with operating income-producing properties owned by the Accounts. These responsibilities will include using best efforts to lease a property to desirable tenants and negotiating the terms and renewals of such leases. Any hiring of a Leasing Affiliate to provide leasing services for a property owned by an Account will be negotiated with, and subject to the approval of, the Independent Fiduciary appointed on behalf of an Account for the particular leasing market to which the property is subject (as discussed more fully below).

8. RREEF, as the investment manager or trustee for the Account, will consider the type, size and location of an Account property, and whether the Leasing Affiliates are best suited to provide leasing services to that property. Upon determining that the provision of services by the Leasing Affiliate would be in the best interest of that Account, RREEF will propose to the Independent Fiduciary that the Leasing Affiliate be retained for the property. Because the Leasing Affiliates currently perform property management services for most of the properties managed by RREEF and its affiliates under PTE 82–51 (see footnote 2), RREEF expects that a Leasing Affiliate will be considered to provide leasing services to each of the properties. RREEF maintains that the Account will benefit from the Leasing Affiliate's comprehensive knowledge of the local market and from the expertise of the staff in that location.

9. RREEF may hold properties in a relevant real estate market [7] both as the investment manager or trustee for an Account, and on behalf of RREEF or any entity in which RREEF owns a 10% or greater interest. In the event there is a potential for leasing competition among these properties, RREEF will retain an independent, qualified leasing agent for the Account's properties.

The Independent Fiduciary will have the same responsibilities when the Account acquires a new property with a Leasing Affiliate acting as a pre-existing leasing agent as when RREEF proposes to provide leasing services with a Leasing Affiliate for an existing property. In both cases, the leasing agreement with a Leasing Affiliate for a property will be negotiated with, and approved by, the Independent Fiduciary for the Account. This negotiation of the leasing agreement may be concurrent with RREEF's acquisition of the property.

RREEF may also acquire a property with a Leasing Affiliate acting as a pre-existing leasing agent for an Account where RREEF is not yet authorized to perform leasing services for the property with a Leasing Affiliate. In such situations, under the terms of this proposed exemption, RREEF must obtain approval from the Client Plans [8] before it can receive compensation for such services.

10. RREEF will appoint several Independent Fiduciaries, subject to confirmation by the holders of a majority of the units of beneficial interest in the Accounts (or by the Client Plan in the case of a Single Client Account), to act on behalf of the Accounts for the provision of leasing services by the Leasing Affiliates. Each Independent Fiduciary will be an individual, group of individuals or a business entity which has substantial experience with commercial real estate investments, including the expertise to make decisions required under the exemption. RREEF proposes to use the same Independent Fiduciary for all Accounts that have properties in the same real estate market. However, because individual Client Plans can veto RREEF's selection of an Independent Fiduciary, RREEF cannot guarantee that the same Independent Fiduciary will be used for all such Accounts.

An Independent Fiduciary will not have any ownership interest in RREEF nor will RREEF have any ownership interest in the Independent Fiduciary. An Independent Fiduciary may have a preexisting relationship as a service provider (including as a fiduciary) for one or more of the Client Plans. However, all business dealings between the Independent Fiduciary and RREEF, including services rendered to the Accounts as Independent Fiduciary under all other prohibited transaction exemptions granted by the Department, [9] may not in the aggregate result in the Independent Fiduciary receiving in any one of its fiscal years more than five percent (5%) of its gross income from RREEF. No person hired as an Independent Fiduciary for any real property held by the Account will provide any other service for such property while that person is serving as the Independent Fiduciary. In addition, an Independent Fiduciary will not be retained by the Account, RREEF, or any affiliate thereof, under a contract to perform leasing, property management, or real estate brokerage services with respect to such property for at least a six month period after having served as the Independent Fiduciary.

Generally, the compensation and expenses of each Independent Fiduciary will be proportionately paid by the Account(s) which it serves.

11. Any Independent Fiduciary may be removed with or without cause by a vote of the holders of a majority of the units of beneficial interests in an Account. A vote removing the Independent Fiduciary will not affect existing covered transactions, but RREEF will cease submitting to the Independent Fiduciary any proposals to engage in new transactions. RREEF will designate within sixty (60) days a replacement Independent Fiduciary, whose appointment will be subject to the same confirmation by the Client Plans as was the initial Independent Fiduciary.

12. The Independent Fiduciary will select the Leasing Affiliates to provide the leasing services described herein. The selection process will proceed as follows:

(a) RREEF will propose a Leasing Affiliate to provide services for a specific property if it believes it is in the best interest of the Account to do so. If RREEF does not propose a Leasing Affiliate to provide services to an Account property, it will select an unrelated service provider.

(b) The Independent Fiduciary will determine the qualifications of the Leasing Affiliate by thoroughly reviewing its background and experience, and those of its personnel. The Independent Fiduciary will consider, among other things, the following factors:

(1) The compensation and the terms of the service arrangement proposed by the Leasing Affiliate will be compared to those from similarly qualified firms for similar services in the similar locales. If no similar firms exist for

[6] Currently, RREEF anticipates that RREEF Management will be the Leasing Affiliate which performs the leasing services.

[7] The applicant represents that the term ''relevant real estate market'' is a term used by managers, leasing agents, appraisers, etc. to mean a general geographic area from which the property is most likely to draw its tenant base. Within this area a specific property will be competing with similar properties for tenants. The area varies based on property type, size, age and location, access to transportation, etc. Typically, an assessment of the relevant real estate market is included, as part of the overall economic analysis, in the materials prepared at the time the property is acquired. The applicant maintains that, under the condition of this proposed exemption, the Independent Fiduciary will make its own independent assessment of the relevant real estate market.

[8] Such approval will be obtained pursuant to Section II(1) and (2) of this proposed exemption.

[9] See, for example, PTE 82–51, which was mentioned earlier.

comparison, the Independent Fiduciary will determine whether the agreement is reasonable within the meaning of section 408(b)(2) of the Act. If the Leasing Affiliate is replacing another service provider, the Independent Fiduciary will make similar determinations, and will consider whether the change in service providers will increase costs to the Accounts.

(2) The Independent Fiduciary must determine if the Leasing Affiliate is the best qualified candidate to provide a particular service under the arrangement in question. If the qualifications are equal among potential service providers, the Independent Fiduciary may choose the Leasing Affiliate if its proposed fee arrangement is most advantageous to the Account. If the qualifications and the proposed fees are essentially equal, the Independent Fiduciary will select the Leasing Affiliate only where it makes a determination that the affiliated service provider is the best-qualified, considering the affiliate's experience and familiarity with the Account and the property. The Independent Fiduciary is not required to regard the Leasing Affiliate as its first choice for providing services for any particular property.

(c) The Independent Fiduciary's decisions will be based solely upon the interests of the Account. The Independent Fiduciary will independently compile, or retain others to compile, information relevant to its determination. This information will include the qualifications of and the terms for engaging the Leasing Affiliate, whether RREEF Management is also providing property management services to the property, and the fees charged by RREEF Management for these various services.

The Independent Fiduciary can also consider certain additional information provided by RREEF. Such information will include: (1) a description of the Account's policy for leasing services and the Client Plans investing therein; (2) a description of the leasing services to be provided; (3) the qualifications of the Leasing Affiliate to perform the required services; (4) a statement, supported by appropriate factual representations, as to why RREEF believes the Leasing Affiliate is qualified to provide the services; (5) a copy of the proposed arrangement for services, and the Leasing Affiliate's terms for the provision of such services; (6) RREEF's reasons as to why retaining the Leasing Affiliate is in the interest of the Account; (7) information as to why the fees and other terms of the arrangement are reasonable as compared to the fees charged by similar firms for similar services in comparable locales; (8) the identity of the current non-affiliated leasing agent, if any, and the terms under which it renders services; (9) the identities of other non-affiliated service providers and the terms under which they would render such services; and (10) whether the Leasing Affiliate or any affiliate thereof is a property manager with respect to any properties that are in competition for tenants with the property for which the Leasing Affiliate is under consideration.

(d) If the Independent Fiduciary selects the Leasing Affiliate to provide leasing services to an Account property, it will negotiate the terms of the leasing agreement directly with the Leasing Affiliate.

(e) If the Independent Fiduciary does not select the Leasing Affiliate, the Independent Fiduciary will so advise RREEF. RREEF will then select an unrelated leasing agent and negotiate the terms of the arrangement with the unrelated leasing agent.

13. If the Leasing Affiliate is replacing another leasing agent, or if a leasing agreement with a Leasing Affiliate is significantly modified, advance approval of the Independent Fiduciary will be required. Advance approval of the Independent Fiduciary will also be required when the Account acquires a property subject to a leasing agreement with the Leasing Affiliate. Any decision by the Leasing Affiliate that may affect its compensation will be reviewed and approved by the Independent Fiduciary.

14. RREEF will have the authority to retain a Leasing Affiliate in certain emergency situations where advance approval by the Independent Fiduciary would be impractical (e.g., an existing leasing agent suddenly goes out of business). Under these circumstances, RREEF will retain the Leasing Affiliate for a period not to exceed 90 days. However, the Independent Fiduciary will have to approve any fees paid to the Leasing Affiliate prior to their actual payment.

15. The Independent Fiduciary will also review, at least annually (or more frequently if it deems appropriate), the performance of the Leasing Affiliates under each leasing agreement with the Accounts. In conducting these periodic reviews, the Independent Fiduciary will consider: (i) The information contained in RREEF's annual reports, as furnished by RREEF; (ii) information furnished in connection with RREEF's selection of the Leasing Affiliates; (iii) summaries of all leases executed by the Leasing Affiliates; and (iv) any other information the Independent Fiduciary believes necessary.

In addition, the Independent Fiduciary will: (i) prepare an annual report of its activities for the prior year; (ii) render its opinion as to the continued validity of the leasing guidelines for the subsequent year; and (iii) recommend any amendments to, or termination of, the leasing agreement.

If the Independent Fiduciary determines that the services of any Leasing Affiliate are no longer necessary, or that such Leasing Affiliate has failed to comply with its obligations under the leasing agreement, it will instruct RREEF to terminate or modify the leasing agreement, or to exercise other rights available under the leasing agreement.[10] RREEF will carry out such instruction from the Independent Fiduciary to the extent it is legal and permitted by the terms of the leasing agreement.

16. The Independent Fiduciary will maintain written records with respect to the determinations it makes regarding Leasing Affiliates. The written records will reflect, among other things, the information considered, including the identity of non-affiliated leasing agents, the source of the information, the steps taken by the Independent Fiduciary in reaching its decision, and the reasons for its decision. The Independent Fiduciary will also document any actions it takes in connection with its periodic review of the Leasing Affiliates' performance, as well as its approval or disapproval of the fees paid to the Leasing Affiliates for services rendered pursuant to any emergency procedures. These written records will be delivered periodically to RREEF or the Leasing Affiliates and kept in accordance with the Department's recordkeeping requirements under this exemption, if granted.

17. RREEF is one of the largest real estate managers in the United States. RREEF maintains portfolios for its clients which represent different types of real estate, including office, retail, residential and industrial properties. RREEF states that it cannot use a single Independent Fiduciary for the transactions described herein due to the large number of Account properties it manages in many diverse real estate markets. While some of RREEF's

[10] In this regard, RREEF acknowledges that the Department's regulations issued under section 408(b)(2) (29 CFR 2550.408b–2) provide, in relevant part, that no contract or arrangement for the provision of services is reasonable within the meaning of section 408(b)(2) and regulation 2550.408b–2(a)(2) if it does not permit termination by the Client Plan without penalty to the Client Plan on reasonably short notice under the circumstances to prevent the Client Plan from becoming locked into an arrangement that has become disadvantageous.

Accounts may contain all these properties, other Accounts may have investment guidelines that limit them to specific categories or subcategories (e.g. office properties may include large urban ''core'' properties, other high-rise properties, suburban ''build-to-suit'' space, etc.).

RREEF represents that there are very few real estate firms qualified to act as Independent Fiduciaries which can review leasing arrangements on a national basis. RREEF states that even those firms may not be the most qualified in specific markets or for specific properties. RREEF further states that the few real estate firms that are qualified may also manage competing properties in relevant markets. Thus, these firms will have a conflict of interest in reviewing such leasing arrangements. Given the large number of properties which RREEF manages, some candidates may be disqualified because the fees they would receive from RREEF for serving as an Independent Fiduciary would exceed 5% of their annual revenues. In addition, RREEF states that it cannot use a single Independent Fiduciary for the transactions described herein because, under RREEF's agreement with the Client Plans, a single Client Plan that invests in an Account can prevent the use of an Independent Fiduciary that has been selected by the Client Plans for other Accounts.

RREEF represents that each Independent Fiduciary selected for the leasing transactions will be an experienced and recognized real estate consulting/brokerage firm familiar with the specific markets in which each Account property is located.

18. RREEF represents further that the leasing commissions charged pursuant to the proposed exemption, if granted, will not exceed market rates. The Leasing Affiliates will agree to certain limitations regarding the aggregate leasing commissions and property management fees they will receive for services rendered to the same property. For purposes of this proposed exemption, the fees paid to RREEF and/or its affiliates for leasing services provided in connection with a property held for an Account shall not exceed: (a) 7 percent of the lease amount for new leases; (b) 2 percent of the lease amount for renewal leases; and (c) for leases in which outside brokers are involved, 2.75 percent of the lease amount.

19. The fees paid to the Leasing Affiliate for providing leasing services will be governed by a written leasing agreement that will be binding on the Leasing Affiliates and the respective Account. The compensation and other terms under the leasing agreement will be comparable to the compensation and terms between unrelated parties for similar services in connection with comparative properties in the same or similar locales.

20. In the event RREEF offers leasing services to any existing Account, RREEF will issue separate policy statements to the investors in the Account. The policy statements will disclose that RREEF or the Leasing Affiliates are under consideration to provide leasing services to the Account properties. The policy regarding these services will be subject to prior approval of the authorizing independent fiduciaries of the Client Plans (the Authorizing Fiduciaries) holding at least 60 percent of the units of beneficial interest in the Multiple Client Account.

With respect to Fund I, RREEF represents that it has already reviewed and negotiated with an Independent Fiduciary for each Client Plan the possibility of the Account retaining the Leasing Affiliates. RREEF states that it has received approval from all such Independent Fiduciaries to proceed with the proposed transactions. Accordingly, the Client Plans that participate in Fund I should be fully aware of (a) the potential conflicts of interest involved in the selection of the Leasing Affiliates as service providers; (b) the identification of the properties which may require leasing services; (c) the services to be rendered and the fees to be charged; and (d) the selection process. In addition, RREEF will provide the Client Plans that participate in Fund I with notice of the proposed exemption and the final exemption, and will require approval of the appointment of one or more Independent Fiduciaries.

21. RREEF, as the investment manager or trustee, will furnish each Authorizing Fiduciary, not less than 45 days prior to the implementation of the leasing policy, with any reasonably available information necessary for the Authorizing Fiduciary to determine whether to give its approval. Such information will include: (a) an explanation of the potential conflicts of interest involved in selecting RREEF and the Leasing Affiliates to provide leasing services; (b) properties that may require such services at the time of disclosure; (c) a description of the services and the fees to be charged; (d) an explanation of the selection process (including the selection of the Independent Fiduciary); and (e) a description of the terms, if any, upon which a Client Plan may withdraw from the Account.

In the event an authorizing plan fiduciary of any Client Plan whose assets are invested in an Account submits a notice in writing to RREEF, as investment manager, at least 15 days prior to the provision of leasing services, objecting to the provision of the leasing services, and RREEF proposes to proceed with the provision of leasing services, the Client Plan on whose behalf the objection was tendered will be given the opportunity to terminate its investment in the Account, without penalty. With the exception of a Client Plan which has invested in a closed-end Account under which the rights of withdrawal from the Account may be limited, as provided in the Client Plan's written agreement to invest in the Account, if a written objection to the leasing services is submitted to RREEF any time after 15 days prior to implementation of the leasing services (or after implementation), the Client Plan must be able to withdraw without penalty, within such time as may be necessary to effect such withdrawal in an orderly manner that is equitable to all withdrawing and the non-withdrawing Client Plans. However, the Leasing Affiliate need not discontinue providing the leasing services, once implemented, by reason of a Client Plan electing to withdraw after 15 days prior to the scheduled implementation date of the leasing services. Any Client Plan which invests in a Single Client Account may terminate the Leasing Services arrangement and withdraw from the Account at any time (upon reasonable written notice).

As in the case of a new Account, the Client Plan's assets may be invested in an Account which already retains the Leasing Affiliate. If that Client Plan has not yet authorized the leasing arrangement in the manner described above, the Authorizing Client Plan Fiduciary will execute a prior written authorization approving the investment in the Account and the service arrangements. Also, RREEF will provide such Authorizing Client Plan Fiduciary with the same disclosures as those it provided to Authorizing Fiduciaries of the Client Plans currently invested in the Account.

Each leasing agreement may be terminated by a vote in favor of such termination by the holders of a majority of units of beneficial interests in the Account. Within 180 days after the vote terminating the leasing agreement, RREEF will replace the Leasing Affiliate with an unaffiliated leasing agent.

22. To ensure that the Client Plans investing in the Accounts have resources and necessary investment sophistication to evaluate the

contemplated service arrangements, RREEF proposes the following standard to be applied to the Multiple Client Accounts. Seventy-five percent (75%) or more of the units of beneficial interests in the Account must be held by Client Plans or other investors having total assets of at least $100 million. In addition, 50 percent (50%) or more of the Client Plans investing in the Account must have assets of at least $100 million. For purposes of the 50% test, a group of Client Plans maintained by a single employer or controlled group of employers, any of which individually has assets of less than $100 million, will be counted as a single Client Plan, if the decision to invest in the Account (or the decision to make investments in the Account available as an option for an individually directed account) is made by a fiduciary other than RREEF, who exercises such discretion with respect to plan assets in excess of $100 million. RREEF represents that this requirement will only have an impact on Multiple Client Accounts. Single Client Accounts will be established on behalf of Client Plans that have more than $100 million in assets.

As an added condition to the exemption, RREEF proposes that no more than 20 percent of a particular Client Plan's assets will be invested in all RREEF Accounts on whose behalf the Leasing Affiliates will provide leasing services.

23. In summary, RREEF represents that the proposed transactions will satisfy the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because:

(a) Following full disclosure by RREEF, independent Client Plan Fiduciaries will authorize the Client Plans to participate in an Account that will utilize the services of RREEF or a Leasing Affiliate;

(b) RREEF, as the investment manager for the Accounts, will first determine on a property-by-property basis that it is in the best interests of the Accounts for RREEF or a Leasing Affiliate to provide the leasing services before it recommends to the Independent Fiduciary that RREEF or the Leasing Affiliate provide such services;

(c) the Independent Fiduciary must consider the recommendation and specific alternatives for obtaining leasing services for a particular property before RREEF or a Leasing Affiliate is selected to perform leasing services for the property;

(d) the Independent Fiduciary will evaluate the reasonableness of the fees charged by RREEF and its Leasing Affiliates for leasing services and will negotiate the terms of each leasing agreement;

(e) the Independent Fiduciary will review the performance of RREEF or any Leasing Affiliate under the leasing arrangements and instruct RREEF, as the investment manager, to terminate or modify the contract or exercise other rights available under the contract, whenever such actions are appropriate;

(f) the compensation paid to RREEF and the Leasing Affiliates will be no greater than that charged by similar firms for comparable services in connection with comparable properties in similar locales, and such compensation will not exceed what RREEF or the Leasing Affiliate would charge an unrelated party;

(g) the Client Plans investing in the Accounts will be subject to a minimum Plan size requirement to assure that such Client Plans have the resources and investment sophistication necessary to evaluate the risks, benefits and costs associated with the service arrangements; and

(h) limitations will also be placed on the percentage of a particular Client Plan's assets that may be invested in all of the Accounts maintained by RREEF, on whose behalf the Leasing Affiliates will provide leasing services.

Notice to Interested Persons

RREEF will notify each Client Plan, which maintains a Single Client Account with RREEF, of the proposed exemption by first class mail, facsimile, or overnight delivery via commercial courier, within 15 days of publication of the proposed exemption in the **Federal Register**. With respect to the Multiple Client Accounts, RREEF represents that Client Plans that currently invest in such Accounts will not receive copies of the proposed exemption because such Accounts will not be affected by this exemption, if granted. However, for the Client Plans that invest in any future Multiple Client Accounts, RREEF will provide copies of this notice of proposed exemption as well as the final exemption, if granted, prior to such investment.

For Further Information Contact: Ekaterina A. Uzlyan of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

John B. Vick, D.D.S., P.A. Pension Plan (the Plan) Located in Minneapolis, Minnesota

[Exemption Application No. D–10578]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed cash sale (the Sale) of two promissory notes (the Notes) by the Plan to Dr. John B. Vick, a party in interest and disqualified person with respect to the Plan, provided the following conditions are met:

(a) The Sale is a one-time transaction for cash;

(b) The terms and conditions of the Sale are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party;

(c) The Plan receives an amount equal to the fair market value of the Notes as determined by a qualified, independent appraiser as of the date of Sale; and

(d) The Plan is not required to pay any commissions, costs or other expenses in connection with the Sale.

Summary of Facts and Representations

1. The Plan, a profit sharing plan, was terminated on June 30, 1996. The Plan was sponsored by Dr. John B. Vick, a dentist practicing in Minneapolis, Minnesota. At the time of termination, the Plan had four participants and held assets in excess of $1.4 million.

2. Among the remaining assets in the Plan are two Notes originally purchased in an arm's length transaction from an unrelated party. The first promissory note carries a principal amount of $58,500 at an interest rate of 13.75%. The term is 48 months. Interest only payments of $2010.94 are due each quarter with a balloon payment of the principal due on April 15, 2000. The second note, which is subordinated to the debt of the first, carries a principal amount of $15,660 with an interest rate of 20%. Interest only payments of $783 are due each quarter with a balloon payment of the principal due on April 15, 2000. The collateral for both notes is a parcel of improved real property located in Glendale, Arizona and owned by the unrelated party.

3. The applicant requests an exemption for the proposed Sale of the Notes to Dr. John Vick. At present, every participant in the Plan, excluding Dr. Vick, has received his or her distribution. Dr. Vick has transferred the majority of the assets in his account to his IRA and is awaiting the opportunity to transfer the remainder. Because the trustee of the IRA refuses to accept transfer of the Notes, Dr. Vick is

currently unable to complete the termination of the Plan and obtain, in his personal capacity, the remaining portion of his assets from his account in the Plan.

4. Robert N. Prentiss (Mr. Prentiss), president of the Independent Service Company located, in Minneapolis, Minnesota, appraised the Notes on November 19, 1997, and supplemented the appraisal on April 28, 1998. Mr. Prentiss is an investment banker with over 20 years of experience in valuing financial instruments, and represents that he has no present or prospective interest in the Notes, no personal interest or bias with respect to the parties involved, and is otherwise independent. After analyzing the Notes, specifically focusing on the risk, liquidity, collateral, and legal rights pertaining thereto, Mr. Prentiss determined the value of the Notes to be equal to their face amounts.

Mr. Prentiss cited a number of reasons in support of his conclusion. Specifically, he emphasized the following points: (1) the Notes are highly speculative; (2) the Notes are illiquid as they cannot be sold or paid off before their maturity dates; (3) the Notes are of the interest only variety with the entire principal at risk during the term; and (4) it would be difficult to obtain title in the event of default because the collateral for the Notes is a parcel of real estate which is subject to junior liens of $250,000. In light of the foregoing, Mr. Prentiss believes that the Notes should be sold at par, or $58,500 for the first note and $15,660 for the second note.

5. The applicant represents that the proposed transaction would be administratively feasible in that it would be a one-time transaction for cash. Furthermore, the applicant states that the transaction would be in the best interests of the Plan in that it would enable the Plan to dispose of the Notes thus facilitating the termination and saving on future administrative costs. Finally, the applicant asserts that the transaction only involves the account of Dr. Vick and will be protective because the Plan will receive the fair market value of the Notes as determined by a qualified, independent appraiser on the date of Sale and will incur no commissions, costs, or other expenses as a result of the Sale.

6. In summary, the applicant represents that the subject transaction satisfies the statutory criteria for an exemption because: (a) The Sale is a one-time transaction for cash; (b) The terms and conditions of the Sale are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party; (c) The Plan receives an amount equal to the fair market value of the Notes as determined by a qualified, independent appraiser as of the date of Sale; and (d) The Plan is not required to pay any commissions, costs or other expenses in connection with the Sale.

Notice to Interested Persons

Because Dr. Vick is the only remaining participant in the Plan, it has been determined that there is no need to distribute the notice of the Proposed exemption (the Notice) to interested persons. Comments and requests for a hearing are due (30) days after publication of the Notice in the **Federal Register**.

For Further Information Contact: Mr. James Scott Frazier, telephone (202) 219–8881. (This is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 24th day of August, 1998.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 98–23282 Filed 8–28–98; 8:45 am]

BILLING CODE 4510–29–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors

TIME AND DATE: The Board of Directors of the Legal Services Corporation will meet on September 12, 1998. The meeting will begin at 9:00 am and continue until conclusion of the Board's agenda.

LOCATION: Holiday Inn Civic Centre, 300 E. Ohio Street, Chicago, IL 80811.

STATUS OF MEETING: Open, except that a portion of the meeting may be closed pursuant to vote of the Board of Directors to hold an executive session. At the closed session, the Corporation's General Counsel will report to the Board on litigation to which the Corporation is a party, and the Board may act on the matters reported. The closing is authorized by the relevant provisions of the Government in the Sunshine Act [e.g., 5 U.S.C. 552b(c) (10)] and the corresponding provisions of the Legal Services Corporation's implementing regulation [e.g., 45 CFR § 1622.5(h)]. A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of agenda.
2. Approval of minutes of the Board's meeting of June 13, 1998.
3. Chairman's and Individual Members' Reports.

4. President's Report.
5. Scheduled public speakers:
   a. The Honorable Danny Davis, Member of Congress;
   b. The Honorable Mort Zwick, Justice 1st Appellate Court of Illinois.
   c. Robert Stein, Executive Director of the American Bar Association;
   d. Doreen Dodson, Chair of the American Bar Association's Standing Committee on Legal Aid and Indigent Defendants;
   e. Judy Billings, Chair of the American Bar Association's Standing Committee on *Pro Bono* and Public Service;
   f. James Wascher, President of the Board of Directors of the Legal Assistance Foundation of Chicago; and
   g. Dennis A. Rendleman, General Counsel of the Illinois State Bar
6. Consider and act on the report of the Board's Operations and Regulations Committee.
   a. Consider and act on proposed mechanism for setting of the compensation level for the Corporation's Inspector General.
   b. Consider and act on proposed revisions to the Procedures Governing the Annual Performance Evaluations of the Corporation's President and Its Inspector General.
   c. Consider and act on proposed revisions to Corporation's Communications Policy.
   d. Consider and act on proposed revisions to Corporation's Policy on the Handling of Employee Grievances Filed Against the Corporation's President and Its Inspector General.
   e. Consider and act on final rule, 45 CFR Part 1606, on Termination and Debarment Procedures; Recompetition.
   f. Consider and act on final rule to rescind 45 CFR Part 1625, the Corporation's existing regulation governing Denial of Refunding.
   g. Consider and act on final rule, 45 CFR Part 1623, on Suspension Procedures.
7. Consider and act on the report of the Board's Finance Committee.
8. Consider and act on the report of the Board's Committee on Provision for the Delivery of Legal Services.
9. Inspector General's Report.
10. Report on the search for someone to fill the position of Vice President for Programs and, should the Corporation's President have a candidate to recommend to the Board for appointment, action on that recommendation.
11. Establish the Board's 1998 Annual Performance Reviews Committee to conduct the 1998 annual performance appraisals of the Corporation's President and its Inspector General.
12. Schedule the annual meeting.

Closed Session

13. Approval of minutes of the Board's executive session of June 13, 1998.
14. Briefing [1] by the Inspector General on the activities of the OIG.
15. Consider and act on the General Counsel's report on potential and pending litigation involving the Corporation.

Open Session

16. Report by the Office of Administration and Human Resources on the Corporation's Logo Change.
17. Public comment.
18. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel and Secretary of the Corporation, at (202) 336–8810.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Disabled individuals who need an accommodation to attend the meeting should so notify the Corporation's Office of the General Counsel, at (202) 336–8810.

Dated: August 26, 1998.

Victor M. Fortuno,

General Counsel.

[FR Doc. 98–23473 Filed 8–27–98; 2:32 pm]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors Committee on Provision for the Delivery of Legal Services

TIME AND DATE: The Committee on Provision for the Delivery of Legal Services of the Legal Services Corporation Board of Directors will meet on September 11, 1998. The meeting will begin at 2:00 pm and continue until conclusion of the committee's agenda.

LOCATION: Holiday Inn Civic Centre, 300 E. Ohio Street, Chicago, IL 80811.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.
2. Approval of minutes of the June 12, 1998, committee meeting.
3. Staff presentation on State Planning.
4. Field Presentation on the use of alternative dispute resolution in legal services programs.
5. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel and Secretary of the Corporation, at (202) 336–8810.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify the Office of the General Counsel at (202) 336–8810.

Dated: August 25, 1998.

Victor M. Fortuno,

General Counsel.

[FR Doc. 98–23474 Filed 8–27–98; 2:32 pm]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Meeting of the Board of Directors Operations and Regulations Committee

TIME AND DATE: The Operations and Regulations Committee of the Legal Services Corporation Board of Directors will meet on September 11, 1998. The meeting will begin at 9:00 am and continue until the committee concludes its agenda.

LOCATION: Holiday Inn Civic Center, 300 E. Ohio Street, Chicago, IL 80811.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.
2. Approval of minutes of the committee's meeting of June 12, 1998.
3. Develop for proposed adoption by the Board a mechanism for setting of the compensation level for the Corporation's Inspector General.
4. Consider and act on proposed revisions to the Procedures Governing the Annual Performance Evaluations of the Corporation's President and Its Inspector General.
5. Consider and act on recommended revisions to Corporation's Communications Policy.
6. Consider and act on recommended revisions to Corporation's Policy on the Handling of Employee Grievances Filed Against the Corporation's President and Its Inspector General.
7. Consider and act on proposed rule, 45 CFR Part 1641, on Debarment and Suspension of Recipient Auditors.

[1] Any portion of the closed session consisting solely of staff briefings does not fall within the Sunshine Act's definition of the term ''meeting'' and, therefore, the requirements of the Sunshine Act do not apply to any such portion of the closed session. 5 U.S.C. 552(b)(a)(2) and (b). See also 45 CFR §§ 1622.2 & 1622.3.

8. Consider public comment and act on final rule, 45 CFR Part 1606, on Termination and Debarment Procedures; Recompetition.
9. Consider public comments and act on final rule to rescind 45 CFR Part 1625, the Corporation's existing regulation governing Denial of Refunding.
10. Consider public comment and act on final rule, 45 CFR Part 1623, on Suspension Procedures.
11. Consider and act on proposed rule, 45 CFR Part 1628, on Recipient Fund Balances.
12. Consider and act on proposed rule, 45 CFR Part 1635, on Timekeeping.
13 Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel and Secretary of the Corporation, at (202) 336–8810.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify the Office of the General Counsel at (202) 336–8810.

Dated August 26, 1998.

Victor M. Fortuno,

General Counsel.

[FR Doc. 98–23475 Filed 8–27–98; 2:27 pm]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors Finance Committee

TIME AND DATE: The Finance Committee of the Legal Services Corporation Board of Directors will meet on September 11, 1998. The meeting will begin at 1:00 pm and continue until conclusion of the committee's agenda.

LOCATION: Holiday Inn Civic Centre 300 E. Ohio St., Chicago, IL 80811.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.
2. Approval of minutes of the committee meeting of June 12, 1998.
3. Review projection of expenses for the remainder of FY 98, consider and act on internal budgetary adjustments, and act on the President's recommendations for consolidated operating budget reallocations.
4. Consider and act on proposed temporary operating budget for Fiscal Year 1999.
5. Consider and act on budget mark for Fiscal Year 2000.
6. Consider and act on other business.
7. Public comment.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel and Secretary of the Corporation, at (202) 336–8810.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify the Office of the General Counsel at (202) 336–8810.

Dated: August 27, 1998.

Victor M. Fortuno,

General Counsel.

[FR Doc. 98–23524 Filed 8–27–98; 3:27 pm]

BILLING CODE 7050–01–P

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., Wednesday, September 9, 1998.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW, Suite 800, Board Room, Washington, DC 20005.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/Secretary, 202/376–2441.

AGENDA:

I. Call to Order
II. Approval of Minutes: July 24, 1998 Regular Meeting
III. Treasurer's Report
IV. Executive Director's Quarterly Management Report
V. Adjourn

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 98–23423 Filed 8–27–98; 11:01 am]

BILLING CODE 7570–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–397]

Washington Public Power Supply System; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted a request by Washington Public Power Supply System (the licensee) to withdraw its July 17, 1998, application for an exigent amendment to Facility Operating License No. NPF–21, issued to the licensee for operation of the Nuclear Project No. 2 (WNP–2), located in Benton County, Washington. The request for withdrawal of the subject amendment was made by the licensee in a letter dated August 13, 1998. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on July 24, 1998 (63 FR 39913).

The July 17, 1998, exigent amendment application was in response to a Notice of Enforcement Discretion (NOED) that was issued by the NRC staff on July 17, 1998, for WNP–2. The technical specification (TS) change would have authorized the licensee to conduct TS Surveillance 3.8.4.8 (performance test) in lieu of TS Surveillance 3.8.4.7 (service test) for the WNP–2 Division 2 Class 1E 125 VDC battery on a one-time basis. Since WNP–2 occurred an outage of sufficient duration that would allow them to perform the surveillance, the change to the TS is no longer required.

For further details with respect to this action, see (1) the application for exigent amendment dated July 17, 1998, as supplemented by letter dated July 28, 1998, and (2) the staff's letter dated August 25, 1998.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Dated at Rockville, Maryland, this 25th day of August 1998.

For the Nuclear Regulatory Commission.

Chester Poslusny,

Senior Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–23338 Filed 8–28–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–397]

Washington Public Power Supply System; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted a request by Washington Public Power Supply System (the licensee) to withdraw its July 16, 1997, application for an amendment to Facility Operating License No. NPF–21, issued to the licensee for operation of the Nuclear Project No. 2 (WNP–2), located in Benton County, Washington. Notice of Consideration of Issuance of this amendment was published in the

Federal Register on October 8, 1997 (62 FR 52591).

The proposed amendment would have added new minimum reactor vessel pressure versus reactor vessel metal temperature (P/T) curves, applicable to 12 EFPY (effective full power years). Subsequently, by letter dated June 2, 1998, the licensee informed the staff that based upon an earlier commitment, new P/T curves would be submitted to the NRC staff.

For further details with respect to this action, see (1) the application for amendment dated July 16, 1997, and (2) the staff's letter dated August 25, 1998.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Dated at Rockville, Maryland this 25th day of August 1998.

For the Nuclear Regulatory Commission.

Chester Poslusny,

Senior Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–23339 Filed 8–28–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Nominations of New Members of the Advisory Committee on the Medical Uses of Isotopes

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Call for nominations.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is inviting nominations for four positions on the Advisory Committee on the Medical Uses of Isotopes (ACMUI): a medical physicist with expertise in sealed source therapy (currently vacant); a radiation safety officer (RSO) with health physics expertise (currently vacant); a physician practicing radiation oncology with expertise in remote afterloading brachytherapy (vacant as of September 30, 1998); and a nuclear pharmacist (vacant as of September 30, 1999).

DATES: Nominations are due October 30, 1998.

ADDRESSES: Submit nominations to: The Office of Human Resources, ATTN: Ms. Jude Himmelberg, Mail Stop T2D32, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Patricia Vacherlon, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–415–6376.

SUPPLEMENTARY INFORMATION: The ACMUI advises NRC on policy and technical issues that arise in regulating the medical use of byproduct material. Responsibilities include providing guidance and comments on changes in NRC rules, regulations, and guidance documents concerning medical use; evaluating certain non-routine uses of byproduct material for medical use; and providing technical assistance in licensing, inspection, and enforcement cases.

ACMUI members possess the medical and technical skills needed to address evolving issues. Currently, the ACMUI membership consists of: (a) four practicing physicians; (b) one physician representing the U.S. Department of Health and Human Services, Food and Drug Administration; (c) one nuclear pharmacist; (d) one medical physicist (nuclear medicine); (e) one health care administrator; and (f) one certified medical dosimetrist. Presently, the specialties of the physicians on the ACMUI are: radiation therapy, nuclear medicine, and nuclear medicine research. The staff is in the process of finalizing the appointment of nominees for the position of a physician practicing nuclear cardiology, a patients' rights and care advocate, and an individual with State and/or local government perspective.

The NRC is inviting nominations for four positions on the ACMUI: a medical physicist with expertise in sealed source therapy; a radiation oncologist, with expertise in remote afterloading brachytherapy; a nuclear pharmacist; and a RSO with medical health physics expertise.

Nominees must include four copies of their resumes, describing their educational and professional qualifications, and provide their current addresses and telephone numbers.

All new committee members will serve 3-year terms, with possible reappointment to an additional 3-year term.

Nominees must be U.S. citizens and be able to devote approximately 80 hours per year to committee business. Members will be compensated and reimbursed for travel (including per diem in lieu of subsistence), secretarial, and correspondence expenses, unless the member is a full-time federal employee. Full-time federal employees are reimbursed for travel expenses only. Nominees will undergo a security background check and will be required to complete financial disclosure statements, to avoid conflict-of-interest issues, prior to commencement of their term.

Dated at Rockville, Maryland, this 25th day of August, 1998.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Advisory Committee Management Officer.

[FR Doc. 98–23337 Filed 8–28–98; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Extension: Part 257, SEC File No. 270–252, OMB Control No. 3235–0306;

Form U–1 SEC File No. 270–128, OMB Control No. 3235–0125;

Rule 58, Form U–9C–3, SEC File No. 270–400, OMB Control No. 3235–0457;

Rule 71, Form U–12–(I)–A & Form U–12–(I)–B, SEC File No. 270–161, OMB Control No. 3235–0173;

Rules 93–94, Form U–13–60, SEC File No. 270–79, OMB Control No. 3235–0153.

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below.

The rules under 17 CFR Part 257 implement sections of the Public Utility Holding Company Act of 1935 (''Act'') require registered holding companies and their subsidiary service companies to preserve records for certain periods. The purpose of requiring the holding company to retain the records is to permit audit or verification by the Commission, or by state utility commissions, of transactions between the holding company or its otherwise unregulated subsidiaries, the subsidiary service companies, and the regulated utility subsidiaries which the holding company controls, or to establish investors' rights. The Commission estimates that the total annual reporting and recordkeeping burden is one hour (18 recordkeepers × 1/18 hour = one burden hour).

There is no recordkeeping requirement of this information collection. It is mandatory that

qualifying companies provide the information required by the Part 257. There is no requirement to keep the information confidential because it is public information.

Form U–1, under rule 20(c) of the Act, must be used by any person filing or amending an application or declaration under sections 6(b), 7, 9(c)(3), 10, 12(b), (c), (d) or (f) of the Act. The form must also be used for filings under any rule under other sections of the Act, for which a form is not prescribed. The Commission estimates that the total annual reporting and recordkeeping burden in 27,225 hours (121 recordkeepers × 225 hours = 27,225 burden hours). This represents an increase of 10,020 hours annually in the paperwork burden from the prior estimate, which was caused by an increase in the number of respondents for the period and the fact that the filings have become generally more complex.

The Commission needs the information because rule 20(c) requires it. The Commission uses this information to determine the existence of detriment to interests the Act is designed to protect. Compliance with the requirements to provide the information is mandatory. The information will not be kept confidential.

Rule 58 under the Act, allows registered holding companies and their subsidiaries to acquire energy-related and gas-related companies. Acquisitions are made without prior Commission approval under section 10 of the Act. However, within 60 days after the end of the first calendar quarter in which any exempt acquisition is made, and each calendar quarter thereafter, the registered holding company is required to file with the Commission a certificate of notification on Form U–9C–3 containing the information prescribed by that form. The 61 recordkeepers together incur about 976 annual burden hours to comply with these requirements (61 recordkeepers × 16 hours = 976 burden hours).

The Commission requests this information because rule 58 of the Act requires it. The Commission uses this information to determine the existence of detriment, regarding the acquisition of certain energy-related companies, to interests the Act is designed to protect.

Rule 71 and Forms U–12(I)–A and U–12(I)–B implement subsection 12(i) of the Act, which makes it unlawful for an employee to prevent, advocate or oppose any matter affecting a registered holding company before Congress, the Commission or the FERC. The Commission estimates that the total annual reporting and recordkeeping burden is 167 hours (250 respondents × ⅔ hour = 167 burden hours).

The purpose of collecting the information is to determine the existence of detriment to interests the Act is designed to protect. The Commission uses the information to enable it to enforce the provisions of section 12(i) of the Act.

Rule 93 imposes recordkeeping and record maintenance requirements on mutual and subsidiary service companies of registered holding companies. Under the rule, the service companies must keep their accounts and records according to the Uniform System of Accounts, as provided in 17 CFR 256. Further, the companies must maintain those records in the manner and for the periods provided in 17 CFR 257. Rule 94 requires service companies to file annual financial reports on Form U–13–60, as provided in 17 CFR 259.313. The purpose of requiring the holding company to retain the records is to permit audit or verification by the Commission, or by state utility commissions, of transactions between the holding company or its otherwise unregulated subsidiaries, the subsidiary service companies and the regulated utility subsidiaries which the holding company controls or to establish investors' rights. The Commission estimates that the total annual reporting and recordkeeping burden is 580 hours (40 respondents × 14.5 hours = 580 hours).

Compliance with the collection of information requirements of the rule is mandatory to obtain the benefit of relying on the rule.

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

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: August 24, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–23280 Filed 8–28–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40358; File No. SR–CBOE–98–20]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change Relating to RAES Eligibility Requirements for OEX and DJX Options

August 24, 1998.

I. Introduction

On May 18, 1998, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend CBOE Rule 24.17, *RAES Eligibility in OEX and DJX*, that would allow a market maker to participate in the CBOE's Retail Automatic Execution System (''RAES'')[3] in options on the Standard & Poor's 100 Index (''OEX'') and options on the Dow Jones Industrial Average (''DJX'') during the same calendar month by meeting the eligibility requirements for OEX alone, DJX alone, or eligibility requirements that consider the percentage of transactions and contracts a market maker transacted in OEX and DJX combined. On June 24, 1998, the CBOE filed Amendment No. 1 to the proposal.[4] The proposed rule change and Amendment No. 1 were published for comment in the **Federal Register** on July 16, 1998.[5] The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

Currently, CBOE Rule 24.17(b)(v) sets forth four eligibility requirements that a market maker must meet before he can

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] RAES is the Exchange's automatic execution system for small (generally less than 10 contracts) public customer market of marketable limit orders. When an order is entered through RAES, the system automatically attaches to the order its execution price, determined by the prevailing market quote at the time of the order's entry into the system. A buy order pays the offer; a sell order sells at the bid. An eligible market maker who is signed onto the system at the time an order is received will be designated to trade with the public customer order at the assigned price.

[4] *See* Letter from Timothy H. Thompson, Director, Regulatory Affairs, CBOE, to Deborah Flynn, Attorney, Division of Market Regulation, Commission, dated June 19, 1998 (''Amendment No. 1'').

[5] Securities Exchange Act Release No. 40186 (July 9, 1998), 63 FR 38441.

participate in RAES in either OEX or DJX. Under one of these requirements, the market maker must execute at least seventy-five percent of his market maker contracts for the preceding calendar month in the option class in which the market maker is participating on RAES. This requirement precludes a market maker who qualifies to participate in RAES in either OEX or DJX from qualifying to participate in the other class. The Exchange believes the seventy-five percent requirement is so high that it serves as a disincentive for a market maker on one side of the common structure in which OEX or DJX are traded to move to the other side of the structure to trade the other option product for fear that the market maker will no longer qualify for RAES in his primary trading area. Although OEX and DJX are technically traded at two separate trading posts, the market makers for each product are separated by a movable railing within the same physical structure. Because the traders in OEX and DJX stand right next to each other in the same physical structure, the Exchange believes they are in the best position to provide added liquidity and capital to the product by moving from one side of the trading structure to the other.[6] A market maker must be present in the particular trading crowd where the class is traded while he is participating in RAES for that class.

The CBOE proposes to amend CBOE Rule 24.17 by adding new sub-paragraph (b)(iv) to allow a market maker to participate in RAES in both OEX and DJX during the same calendar month by transacting at least seventy percent of his market-maker contracts for the preceding calendar month in: (1) OEX; (2) DJX; or (3) both OEX and DJX combined, and by transacting seventy-five percent of his contracts in OEX and DJX during the month in person. A market maker can particiapte in RAES in both OEX and DJX during the same calendar month as long as he meets one of the sets of criteria above and as long as the two products continue to be traded at the same physical trading location. The proposed rule change will make it easier for market makers to move from one trading pit to another to provide liquidity when market conditions warrant.

The Exchange proposes to implement this rule change at the beginning of the next calendar month after the Commission approves the proposal. The Exchange also proposes to delete current Interpretation .02 to CBOE Rule 24.17 because it is no longer relevant.

[6] The Exchange notes that in the equity posts on the floor, a market maker may participate in RAES in all classes traded at that post.

III. Discussion

The Commission finds that the proposed rule change is consistent with the Act[7] and, in particular, with Section 6(b) of the Act.[8] Specifically, the Commission believes that the proposal is consistent with the Section 6(b)(5)[9] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and public interest.

The proposed rule change to the RAES eligibility standards is designed to ensure that there is adequate market maker participation at all times in OEX and DJX, by eliminating a disincentive for market makers to actively participate in RAES in both OEX and DJX. The Commission believes that the presence of an adequate number of market makers contributes to the maintenance of a fair and orderly market by helping to ensure that there is adequate liquidity for these important indexes, particularly in times of market stress. The Commission also believes the deletion of CBOE Rule 24.17, Interpretation .02, which limited the applicability of the rule until December 1, 1997, is appropriate since the specified date, December 1, 1997, has passed.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change, as amended, (SR–CBOE–98–20) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–23313 Filed 8–28–98; 8:45 am]

BILLING CODE 8010–01–M

[7] In approving this rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40356; File No. SR–CSE–98–02]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto, by The Cincinnati Stock Exchange, Inc., Relating to Regulatory Jurisdiction and Proceedings

August 24, 1998.

Pursuant to Section 19(b)(1) of the securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 7, 1998, The Cincinnati Stock Exchange, Inc. (''CSE'' or ''Exchange'') 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 CSE. On July 31, 1998, the Exchange filed with the Commission Amendment No. 1 to the proposed rule change.[2] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to update and clarify its rules concerning disciplinary jurisdiction and practice. The text of the proposed rule change is available at the Office of the Secretary, CSE and 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 CSE 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 CSE has prepared summaries, set forth in section A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] In Amendment No. 1, the Exchange added Section 6(b)(6) of the Act as a statutory basis for the proposed rule change. The Exchange also set forth the procedure, under proposed CSE Rule 8.3, to be utilized upon the rejection of a letter of consent by the Business Conduct Committee. Finally, the Exchange corrected grammatical errors in proposed CSE Rule 8.1(a). Letter from Adam Gurwitz, Vice President Legal, CSE, to Kelly McCormick, Attorney, Division of Market Regulation Commission, dated July 30, 1998 (''Amendment No. 1'').

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to clarify and codify its disciplinary jurisdiction and practices by amending and renumbering those rules found in Chapter VIII of the Exchange Rules. The proposed rule change codifies existing Exchange practice, and is not intended to expand the CSE's existing grant of regulatory jurisdiction.

The proposed rule change modifying CSE Rule 8.1 states the general nature of the Exchange's regulatory jurisdiction and authority and states that such jurisdiction extends to any violation of the Act, as amended, the rules and regulations promulgated thereunder, any provision of the Exchange's Articles of Incorporation, By-Laws or rules, any interpretation thereof, or any resolution or order of the Board of Trustees or appropriate Exchange committee. The provision indicates that any such violation may, after notice and an opportunity for a hearing, be addressed by expulsion, suspension, limitation of activities, functions and operations, fine, censure, suspension or bar from association with a member or any other fitting sanction.

This rule also clarifies that the Exchange's jurisdiction extends to individual Exchange members as well as member organizations, responsible parties and persons associated with members. The CSE may discipline individuals for violations committed by employees under their supervision or by member organizations. Conversely, a member organization may be disciplined for violations committed by individuals associated with such member organizations. These failures to supervise charges are essential to a self-regulatory organization's ability to ensure that its member organizations properly supervise individuals and are common in the industry. The Exchange has always had the ability to bring such charges under its general regulatory authority, and is now more clearly expressing that authority.

The Exchange has always had the ability to police abuses in its marketplace. This includes abuses by persons associated with members who subsequently leave the employ of those members. Thus, the proposed CSE Rule 8.1(b) codifies longstanding industry practice in stating that members and associated persons remain subject to the Exchange's disciplinary jurisdiction after termination of membership or association for violations that occurred prior to termination. Thus, members and associated persons may not avoid regulatory action simply by terminating their membership or association with a member. Proposed CSE Rule 8.1(c) notes that a summary suspension or other action taken under Chapter VII of the CSE's rules (suspension of member for insolvency or failure to perform on its contracts) shall not be deemed to be a disciplinary action under Chapter VII and the provisions of Chapter VIII shall not apply to such action. The proposed CSE Rule 8.2(c) clarifies that entities within the regulatory jurisdiction of the Exchange are required to furnish information that the Exchange may request in connection with any investigation, hearing or appeal. Failure to provide such information shall be considered a rule violation. Proposed CSE Rule 8.2(c) also states that a member or associated person is entitled to be represented by counsel, at his/her own expense, during any Exchange investigation, hearing or appeal.

The CSE has always permitted any member or associated person who is the subject of an Exchange investigation to submit a statement to the Exchange's Business Conduct Committee (''BCC'') explaining why no disciplinary action should be taken—a so-called ''Wells submission.'' Proposed CSE Rule 8.2(d) and CSE Rule 8.2(f) codify this procedural right and specifically permit a Wells submission to be made on videotape to facilitate such statements. In addition, proposed CSE Rule 8.3 codifies the Exchange's expedited proceedings procedure, through which a member or associated person may attempt to resolve a matter by negotiating a letter of consent with the Exchange staff. In the CSE's experience, such procedures can, in certain cases, facilitate a fair and equitable resolution to potential disciplinary matters. Moreover, proposed CSE Rule 8.8 clarifies additional procedures concerning an offer of settlement tendered by a respondent in connection with a statement of charges. Specifically, a respondent may submit a written statement in support of an offer of settlement and may make an additional oral presentation to the BCC if the Exchange staff will not recommend acceptance of such offer or if the BCC initially rejects the offer. A respondent would be limited to a maximum of 2 offers to balance a desire to facilitate settlement with a need to bring disciplinary proceedings to closure within a reasonable timeframe. Together, these additional procedures should help ensure fair disciplinary proceedings.

Proposed CSE Rule 8.10(d) would permit the Exchange President or Chairman to request review by the Exchange's Board of Trustees of any decision by the BCC not to initiate charges against a member or associated person. The Board could, at its discretion, order such a review. In this way, the CSE proposes to institute a system of checks and balances in the disciplinary process. Finally, the proposed Interpretation .01 of CSE Rule 8.11 sets forth the Exchange's policy concerning staff compliance with relevant laws and regulations, as well as the publication of disciplinary actions. The Exchange does not routinely release this type of information to the press. If circumstances warrant, however, the Exchange's Executive Committee may direct the Exchange staff to issue a press release or other statement to the press

2. Basis

The proposed rule change is consistent with Section 6(b) of the Act [3] in general, and furthers the objectives of Section 6(b)(5) [4] in particular in that it is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In addition, the proposed rule change furthers the objectives of Section 6(b)(6) [5] because it provides that members and persons associated with members shall be appropriately disciplined for violations of the Act, or the rules or regulations thereunder, or the rules of the Exchange.[6] Specifically, the proposed rule change will clarify the Exchange's regulatory jurisdiction and the conduct of disciplinary proceedings, and will thereby help ensure proper enforcement of its rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CSE 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 comments were solicited or received in connection with the proposed rule change.

[3] 15 U.S.C. 78f.
[4] 15 U.S.C. 78f(b)(5).
[5] 15 U.S.C. 78f(b)(6).
[6] Amendment No. 1.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (1) 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 (2) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal office of the CSE. All submissions should refer to File No. SR–CSE–98–02 and should be submitted by September 21, 1998.

For the Commission, by Division of Market Regulation, pursuant to the delegated authority.[7]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–23315 Filed 8–28–98; 8:45 am]

BILLING CODE 8010–01–M

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40357; File Nos. SR–DTC–98–12, SR–PTC–98–02]

The Depository Trust Company; Participants Trust Company; Order Approving a Proposed Rule Change Relating to a Merger Between the Depository Trust Company and Participants Trust Company

August 24, 1998.

On May 29, 1998, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') and on June 2, 1998, Participants Trust Company (''PTC'') filed with the Commission proposed rule changes (File Nos. SR–DTC–98–12 and SR–PTC–98–02) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposals was published in the **Federal Register** on June 30, 1998.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule changes.

I. Description

The rule changes relate to the arrangements for a merger between DTC and PTC. Under the arrangements for the proposed merger, PTC will merge with and into DTC, and DTC will make certain payments to PTC's shareholders. For at least two years after the effective date of the merger, DTC will provide the services currently offered by PTC in a separate division of DTC, called the MBS Division. The current rules and procedures of PTC with respect to dispository services, the processing of transactions in PTC-eligible securities, and the PTC participants fund will become part of the rules and procedures of DTC and will be applied to the business of the MBS Division.[3]

PTC's participants, most of which are also DTC participants, will continue to have access to the depository services now being offered through DTC's MBS Division.[4] In addition, DTC will offer PTC participants that are not DTC participants an opportunity to become participants of the MBS Division.

II. Discussion

Section 17A(b)(3)(F) of the Act[5] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency of for which it is responsible. The Commission believes that the proposed rule changes are consistent with DTC's and PTC's obligations under Section 17A(b)(3)(F). Because the rules and procedures of PTC, which previously have been approved by the Commission, will become the rules and procedures of DTC's MBS Division, the Commission believes that the arrangements for the merger between DTC and PTC should ensure that securities transactions that are currently processed through PTC will continue to be processed efficiently through DTC's MBS Division. In addition, the Commission believes that the arrangements for the merger provide for the orderly transfer or PTC's operations to DTC and therefore should assure the safeguarding of securities and funds which are in PTC's custody or control or for which it is responsible.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposals are consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes (File Nos. SR–DTC–98–12 and SR–PTC–98–02) be and hereby are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–23278 Filed 8–28–98; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 40121 (June 24, 1998), 63 FR 30543.

[3] On July 13, 1998, DTC submitted a rule filing to the Commission [File No. SR–DTC–98–15] to amend its rules and procedures to provide for the MBS Division and to accommodate the application of PTC's current rules and procedures to the MBS Division's business.

[4] The Commission understands that the only PTC participants that are not DTC participants are Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, and The Federal Reserve Bank of Cleveland.

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40361; File No. SR–DTC–98–15]

Self-Regulatory Organizations; The Depository Trust Company; Order Granting Accelerated Approval 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 25, 1998.

On July 13, 1998, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') and on July 30, 1998, amended a proposed rule change (File No. SR–DTC–98–15) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on August 10, 1998.[2] On August 11, 1998, DTC filed its second amendment to the proposed rule change.[3] No comment letters were received. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Description

The rule change relates to the merger of DTC and Participants Trust Company (''PTC'').[4] 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 (''MSB Division'') to deliver the depository services currently provided by PTC to its participants with respect to PTC-eligible securities. DTC will adopt PTC's rules and procedures, with certain modifications, as the rules and procedures of the MBS Division. 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.

The merger agreement also provides that as of the effective date of the merger one PTC board member 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, DTC is amending its 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 the participant's use of services provided through the MBS Division.

In addition to the amendments regarding the creation of the MBS Division, DTC is adding language to its Rule 4 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.

II. Discussion

The Commission believes that DTC's proposal to make PTC's rules a part of DTC's rules is consistent with DTC's obligations under Section 17A of the Act.[6] The Commission has previously approved all of PTC's rules as being consistent with PTC's responsibility as a clearing agency as set forth in Section 17A(b)(3) of the Act.[7] The Commission believes that by adopting these previously approved rules of PTC as the rules for its newly created MBS Division, DTC will be able to fulfill its statutory obligations under Section 17A(b)(3) with respect to the clearance, settlement, and depository service provided by its MBS Division.

Section 17A(b)(3)(C) of the Act[8] requires that the rules of a clearing agency assure the fair representation of its shareholders (or members) and participants in the selection of its directors and administration of its affairs. The Commission believes that the proposed rule change is consistent with DTC's obligations under Section 17A(b)(3)(C) for several reasons. First, almost all of PTC's members are also members of DTC and therefore are already represented on DTC's Board.[9] Second, the rule change provides that when the merger become effective a PTC board member nominated by PTC's Board will become a member of DTC's Board. Third, the rule change provides that the calculation of DTC participants' entitlement to purchase stock, and therefore vote in the election of DTC's Board, will include the participants' use of the services of the MBS Division.

Section 17A(b)(3)(F) of the Act[10] requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that by adding language to Rule 4 to make clear and explicit DTC's rights and obligations with respect to its participants' fund, DTC's ability to assure the safeguarding of securites and funds which are in DTC's custody or control or for which it is responsible should be enhanced.

DTC has requested that the Commission approve the proposed rule change prior to the thirtieth day after publication of the notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice because such approval will allow securities transactions that are currently processed through PTC to be processed efficiently through the MBS Division of DTC and will allow an orderly transfer of PTC's operations to DTC.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[11] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–98–15) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

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[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 40300 (August 3, 1998), 63 FR 42650.

[3] The August 11, 1998, amendment represents a technical amendment to the proposed rule change and as such does not require republication of notice.

[4] For a more detailed description of the 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).

[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] 15 U.S.C. 78q–1(b)(3).

[8] 15 U.S.C. 78q–1(b) (3) (C).

[9] *Supra* note 5.

[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] 15 U.S.C. 78q–1.

[12] 17 CFR 200.30–3(a)(12).

Jonathan G. Katz,

Secretary.

[FR Doc. 98–23316 Filed 8–28–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40363; International Series Release No. 1154; File No. SR–EMCC–98–03]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Regarding Expansion of Eligible Instruments

August 25, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on April 28, 1998, the Emerging Markets Clearing Corporation (''EMCC'') filed with the Securities and Exchange Commission (''Commission'') and on August 20, 1998, amended the proposed rule change as described in Items I and II below, which items have been prepared primarily by EMCC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will amend EMCC's rules to expand EMCC eligible instruments to include sovereign debt.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, EMCC 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. EMCC has prepared summaries set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change expands the list of EMCC eligible instruments to include debt issued by a sovereign issuer where: (1) the debt is rated in one of the four highest rating categories (''investment grade'') by at least two Nationally Recognized Statistical Rating Organizations (''NRSRO'')[3] or (2) the debt is rated (a) in one of the four highest rating categories by one NRSRO and some satisfactory transaction volume can be demonstrated or (b) in the next highest rating category below investment grade by one NRSRO and both substantial volume and transactions can be demonstrated to indicate liquidity exists.[4]

The proposed rule change also will provide that if sovereign debt fails to continue to meet one of the above requirements for a period of one consecutive year, EMCC will specifically consider and determine whether the sovereign debt should no longer qualify as an EMCC eligible instrument. EMCC's rules are being modified to specifically provide that if an instrument fails to qualify as an eligible instrument transactions that had been accepted by the EMCC prior to such determination will continue to be processed and will be treated as if they were transactions in EMCC eligible instruments.[5] Upon a determination that an instrument fails to qualify as an eligible instrument, no new transactions in such instrument will be accepted by EMCC for processing.

EMCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because it will facilitate the prompt and accurate clearance and settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

EMCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments relating to the prosed rule change have been solicited or received. EMCC will notify the Commission of any written comments received by EMCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act[6] requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that the proposal is consistent with EMCC's obligations under Section 17A(b)(3)(F) because EMCC will apply its existing risk controls, such as its daily margining procedures, to issues of sovereign debt. EMCC's risk controls previously have been approved for use in EMCC's clearance and settlement of Brady Bonds, and EMCC has represented to the Commission that the controls are applicable to sovereign debt.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of the filing. Approving prior to the thirtieth day after publication of notice will allow EMCC to increase in a timely manner the number of securities that can be processed through EMCC, a registered clearing agency, instead of through riskier and less efficient means.

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 rule filing that are filed with the Commission, and all written communications relating to the rule filing between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of EMCC. All submissions should refer to the File No. SR–EMCC–98–03 and should be submitted by September 21, 1998.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by EMCC.

[3] NRSRO shall have the same meaning as used in Rule 15c3–1(c)(2)(vi)(F).

[4] It is EMCC's understanding that sovereign debt issued by Brazil, Argentina, and Mexico currently meet one of the above requirements.

[5] Accordingly, the buy-in and sell-out provisions set forth in Sections 7 and 8 in EMCC's Rule 8 will continue to apply to such transactions.

[6] 15 U.S.C. 78q–1(b)(3)(F).

EMCC–98–03) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–23311 Filed 8–28–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40354; File No. SR–NASD–98–54]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Relating to Public and Non-member Access to Nasdaq's SelectNet and SOES Systems through a Member Firm's Own System

August 24, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 30, 1998, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') through its wholly owned subsidiaries, NASD Regulation, Inc. (''NASDR'') and The Nasdaq Stock Market, Inc. (''Nasdaq''), the proposed rule change as described in Items I, II, and III below, with Items have been prepared by the NASD. On August 21, 1998, the NASD submitted to the Commission Amendment No. 1 to the proposed rule change.[2] 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 NASD is proposing to clarify in a Notice to Members the requirements for members to provide electronic access to Nasdaq's SelectNet service and its Small Order Execution System (''SOES'') to public customers and non-members through the member firm's own system.

The text of the proposed Notice to Members is included in Appendix I.

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 NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. The NASD 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

With the advent of enhanced software and telecommunications capabilities, NASD members are able to provide their customers with efficient electronic access to SelectNet and SOES. Several members have asked NASD staff about the requirements for allowing such access. NASD staff envisions that this access capability would operate much the same way that the New York Stock Exchange has allowed its members to offer access to NYSE's DOT system. NASD staff is publishing a Notice to Members, attached as Appendix I, to clarify the NASD's interpretation of its rules and its contract with members and outline issues that NASD members must be aware of in offering their customers electronic access to Nasdaq's execution services. This Notice to Members follows up on an interpretive letter that Nasdaq staff issued to a member in April 1998 regarding non-member access to SelectNet.[3] The Notice to Members provides details not contained in the interpretive letter and expands the discussion to address non-member access to SOES as well as SelectNet. Because the services differ, the NASD has discussed issues regarding each system separately.

The NASD believes that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[4] which requires, among other things, that the NASD's rules promote just and equitable principles of trade, facilitate securities transactions, and protect investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A) of the Act[5] and Rule 19b–4(e)(1)[6] thereunder in that it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of a self-regulatory organization.

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

[7] 17 CFR 200.30–3(a)(12).

[1] U.S.C. 78s(b)(1).

[2] In Amendment No. 1, the Exchange made technical corrections to the proposed Notice to Members. *See* Letter from John Ramsay, Vice President and Deputy General Counsel, NASDR, to Richard Strasser, Assistant Director, Division of Market Regulation (''Division''), Commission, dated August 20, 1998 (''Amendment No. 1''). On August 24, 1998, additional technical amendments were made to the Notice to Members to correct typographical errors. Telephone conversation between David A. Spotts, Office of General Counsel, NASDR, and Kenneth Rosen, Attorney, Division, Commission (August 24, 1998).

[3] Letter form Eugene A. Lopez, Vice President, Trading and Market Services, Nasdaq, to Lloyd H. Feller, Morgan, Lewis & Bockius, dated April 15, 1998.

[4] 15 U.S.C. 78o–3(b)(6).

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b-4(e)(1). In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–98–54 and should be submitted by September 21, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Jonathan G. Katz,

Secretary.

Appendix I—NASD Notice to Members 98–66

NASD Clarifies Acceptable Customer Access To SelectNet And SOES

Executive Summary

In response to several inquiries from National Association of Securities Dealers, Inc. (NASD®) members regarding their ability to provide electronic access to The Nasdaq Stock Market's® (Nasdaq® SelectNet℠ to non-member broker/dealers or customers, Nasdaq clarifies that, in the circumstances described below, members that are Nasdaq Workstation II® subscribers may choose to provide an electronic transmission of a non-member's order through their own systems into SelectNet.

In addition, members have also raised questions regarding the ability of a Small Order Execution System℠ (SOES℠) order entry firm to provide public customers electronic access to Nasdaq's SOES system. This Notice clarifies that, in the circumstances described below, members that are SOES order entry firms may choose to provide an electronic interface for public customer orders through their own SOES order entry system.

Questions regarding this Notice should be directed to Thomas Gira, Vice President, Market Regulation, NASD Regulation, Inc. (NASD Regulation℠), at (301) 590–6895 or Gene Lopez, Vice President, Trading and Market Services, Nasdaq, at (202) 728–6998.

Background—SelectNet And SOES

Nasdaq provides a service known as SelectNet that permits NASD member firms to enter buy or sell orders in Nasdaq securities into the system, directing those orders to a single Market Maker (directed orders) or broadcasting the order to market participants (broadcast orders), SelectNet facilitates the communication of trading interest between members, the negotiation of orders with the possibility of price improvement, and the dissemination of last sale reports after execution of SelectNet orders. Trades executed through SelectNet are submitted for clearing as locked-in trades. SelectNet is available for execution of orders from 9 a.m. until 5:15 p.m., Eastern Time.

Nasdaq allows Nasdaq Workstation II subscribers to enter SelectNet orders from a Nasdaq Workstation or through an electronic means known as an Application Programming Interface (API). As mentioned above, there are two types of SelectNet orders: (1) directed orders; or (2) broadcast orders. SelectNet orders may be directed to a particular market participant displaying a quotation in the Nasdaq quote montage or the SelectNet order may be generally broadcast to all participants. Orders entered into SelectNet have a minimum life of 10 seconds; in other words, they cannot be canceled by the order entry firm until 10 seconds have elapsed. In the case of directed orders, the participant reviewing the order has up to three minutes to respond to the order, unless the party entering the order specified a longer time period. While directed orders generally have a lifespan of three minutes, directed orders sent to a participant at or up to the participant's quoted price and size impose liability on the recipient's part on receipt of the SelectNet order pursuant to the Securities and Exchange Commission's (SEC) firm quote rule, unless an exception to the rule applies.[1] Traditionally, SelectNet has been used by members, Market Makers, and order entry firms alike, to access the quotations of other Market Makers and electronic communication networks (ECNs).

Nasdaq also provides a service known as SOES that enables order entry firms and Market Makers to execute size-limited orders (agency and risk-less principal) in Nasdaq securities on behalf of public customers. SOES enables participants, among other things, to lock in their trades with designated clearance and settlement instructions, thereby providing an automated execution system to public customers.

Only agency orders from public customers no larger than the maximum order size, as defined in NASD Rule 4710(g), may be entered by a SOES order entry firm into SOES for execution against a SOES Market Maker. Agency orders in excess of the maximum order size may not be divided into smaller parts for purposes of meeting the size requirements for SOES orders. The SOES rules currently contain a specific provision, NASD Rule 4720(c)(4), that requires SOES order entry firms to maintain the physical security of Nasdaq equipment located on the premises of the firm to prevent unauthorized entry of information into SOES. The NASD has, to date, interpreted this provision as barring firms from providing direct electronic entry to public customers.

Electronic Access To Nasdaq Systems

With the advent of enhanced software and telecommunications capabilities, members are able to provide their customers with efficient electronic access to Nasdaq's execution services, SelectNet and SOES. This Notice clarifies the NASD's interpretation of its rules and its contract and outlines the issues that members must be aware of in offering their customers electronic access to Nasdaq's execution services. Because each service is different, we have provided two separate discussions for each execution service, SelectNet and SOES.

Customer Access To SelectNet

Recently, several members have inquired about the permissibility under NASD rules and the Nasdaq Workstation II Subscriber Agreement (NWII Agreement) for a member to permit its customers to enter orders into the member's own electronic system and to re-transmit those orders directly and electronically, without the manual entry of such order by a person associated with the member, into the SelectNet system through an API arrangement. In other words, certain members that connect to Nasdaq through an API want to be able to build an electronic access link that the member provides to certain customers. The customer is then able to enter orders through this member-provided electronic entry point that flow through the member's network that electronically connects through the Nasdaq API to the Nasdaq SelectNet application. This Notice clarifies that such activity is permissible under NASD rules and the NWII Agreement, provided that the member undertakes measures to ensure that all relevant NASD rules and system protections are followed, as described below.

1. Notice to Nasdaq Acknowledging Responsibility for Orders: Members providing a SelectNet electronic pass-through service to customers must provide a letter to Nasdaq that acknowledges that they are acting as agents for the non-member in submitting the order through their facilities and that they are responsible for the order sent through SelectNet. Any member providing this service must submit all such orders as an agent on behalf of the customer inputting the order. All orders submitted by customers into SelectNet will have the member's Market Participant Identifier

[7] 17 CFR 200.30-3(a)(12).

(MPID) attached to them, and the member (Market Maker or ECN) receiving the order through SelectNet will know only that another member has attempted to access its Nasdaq-published price.

Further, the member should provide a system description of its facility that allows non-members access to SelectNet. Such a system description must provide details on the manner in which orders are received and re-transmitted, including the security and capacity of the member's system, the manner in which the member's system connects to Nasdaq's service, and any internal system protocols designed to fulfill a member's ''know your customer'' obligations and other regulatory obligations.

The letter and system description should be submitted to: Market Regulation, NASD Regulation, Inc., 9513 Key West Ave., Rockville, MD 20850.

2. Compliance With NASD Rules: Any member that chooses to offer this service to a customer must ensure that orders submitted through this member-provided service comply with SEC and NASD rules. For example, the member must ensure that rules related to the Short-Sale Rule, including the Affirmative Determination Rule, are complied with. Similarly, the member must ensure that any obligations regarding limit order protection and display and the ECN Rule are met. In particular, if customers use this mechanism to broadcast SelectNet orders, a Market Maker allowing customers to do so must be cognizant that SelectNet broadcast is an ECN that is not linked to Nasdaq's quote montage, and accordingly requires the Market Maker to reflect such price in its quote.

3. Internal System Controls Regarding a Member's Procedures for Supervision of Submission of Orders: Members that provide non-members with SelectNet access should have in place adequate written procedures and controls that permit the member to effectively monitor and supervise the entry of electronic orders. Among the items that should be addressed in such written controls and procedures are: (1) the entry of unauthorized orders; (2) orders that exceed or attempt to exceed credit and other parameters, such as order size, that the member has established for a particular customer; (3) activity by a customer that could be considered manipulative or an attempt to improperly affect the price of the security or related products; and (4) violations of the affirmative determination and Short-Sale Rules. Whenever possible, these controls should be automated and system driven.

A member providing SelectNet access to non-members should have a signed agreement with the non-member customer that outlines the responsibilities of the member and the customer with respect to the use of this means of access.

4. Acknowledgment of Responsibility for Orders: Any members that provides its customers with access to SelectNet should understand that the member remains responsible for honoring all executions that may occur. Consequently, any member that chooses to provide such service must make appropriate determinations under NASD rules prior to providing the service that the customer is capable of using the means of access being provided by the firm. In particular, the ''know your customer rule'' embedded in the NASD Conduct Rules requires that the member providing customer electronic access to SelectNet assess the ability of the customer to use such access. Further, a member's customer agreement that permits the customer to access SelectNet should inform the customer that he or she is subject to potential prosecution under the federal securities laws for illegal activity and that the NASD will monitor all such trading activity so as to detect any such improper activity. Further, the member should inform the customer that if the NASD detects improper activity through the customer's use of SelectNet, the member's link to Nasdaq may be terminated if at any time, activity harmful to the integrity of The Nasdaq Stock market or its systems is detected.

5. Nasdaq's Liability: In allowing members to provide their customers access to SelectNet, Nasdaq—pursuant to its NWII Agreement—assumes no liability for any order entered into the member's system, or through the API, into Nasdaq's system.

6. Nasdaq's Right to Terminate: In the event that the member's use of the API to allow the entry of SelectNet orders by non-members threatens the integrity of Nasdaq's systems, Nasdaq continues to reserve the right under the NWII Agreement to unilaterally and immediately terminate the member's access.

7. Right to Examine: The member acknowledges that, as a self-regulatory organization (SRO) responsible for examining the activity of a member, NASD Regulation may examine the member's books, records, and facilities to determine whether a violation of NASD rules and/or federal securities laws, rules, and regulations may have occurred. Such examination may include an examination of the electronic system itself, as well as the member's records regarding its customers and their activity.

8. Clearing Responsibility: The member providing the electronic connection must be a member of a clearing agency registered with the SAE through which system-compared trades may be settled; or the member must have a correspondent clearing arrangement with a member that can do so. The member providing access must accept and settle each trade executed through this connection or, if settlement is to be made through another clearing member, the clearing member must guarantee the acceptance and settlement of such trades.

9. Fees for Execution of SelectNet Orders: All orders entered by customers into SelectNet are subject to the same fee schedule that Nasdaq has established for the entry of orders by members. For example, Nasdaq currently charges a member $1 for each execution of a SelectNet order. As long as that fee is in place, Nasdaq will bill the member entering the customer pass-through order that amount for an execution that the customer receives. Similarly, if a customer using a member's pass-through service enters a broadcast order that is executed, Nasdaq will bill the member $2.50 for the execution. Under the SEC's Order Handling Rules, the SEC has permitted ECNs the right to charge members that use SelectNet to access the ECN's priced orders displayed in Nasdaq. Members should be aware that if they provide customers with SelectNet access and a customer accesses the order of an ECN that charges for such access, the ECN will bill the member for such access.

10. System Setup: Members providing an electronic pass-through of SelectNet orders must use the Nasdaq API between the member's system and Nasdaq's system. Members may use service bureaus to develop and operate the electronic access capability. All such API connections must be set up on an eight presentation device to one service delivery platform ratio. If a member chooses to use a service bureau to develop the service, the member is nonetheless responsible for ensuring that all NASD rules and NWII Agreement requirements are complied with. No service bureau is permitted to operate a service on behalf of a member unless the service bureau has entered into an agreement with Nasdaq.

Public Customer Access To SOES

Members have inquired about the permissibility under NASD rules for an NASAD SOES order entry firm to permit public customers to enter SOES agency orders into the member's electronic

system that provides an electronic SOES interface. Such facilities allow the public customer to enter orders into a member-provided electronic entry device, which flows through the member's network into the member's own computer system and then, without manual intervention, into SOES. This Notice clarifies that such activity is permissible under the NASD rules, provided that the member undertakes measures to ensure that all relevant NASD rules and system protections are followed, as described below.

1. Compliance With NASD Rules, Including SOES Rules (NASD Rules 4710–4770): Any member that chooses to offer SOES access to a public customer must ensure that orders submitted through this member-provided service comply with SEC and NASD rules, including the SOES rules and its interpretations.[2] For example, the member must ensure that agency orders for public customers are within the maximum order size as required by NASD Rule 4730(c)(3). In addition, agency orders involving a single investment decision in excess of the maximum order size may not be divided into smaller parts for purposes of meeting the size requirements for orders entered into SOES. Thus, any trades entered within any five-minute period in accounts controlled by an associated person or customer will be presumed to be based on a single investment decision.

Furthermore, members must ensure that rules related to the Short-Sale Rule, including the Affirmative Determination Rule, are complied with. Finally, members must also be able to continue to meet their obligations to comply with the SEC's Confirmation Rule, Rule 10b–10.

2. Internal System Controls Regarding a Member's Procedures for Supervision of Submission of SOES Orders: NASD SOES order entry firms that provide public customers with SOES access should have in place at the time they offer such access to public customers adequate written procedures and controls that permit the member to effectively monitor and supervise the entry of electronic orders.

Among the items that should be addressed in such written controls and procedures are controls to monitor for: (1) the entry of unauthorized orders; (2) orders that exceed or attempt to exceed credit or SOES order size and other parameters that the member has established for a particular public customer; (3) activity by a public customer that could be considered manipulative or an attempt to improperly affect the price of the security or related products; (4) violations of the Affirmative Determination and Short-Sale Rules. Wherever possible, such controls should be automated and system driven.

In addition, the firm's procedures must provide for the identification of locations where the firm makes SOES order entry devices available to its public customers and provides ongoing technical support and maintenance. If such site does not qualify as a branch office or office of supervisory jurisdiction (OSJ) of the member under NASD rules, a member must still supervise such activity by providing for periodic visits to such locations to ensure that certain restrictions on activities are in place and that the site is not conducting a securities business at such locations. For guidance on what constitutes a branch office or OSJ in member off-site locations, please see the interpretive letter dated March 17, 1998, and listed under NASD Rule 3010 on the NASD Regulation Web Site (www.nasdr.com—from the Home Page, click on ''Members Check Here,'' then click on ''Interpretive Letters'').

3. Acknowledgment of Responsibility for Orders: Any member that provides its public customers with access to SOES should understand that the member is responsible for honoring all executions that may occur. Consequently, any member that chooses to provide such service must make appropriate determinations under NASD rules, including the SOES rules, prior to providing the service to a particular public customer that the public customer is capable of using the means of access being provided by the firm. In particular, the ''know your customer rule'' embedded in the NASD Conduct Rules requires that the member providing customer electronic access to SOES assess the ability of the customer to use such access.

4. Right to Examine: The member acknowledges that, as an SRO responsible for examining the activity of a member, NASD Regulation may examine the member's books, records, and facilities to determine whether a violation of NASD rules and/or the federal securities laws, rules, and regulations may have occurred. Such examination may include an examination of the electronic system itself, as well as the member's records regarding its public customers and their activity.

5. Fees for Execution of SOES Orders: All orders entered by public customers into SOES are subject to the same fee schedule that Nasdaq has established for the entry of orders by members. For example, Nasdaq currently charges 50 cents per order executed by the member entering a SOES order for a public customer. As long as that fee is in place, Nasdaq will bill the member entering the public customer pass-through order that amount for an execution that the public customer receives.

Endnotes

1 SEC Rule 11Ac1–1(c).
2 NASD Notice to Members 88–61.

[FR Doc. 98–23279 Filed 8–28–98; 8:45 am]
BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40360; File No. SR–NASD–98–61]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Reporting Transactions in Exchange-Listed Securities

August 25, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] notice is hereby given that on August 12, 1998, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly-owned subsidiary, Nasdaq Stock Market, Inc. (''Nasdaq''), 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is proposing to amend a rule of the NASD, to eliminate an unnecessary provision relating to the reporting of transactions in exchange-listed securities traded in the third market. Below is the text of the proposed rule change. Proposed deletions are in [brackets].

* * * * *

6420. Transaction Reporting

(a) through (c) No Change

(d) Procedures for Reporting Price and Volume

Members which are required to report pursuant to paragraph (b) above shall transmit last sale reports for all

[1] 15 U.S.C. 78s(b)(1).

purchases and sales in eligible securities in the following manner:

(1) through (2) No Change

(3)(A) For principal transactions, except as provided below, report each purchase and sale transaction separately and report the number of shares and the price. For principal transactions which are executed at a price which includes a mark-up, mark-down or service charge, the prices reported shall exclude the mark-up, mark-down or service charge. [Such reported price shall be reasonably related to the prevailing market, taking into consideration all relevant circumstances including, but not limited to, market conditions with respect to the security, the number of shares involved in the transaction, the published bids and offers with size at the time of the execution (including the reporting firm's own quotation), accessibility to market centers publishing bids and offers with size, the cost of execution and the expenses involved in clearing the transaction.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The NASD is proposing to eliminate an unnecessary provision of the rules applicable to the reporting of transactions in exchange-listed securities. Specifically, NASD Rule 6420(d)(3)(A), which is the general rule requiring NASD members to report all principal transactions in exchange-listed securities in the third market, contains language requiring members to report transactions in a manner ''reasonably related to the prevailing market taking into consideration all relevant circumstances. * * *'' While this provision accompanied a change to the trade reporting rules approved in 1980 (which was intended to make comparable the reporting of third market trades with exchange transactions by requiring third market trades to be reported on a ''gross'' basis, exclusive of any mark-up or mark-down charged to the customer),[2] Nasdaq believes that this particular language is superfluous in the context of exchange-listed securities and does not serve any meaningful purpose with respect to the trade reporting for these securities.

Indeed, Nasdaq believes that the language has served only to promote the misperception that the rule provides flexibility in the manner in which NASD members may report third market transactions. It is argued that this has led to inaccurate trade reporting, and has been used as a basis for not extending the NASD's ITS/CAES link to all exchange-listed securities. As recognized by the Commission in its recent proposal to expand ITS/CAES to all listed securities, however, the Commission believes that any issues concerning timely and accurate trade reporting have already been addressed for the most part.[3] In particular, while the Commission appears to concur that the rules could be clarified in this fashion, the rules are nonetheless the same for the reporting of both 19c–3 securities, and non-19c–3 securities, and thus Nasdaq agrees that there is no basis for not extending the ITS/CAES linkage to all exchange-listed securities. Nasdaq believes that other NASD rules and procedures, along with a member's best execution obligations, provide the necessary protections to ensure accurate and appropriate trade reporting in exchange-listed securities. As the Commission has indicated on several occasions, an effective surveillance program, along with the requirements of Exchange Act Rule 10b–10 (the confirmation rule), ensure compliance with trade reporting obligations and the proper disclosure of any mark-up or mark-down.[4] Accordingly, Nasdaq believes that the best practice would be to remove the less-than-clear language from the rule.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act[5] in that the proposed rule change facilitates the accurate reporting of transactions in the third market. Section 15A(b)(6) requires that the rules of a registered national securities association are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association 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 the self-regulatory organization consents, the Commission will:.

(A) By order approve the proposal rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the

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[2] *See* Exchange Act Release No. 16960 (July 7, 1980), 45 FR 47291 (July 14, 1980) (approving SR–NASD–80–03).

[3] *See* Exchange Act Release No. 40260 (July 24, 1998), 63 FR 40748 (July 30, 1998), n.67 and accompanying text (proposed amendments to National Market System plan).

[4] *See e.g., id*, at nn. 63, 67; Exchange Act Release No. 18713 (May 6, 1982), 47 FR 20413 (May 12, 1982), n.13 (adoption of final amendments to National Market System plan).

[5] 15 U.S.C. 78*o*–3

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, located at the above address. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–98–61 and should be submitted by September 21, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–23318 Filed 8–25–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40353; File No. SR–PCX–98–37]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Workstation Fee Change

August 24, 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 August 4, 1998, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the 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 is proposing to modify its Schedule of Rates for Exchange Services by changing the workstation fee applicable to PCX specialists, to provide specialists with one extra PC at no additional charge.

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

Currently, under the Exchange's Schedule of Rates, specialists are charged a Specialist Systems Fee of $1,550 per month. The systems fee covers costs associated with trading service functions and the cost of two PCs for the basic P/COAST workstation configuration. The Exchange is proposing to keep the systems fee at $1,550 while providing three PCs as part of the basic workstation configuration for each specialist.

The current P/COAST workstations use two PCs to provide basic post trading functions. These functions include, but are not limited to, order entry, routing, execution, processing of preopening and end of day activity, support for multiple trading floors, backup recovery and book functionality. Under the rule change, a third PC would be provided to each specialist at no additional charge. This would enable each post to conduct all of the above functions and also process ITS commitments without the use of a dedicated ITS terminal.

(2) Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,[3] general, and furthers the objectives of Section 6(b)(4),[4] in particular, because it provides for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change establishes or changes a due, fee or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act[5] and subparagraph (e)(2) of Rule 19b–4 thereunder.[6] At any time within 60 days of the filing of such 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.[7] Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–98–37

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. § 78f(b).

[4] 15 U.S.C. § 78f(b)(4).

[5] 15 U.S.C. § 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(e)(2).

[7] In reviewing these rules, the Commission has considered the proposed rule change's impact on efficiency, competition and capital formation. 15 U.S.C. § 78c(f).

and should be submitted by September 21, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–23314 Filed 8–28–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40359; File No. SR–PTC–98–03]

Self-Regulatory Organizations; Participants Trust Company; Order Granting Accelerated Approval of a Proposed Rule Change Regarding PTC's Pricing and Margining Methodology for Newly Issued Collateralized Mortgage Obligation Securities

August 25, 1998.

On June 15, 1998, the Participants Trust Company (''PTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–PTC–98–03) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on August 11, 1998.[2] For the reasons discussed below, the Commission is granting accelerated approval of the approved rule change.

I. Description

The rule change modifies PTC's pricing and margining methodology for new issue collateralized mortgage obligation (''CMO'') securities to more accurately reflect their value during an initial period when pricing vendors are generally unable to provide prices.[3] Under the rule change, PTC will obtain indicative bid side prices (prior to the issuance of the CMO security) for each class of the issue from the deal underwriter prior to the closing. PTC will establish margins on new issue CMO securities (priced by reference to underwriter supplied prices) based on larger interest rate shifts, +100 or −200 basis points, than are applied to vendor priced CMO issues, +50 or −100 basis points. Interest only, principal only, and inverse floater classes will be given no value.

The underwriter supplied values will be used for a maximum of three weeks after the issuance. Any CMO issue not priced by both pricing vendors PTC uses at three weeks from issuance will be given a value of zero, as is currently the case, and will continue to be the case with respect to all but new CMO issues for this three week period.[4]

II. Discussion

Section 17A(b)(3)(F) of the Act[5] requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. As discussed below, the Commission believes that PTC's proposed rule change is consistent with this obligation.

The Commission believes that the rule change will enable PTC to price and margin new issue CMO securities in a manner which will more accurately reflect their value when pricing vendors are unable to provide prices. The Commission believes that the rule change should allow PTC to more accurately value a participant's securities for purposes of collateral value in PTC's system while still assuring that PTC has available to it sufficient collateral in the event a participant does not satisfy its debit balance at the end of day settlement. Therefore, the Commission believes that the rule change is consistent with PTC's obligation to safeguard securities and funds.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of notice because such approval will allow PTC to implement the modified margining and pricing methodology for new CMOs in a timely manner in connection with PTC's merger with The Depository Trust Company scheduled to occur during the month of August 1998.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–PTC–98–03) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–23317 Filed 8–28–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40355; File No. SR–Phlx–98–30]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Reduce the Value of the National Over-the-Counter Index (''XOC'')

August 24, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 16, 1998, the Philadelphia Stock Exchange, Inc. (''Phlx'' 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 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 Phlx proposes to reduce the value of its National Over-the-Counter Index (''Index'') option (''XOC'') to one-fourth its present value by quadrupling the divisor used in calculating the Index. In addition, the position and exercise limits applicable to the XOC will be quadrupled until the last expiration date then trading. The Index is a capitalization-weighted market index composed of the 100 largest capitalized stocks traded over-the-counter. The other contract specifications for the XOC remain unchanged.

II. Self-Regulatory Organization's Statements 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

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 40304 (August 4, 1998), 63 FR 42897.

[3] For a detailed description of PTC's pricing and valuation of CMOs, refer to Securities Exchange Act Release No. 40304, *Id.*

[4] PTC currently gives new issue CMOs a zero value during this period in its assessment of a participant's collateral.

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

statements may be examined at the places specified in Item IV below. The Phlx 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

The Exchange began trading the XOC in 1985.[2] The Index was created with a value of 150 on its base date of September 28, 1984, which rose to 548 in June 1994, 700 in June 1995 and 868 in September 1995. In December 1995, the Exchange split the Index to one-half its value.[3] As of June 10, 1998, the index value was 869.22. Thus, the value has increased significantly, especially during the last eighteen months. Consequently, the premium for XOC options has also risen.

As a result, the Exchange proposes to conduct a ''four-for-one split'' of the Index, such that the value would be reduced to one-quarter of its present value. The number of XOC contracts will be quadrupled, such that for each XOC contract currently held, the holder would receive four contracts at the reduced value, with a strike price one quarter of the original strike price. For instance, the holder of an XOC 800 call will receive four XOC 200 calls. In addition to the strike price being reduced by one quarter, the position and exercise limits applicable to the XOC will be quadrupled, from 25,000 contracts to 100,000 contracts until the last expiration then trading, which is the March 1999 expiration.[4] This procedure is similar to the one employed respecting equity options where the underlying security is subject to a four-for-one stock split. The trading symbol will remain as XOC (plus any necessary wrap symbols).

In conjunction with the split, the Exchange will list strike prices surrounding the new, lower index value, pursuant to Phlx Rule 1101A.[5] The Exchange will announce the effective date by way of an Exchange memorandum to the membership, also serving as notice of the strike price and position limit changes.

The purpose of the proposal is to attract additional liquidity to the product in those series that public customers are most interested in trading. For example, the September 870 calls on June 11 were quoted at 51–52 while the puts were quoted at 40–41. A four-for-one split would serve to reduce the price of the aforementioned options to approximately 12¾–13 for the calls and 10–10¼ for the puts, thus making them more accessible to the retail investor. The Exchange believes that certain investors and traders may be impeded from trading XOC options at their current levels. A reduced value should, in the Phlx's view, encourage additional investor interest.

The Exchange believes that XOC options provide an important opportunity for investors to hedge and speculate upon the market risk associated with the underlying over-the-counter stocks. By reducing the value of the Index, such investors will be able to utilize this trading vehicle, while extending a smaller outlay of capital. This should attract additional investors, and, in turn, create a more active and liquid trading environment.

The Exchange believes the proposed rule change is consistent with Section 6 of the Act in general, and in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade, as well as to protect investors and the public interest, by establishing a lower index value, which should, in turn, facilitate trading in XOC options. The Exchange believes that reducing the value of the Index does not raise manipulation concerns and would not cause adverse market impact, because the Exchange will continue to employ its surveillance procedures and has proposed an orderly procedure to achieve the index split, including adequate prior notice to market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx 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 date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Phlx consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–98–30 and should be submitted by September 21, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–23312 Filed 8–25–98; 8:45 am]

BILLING CODE 8010–01–M

[2] Securities Exchange Act Release No. 22044 (May 17, 1985) 50 FR 21532 (May 24, 1985) (File No. SR–Phlx–84–28).

[3] Securities Exchange Act Release No. 36577 (December 12, 1995) 60 FR 65705 (December 20, 1995) (SR–Phlx–95–61).

[4] At this time, the position and exercise limits will return to the current level of 25,000 contracts.

[5] Specifically, because the Index value would be less than 500, the applicable strike price interval would be $5 in the first four months and $25 in the fifth month. Phlx Rule 1101A(a).

[6] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1998–4353]

Towing Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The Towing Safety Advisory Committee (TSAC) and its working groups will meet to discuss various issues relating to shallow-draft inland and coastal waterway navigation and towing safety. All meetings are open to the public.

DATES: TSAC will meet on Wednesday, September 23, 1998, from 9 a.m. to 1 p.m. TSAC working groups will meet on Tuesday, September 22, 1998, from 9 a.m. to 3:30 p.m. These meetings may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before September 14, 1998. Requests to have a copy of your material distributed to each member of the committee or working group should reach the Coast Guard on or before September 8, 1998.

ADDRESSES: TSAC will meet in the North Auditorium, Jackson Federal Building, 915 2nd Avenue, Seattle, Washington. The working groups will meet in the same room. Send written material and requests to make oral presentations to Lieutenant Lionel Mew, Commandant (G–MSO–1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. This notice is available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, contact Lieutenant Lionel Mew, Assistant Executive Director of CTAC, telephone 202–267–0218, fax 202–267–4570. For questions on viewing, or submitting material to, the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, 202–366–9329.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agendas of Meetings

Towing Safety Advisory Committee (TSAC) and working group meetings. The agendas tentatively include the following:

(1) Report of the Coast Guard Research and Development Center study on inland towing vessel crew fatigue.

(2) Progress report from the Voyage Planning working group.

(3) Discussion on Alternative Convention Tonnage issues.

(4) Recommendations on the G–M Performance Plan.

(5) Discussion of the Merchant Marine Licensing and Documentation Reengineering Plan.

(6) Status update on the National Marine Safety Incident Reporting System.

(7) Progress report from the Electronic Charting Standards working group.

(8) Presentation by working groups of their accomplishments and future plans.

Procedural

Both meetings are open to the public. Please note that the meetings may close early if all business is finished. At the Chairs' discretion, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the Assistant Executive Director no later than September 14, 1998. Written material for distribution at a meeting should reach the Coast Guard no later than September 14, 1998. If you would like a copy of your material distributed to each member of the committee or subcommittee in advance of a meeting, please submit 25 copies to the Assistant Executive Director no later than September 8, 1998.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Assistant Executive Director as soon as possible.

Dated: August 24, 1998.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 98–23371 Filed 8–28–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Transport Airplanes and Engine Issues—New Task

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: Notice is given of a new task assigned to and accepted by the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT: Stewart R. Miller, Transport Standards Staff (ANM–110), Federal Aviation Administration, 1601 Lind Avenue, SW., Renton, WA 98055–4056; phone (425) 227–1255; fax (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Background

The FAA has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulation and Certification, on the full range of the FAA's rulemaking activities with respect to aviation-related issues. This includes obtaining advice and recommendations on the FAA's commitment to harmonize its Federal Aviation Regulations (FAR) and practices with its trading partners in Europe and Canada.

One area ARAC deals with is Transport Airplane and Engine Issues. These issues involve the airworthiness standards for transport category airplanes and engines in 14 CFR parts 25, 33, and 35 and parallel provisions in 14 CFR parts 121 and 135.

The Task

This notice is to inform the public that the FAA has asked ARAC to provide advice and recommendation on the following harmonization task:

Task 2: Passenger Seat Safety

The primary issue for FAR 25.562:

FAR 25.562(b) states ''Each seat type design approved for crew or passenger occupancy during takeoff and landing must successfully complete dynamic test or be demonstrated by rational analysis based on dynamic tests of a similar type seat * * *.'' The method for determining the required ''rational analysis based on dynamic tests'' is different between regulatory bodies.

The FAA has accepted the Revised Means of Compliance (RMCC) as a method of determining which members of a seat family must be demonstrated by dynamic test so that the rest may be certified by similarity. The JAA has not accepted this method of determining the test seats. Harmonization of test article selection is the objective.

A secondary issue for FAR 25.562:

Harmonization should also occur on other methods of compliance to FAR 25.562, including pass/fail criteria and test methodology.

The primary issue for FAR 25.785:

FAR 25.785(c) states that each seat or berth must be approved. The FAA requires all seats that are ''in-flight only'' to have a restraint system before they will be approved. The JAA does not require restraints for seats that are not occupied for taxi, takeoff and

landing. Harmonization on this issue is the goal.

A secondary issue for FAR 25.785:

FAR 25.785(b) states ''Each seat and berth * * * must be designed so that a person making proper use of these facilities will not suffer serious injury in an emergency landing as a result of the inertial forces specified in 25.561 and 25.562.'' FAR 25.785(e) states ''Berths must be free from corners and protuberances likely to cause injury to a person occupying the berth during emergency conditions.'' The subjective criteria used to determine ''corners and protuberances likely to cause injury'' and the test/analysis required to demonstrate compliance are different between regulatory bodies. The expectations for demonstrating compliance should be harmonized.

Three specific areas of passenger seat certification issues need to be addressed:

(a) In-Flight Entertainment (IFE) video arms which allow a video screen to rotate in front of the passenger during flight.

(b) Seat back mounted accessories such as telephones, video screens, etc.

(c) Definition of what design features are considered sharp edges or in appropriate corners when exposed to the passenger cabin.

Guidance on acceptable methods of compliance should be provided which are acceptable to both the FAA and the JAA. An advisory circular should be revised or newly issued to address the new guidance.

The FAA expects ARAC to submit its recommendation(s) by July 31, 2000.

The FAA requests that ARAC draft appropriate regulatory documents with supporting economic and other required analyses, and any other related guidance material or collateral documents to support its recommendations. If the resulting recommendation(s) are one or more notices of proposed rulemaking (NPRM) published by the FAA, the FAA may ask ARAC to recommend disposition of any substantive comments the FAA receives.

Working Group Activity

ARAC has accepted the task and has chosen to assign it to the existing Seat Testing Harmonization Working Group. As a result of the new task assigned to the working group and because the working group has been dormant for some time, membership is being reopened. The working group will serve as staff to ARAC to assist ARAC in the analysis of the assigned task. Working group recommendations must be reviewed and approved by ARAC. If ARAC accepts the working group's recommendations, it forwards them to the FAA as ARAC recommendations.

The Seat Testing Harmonization Working Group is expected to comply with the procedures adopted by ARAC. As part of the procedures, the working group is expected to:

1. Recommend a work plan for completion of the tasks, including the rationale supporting such a plan, for consideration at the meeting of ARAC to consider transport airplane and engine issues held following publication of this notice.

2. Give a detailed conceptual presentation of the proposed recommendations, prior to proceeding with the work stated in item 3 below.

3. Draft appropriate regulatory documents with supporting economic and other required analyses, and/or any other related guidance material or collateral documents the working group determines to be appropriate; or, if new or revised requirements or compliance methods are not recommended, a draft report stating the rationale for not making such recommendations. If the resulting recommendation is one or more notices of proposed rulemaking (NPRM) published by the FAA, the FAA may ask ARAC to recommend disposition of any substantive comments the FAA receives.

4. Provide a status report at each meeting of ARAC held to consider transport airplane and engine issues.

Participation in the Working Group

The Seat Testing Harmonization Working Group will be composed of technical experts having an interest in the assigned task. A working group member need not be a representative of a member of the full committee.

An individual who has expertise in the subject matter and wishes to become a member of the working group should write to the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the tasks, and stating the expertise he or she would bring to the working group. All requests to participate must be received no later than October 1, 1998. The requests will be reviewed by the assistant chair, the assistant executive director, and the working group chair, and the individuals will be advised whether or not the request can be accommodated.

Individuals chosen for membership on the working group will be expected to represent their aviation community segment and participate actively in the working group (e.g., attend all meetings, provide written comments when requested to do so, etc.). They also will be expected to devote the resources necessary to ensure the ability of the working group to meet any assigned deadline(s). Members are expected to keep their management chain advised of working group activities and decisions to ensure that the agreed technical solutions do not conflict with their sponsoring organization's position when the subject being negotiated is presented to ARAC for a vote.

Once the working group has begun deliberations, members will not be added or substituted without the approval of the assistant chair, the assistant executive director, and the working group chair.

The Secretary of Transportation has determined that the formation and use of ARAC are necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of ARAC will be open to the public. Meetings of the Seat Testing Harmonization Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on August 25, 1998.

Joseph A. Hawkins,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 98–23365 Filed 8–28–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Stillwater County, Montana

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Revised notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public of a revision to the southern limit for the proposed improvements to Montana Primary 78 (P–78) in Stillwater County, Montana. The southern terminus of the project has been changed from the junction of P–78 with Butcher Creek Road, to the P–78 junction with FAS 419, shortening the project by approximately 5 kilometers (3 miles). This revision represents a logical termini to the proposed improvements as the roadway volumes of P–78 decrease at its junction with FAS 419. An Environmental Impact Statement will be prepared for the proposed highway project in Stillwater County, Montana.

FOR FURTHER INFORMATION CONTACT: Dale Paulson, Program Development Engineer, Federal Highway Administration, 2880 Skyway Drive, Helena, MT 59602; Telephone: (406) 449–5306; or Joel M. Marshik, Manager—Environmental Services, Montana Department of Transportation, 2701 Prospect Street, Helena, MT 59620; Telephone: (406) 444–7632.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Federal Register's home page at: http://www/nara.gov./fedreg and the Government Printing Office's database at: http://www.access.gpo.gov/nara.

Background

On January 7, 1993, at 58 FR 3063, the FHWA issued a notice of intent that an environmental impact statement for Stillwater County, Montana would be prepared for a proposal to improve the Montana Highway Route 78 corridor from the East Rosebud Creek Bridge South of Absarokee, Montana to the Yellowstone River Bridge south of Columbus, Montana.

The notice published today revises the 1993 notice of intent by revising the southern limit. The southern terminus of the project has been changed from the junction of P–78 with Butcher Creek Road, to the P–78 junction with FAS 419, shortening the project by approximately 5 kilometers (3 miles). This revisions represents a logical termini as the roadway volumes decrease at its junction with FAS 419.

The FHWA, in cooperation with the Montana Department of Transportation (MDT), is preparing an Environmental Impact Statement for a proposal to improve the Montana Highway Route 78 corridor from the FAS 419 junction with P–78 south of Absarokee, Montana, to the Yellowstone River Bridge south of Columbus, Montana.

Comments are being solicited from appropriate Federal, State, and local agencies and from private organizations and citizens who have previously expressed or are known to have interest in this proposal. A public informational meeting as well as two public scoping meetings have been held on the proposed project improvements. Additional public meetings will be held in the project area to discuss recent alignment revisions as well as the new project termini. The draft EIS will be available for public and agency review, and a public hearing will be held to receive comments. Public notice will be given of the time and place of the meetings and public hearing.

Comments and/or suggestions from all interested parties are requested, to ensure that the full range of all issues, and significant environmental issues in particular, are identified and reviewed. Comments or questions concerning this proposed action and/or its EIS should be directed to the FHWA or the MDT at the addresses listed previously.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this proposed action.).

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: August 25, 1998.

Darrin Grenfell,

Operations Engineer, Montana Division, Helena.

[FR Doc. 98–23357 Filed 8–28–98; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Title 49. Code of Federal Regulations (CFR), Sections 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance from certain requirements of Federal railroad safety regulations. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

CSX Transportation, Incorporated (Waiver Petition Docket Number H–98–6)

CSX Transportation, Incorporated (CSXT) seeks a waiver of compliance from certain sections of 49 CFR Parts 216, Special Notice and Emergency Order Procedures: Railroad Track, Locomotive and Equipment; 217, Railroad Operating Rules; 218, Railroad Operating Practices; 229, Railroad Locomotive Safety Standards; 233, Signal Systems Reporting Requirements; 235, Instructions Governing Applications for Approval of a Discontinuance or Material Modification of a Signal System or Relief from the Requirements of Part 236; 236, Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances; and 240, Qualification and Certification of Locomotive Engineers, under Part 211.51, Tests, to allow them to develop, implement, and test technology designed to prevent train collisions and overspeed violations and to protect track maintenance personnel from trains. The program will enable CSXT to demonstrate and validate the technology, referred to as CBTM (for Communications Based Train Management), before it is implemented on a larger scale.

CBTM is a non-vital safety overlay that works in conjunction with the existing method of operation in DTC (Direct Traffic Control) territory to protect against the consequences of human error. This approach provides a ''safety net'' for train operations while retaining the existing method of operation as the primary means of control.

CBTM's safety enhancements are achieved through a distributed, communication-based system that enforces movement authority and speed restrictions for CBTM-equipped trains. Five CBTM segments work together to provide this enforcement: office server, zone logic controller, wayside, locomotive, and communications. The office server receives the DTC authority and train message information from CADS (Computer Aided Dispatching System). This information is passed down to the appropriate zone logic controller. The zone logic controller sends this information through the communications segment down to the locomotive, as targets. The locomotive segment enforces a train's movement and speed limits by monitoring the train's location and speed in relation to the targets. The system will apply a penalty brake application to stop the train, if necessary, to prevent a violation. The wayside segment will communicate switch position information to the zone logic controller and the locomotive. Two Differential Global Positioning System sites will be utilized to provide train location information, one being at Savannah Beach, Georgia, and the other located at either Knoxville, Tennessee, or Greensboro, North Carolina.

The CBTM pilot is designed to develop, test and demonstrate PTS (Positive Train Separation) technology. As a pilot program, it will focus on proving the CBTM concepts and technology and on laying the groundwork for a production system. While the purpose of CBTM is to enhance safety, the pilot program itself is not expected to yield immediate

safety benefits. The program will focus on testing the technology without adversely affecting the safety of operations under the existing method of operations, which will remain in effect.

The CBTM pilot program will be implemented on 126.6 miles of CSXT track in the Southeast. The pilot will include all of the territory on two subdivisions, Spartanburg and McCormick, of the Florence Service Lane. Relief is sought for CBTM test operations on all tracks of all types included in the pilot territory. The pilot territory includes single main track, sidings, and branch lines. It will also include the self restoring, power operated switch located at M.P. AK 557.9, normally positioned for straightaway movement to CSXT's CN&L subdivision. The following are the waiver requests and their justifications:

Section 216.13 Special notice for repairs—locomotive. Waiver is requested for CBTM-equipped locomotives to the extent that non-operation of CBTM equipment installed on board (whether through malfunction or deactivation) shall not be construed as an unsafe condition requiring special notice for repairs; waiver is sought for non-CBTM-equipped locomotives operating in the CBTM pilot territory to the extent that the absence of CBTM equipment on board shall not be construed as an unsafe condition requiring special notice for repairs.

Justification: With or without CBTM equipment operating on board the controlling locomotive, a train remains subject to existing method of operation. (CBTM is an overlaid system, enhancing current safety without affecting the operation of existing systems). CBTM tests require flexibility in installing, removing, turning on, and turning off the on-board equipment. The CBTM pilot will equip only six locomotives, which is a small subset of locomotives operating in the pilot territory.

Section 217.9 Program of operational tests and inspections; recordkeeping. Waiver is requested exempting operation of CBTM equipment and procedures from the requirements for operational tests and inspections and associated recordkeeping.

Justification: The CBTM pilot is a test program during which procedures for using CBTM equipment and functions will be refined and modified. Until such procedures are defined, they cannot be addressed in the code of operating rules, timetables, and timetable special instructions to which this section applies.

Section 217.11 Program of instruction on operating rules; recordkeeping; electronic recordkeeping. Waiver is requested exempting operation of CBTM equipment and procedures from the requirements for instruction and associated recordkeeping.

Justification: The CBTM pilot is a test program during which procedures for using CBTM equipment and functions will be refined and modified. Until such procedures are defined, they cannot be addressed in the code of operating rules to which this section applies. In any case, CBTM is expected to have minimal impact on the code of operating rules.

Part 218 [Subpart D] Prohibition Against Tampering With Safety Devices. Waiver is requested exempting on-board CBTM equipment from the requirements of all sections under Subpart D of Part 218 (Sections 51, 53, 55, 57, 59, and 61) to the extent that CBTM equipment on board a locomotive shall not be considered a ''safety device'' according to the provisions of this subpart at any time during the pilot program.

Justification: The CBTM pilot is a test program. CBTM tests require flexibility in installing, removing, turning on and turning off the on-board equipment. CSXT tests require the flexibility to permanently disable or remove CBTM equipment in the event that a production system is not implemented.

Section 229.7 Prohibited acts. Waiver is requested to the extent that CBTM equipment on board a locomotive shall not be considered ''appurtenances'' rendering the locomotive subject to the constraints of this section.

Justification: The CBTM pilot is a test program. CBTM tests require flexibility in installing, removing, turning on and turning off the on-board equipment. CSXT also requires the flexibility to temporarily or permanently disable on-board CBTM equipment. Whether or not CBTM equipment on board a locomotive is functioning, the train remains subject to the safety provisions of the existing method of operation.

Section 229.135 Event recorders. Waiver is requested to the extent that CBTM equipment on board a locomotive shall not be considered an ''event recorder'' subject to the provisions of this section.

Justification: CBTM equipment by design will operate intermittently during the pilot program. CBTM tests require flexibility in installing, removing, turning on and turning off the on-board equipment. CSXT also requires the flexibility to temporarily or permanently disable on-board CBTM equipment.

Section 233.9 Reports. Waiver is requested exempting CBTM operations in the pilot program from the reporting requirement of this section.

Justification: While a CBTM production system may belong to the category of ''other similar appliances, methods, and systems'' specified in § 233.1, this requirement would impose an unnecessary paperwork burden for a test program.

Section 235.5 Changes requiring filing of application. Waiver is requested exempting the CBTM pilot program from the filing requirements of this section.

Justification: The CBTM pilot is a test program. It is an overlay system that can enhance the safety of train operations without affecting the existing method of operation. CBTM tests require flexibility in installing, removing, modifying, turning on and turning off the on-board equipment. CSXT also requires the flexibility to permanently disable or remove CBTM equipment in the event that a production system is not implemented.

Section 236.4 Interference with normal functioning of device. Waiver is requested to the extent that CBTM equipment shall be excluded from this requirement during the pilot program.

Justification: The CBTM pilot is a test program through which the ''normal functioning'' of CBTM will be defined and refined. CBTM tests require flexibility in installing, removing, turning on and turning off the on-board equipment. With or without CBTM equipment operating on board the controlling locomotive, the train remains subject to the safety provisions of existing method of operation.

Section 236.5 Design of control circuits on closed circuit principle. Waiver is requested excepting CBTM equipment from the closed circuit design requirement.

Justification: CBTM is an overlay system using solid-state components. It will enhance railroad safety while in no way interfering with the operation of existing safety devices.

Section 236.6 Hand-operated switch equipped with switch circuit controller. Waiver is requested exempting the CBTM pilot program from the maintenance requirements of this section.

Justification: CBTM is an overlay system in non-signaled territory. The installation of circuit controllers on the manual switches and the information they convey are for use by the CBTM pilot only, the maintenance of which will not affect the safety of train operations. CSXT requires the flexibility to temporarily or permanently disable or

remove CBTM related equipment in the event that a production system is not implemented.

Section 236.8 Operating characteristics of electromagnetic, electronic, or electrical apparatus. Waiver is requested exempting CBTM equipment from the requirements of this section.

Justification: CBTM consists of devices which are not signal apparatus. The functioning of these devices are not essential to the safety of train operations. The CBTM pilot is a test program during which the limits within which these devices are designed to operate will be defined.

Section 236.11 Adjustment, repair, or replacement of component. Waiver is requested exempting CBTM components on board a locomotive from the requirements of this section.

Justification: CBTM is an overlay system designed to enhance safety while in no way affecting the operation of existing method of operation. Failure of a CBTM component will not jeopardize the safety of train operations.

Section 236.15 Timetable instructions. Waiver is requested exempting the CBTM pilot territory from the timetable designation requirement of this section.

Justification: Since the pilot program will consist of tests and demonstrations, identifying the test territory in the timetable as ''CBTM'' (or some similar label) would be both premature and an unnecessary paperwork burden.

Section 236.23 Aspects and indications. Waiver is requested to the extent that the CBTM display on board an equipped locomotive shall not be construed to represent or correspond to signal aspects or indications and shall therefore be exempt from the requirements of this section.

Justification: CBTM is an overlay system in non-signaled territory. Its design excludes any visual display of signal aspects or indications. CBTM enforceable authorities will not be derived from signal indications. Only CBTM status information will be displayed to the crew. Trains will remain subject to the existing method of operation. Text information regarding authorities, speed restrictions, or work zones will be displayed to the crew only after enforcement. This information will in no way represent or qualify the authority conveyed by the dispatcher.

Section 236.76 Tagging of wires and interference of wires or tags with signal apparatus. Waiver is requested exempting CBTM equipment from the wire tagging requirement.

Justification: CBTM hardware consists of computers, computer peripherals, and communication devices. While the inapplicability of this section to circuit boards, connectors, and cables would appear obvious, waiver is sought for clarification.

Section 236.101 Purpose of inspection and tests; removal from service of relay or device failing to meet test requirements. Waiver is requested exempting CBTM equipment from the requirement for removal of failed equipment from service.

Justification: The CBTM pilot is a test program. CBTM tests require flexibility in installing, removing, turning on and turning off the on-board equipment. With or without CBTM equipment operating on board, a train remains subject to the safety provisions of the existing method of operation.

Section 236.107 Ground tests. Waiver is requested exempting CBTM equipment in the pilot program from the requirement for ground testing.

Justification: CBTM hardware consists of computers, computer peripherals, and communication devices. Ground tests would serve no purpose in ensuring safety and could be damaging to this equipment.

Section 236.109 Time releases, timing relays and timing devices. Waiver is requested exempting CBTM equipment in the pilot program from the annual testing requirement.

Justification: The timing devices in CBTM equipment are software-driven, have no moving parts, and are far more reliable than the devices for which this regulation was promulgated.

Section 236.110 Results of tests. Waiver is requested exempting CBTM tests from the recordkeeping requirements of this section.

Justification: The CBTM pilot is a test program during which the types of tests needed to ensure appropriate levels of maintenance will be defined.

Section 236.202 Signal governing movements over hand-operated switch. Waiver is requested exempting CBTM tests from the requirements of this section.

Justification: The CBTM pilot is a test program during which the operational parameters will be defined.

Section 236.501 Forestalling device and speed control. Waiver is requested exempting CBTM from the requirement for low or medium-speed restriction in paragraphs (1) and (2) under provision (b).

Justification: CBTM is a safety enhancement system that will apply a penalty brake application to enforce the maximum permissible speed based on permanent or temporary speed restrictions issued by the dispatcher, not signal indications.

Section 236.502 Automatic brake application, initiation by restrictive block conditions stopping distance in advance. Waiver is requested exempting CBTM automatic brake applications from the requirement tying brake applications to restrictive block conditions.

Justification: As an overlay system, CBTM applies enforcement braking with reference to CBTM enforceable targets generated from dispatcher issued movement authorities, not signal indications. As for the signal indication at the self-restoring power operated switch location, CBTM enforceable targets are generated based on switch position and dispatcher issued authorities; they may or may not correspond to a restrictive signal indication at this location.

Section 236.504 Operation interconnected with automatic block-signal system. Waiver is requested exempting CBTM from the requirement of interconnection with an automatic block-signal system.

Justification: CBTM is an overlay system in non-signaled territory with no connection to a signal system.

Section 236.511 Cab signals controlled in accordance with block conditions stopping distance in advance. Waiver is requested exempting any CBTM on-board display from the cab-signal requirements in this section.

Justification: CBTM is not an automatic cab signal system and will have no direct connection with the signal system.

Section 236.512 Cab signal indication when locomotive enters block where restrictive conditions obtain. Waiver is requested exempting any CBTM on-board display from the cab-signal requirements in this section.

Justification: CBTM is not an automatic cab signal system. Since CBTM is an overlay system, the train crew will maintain the primary responsibility for adherence to the movement authorities issued verbally by the train dispatcher.

Section 236.514 Interconnection of cab signal system with roadway signal system. Waiver is requested exempting CBTM from the requirement of interconnection with the roadway signal system.

Justification: CBTM is an overlay system in non-signaled territory with no connection to a signal system except for the self-restoring power operated switch where CBTM will indirectly receive switch position information only.

Section 236.515 Visibility of cab signals. Waiver is requested exempting any CBTM display from the visibility requirement of this section.

Justification: CBTM is not an automatic cab signal system. The CBTM design excludes any visual representation of signal aspects or indications.

Section 236.528 Restrictive condition resulting from open hand-operated switch; requirement. Waiver is requested exempting any CBTM display from the requirements of this section.

Justification: CBTM is a test program in non-signaled territory. The installation of circuit controllers on the manual switches and the information they convey are for use by the CBTM pilot only. Trains will continue to be governed by the existing method of operation, therefore the functioning of these devices is not essential to the safety of train operations. The limits within which these devices will be required to operate under a restrictive condition will be defined as part of the CBTM pilot program.

Section 236.534 Entrance to equipped territory; requirements. Waiver is requested exempting the CBTM pilot program from the requirements of this section.

Justification: The CBTM pilot is a test program. CBTM tests will require flexibility in installing, removing, turning on and turning off the on-board equipment.

Section 236.551 Power supply voltage; requirement. Waiver is requested exempting the on-board CBTM power supply from the voltage requirement in this section.

Justification: The CBTM pilot is a test program during which the limits within which the power supply voltage must be maintained, will be defined.

Section 236.552 Insulation resistance; requirement. Waiver is requested exempting CBTM equipment from the insulation resistance requirement in this section.

Justification: CBTM on-board equipment consists of computers, computer peripherals, and communications equipment. Insulation resistance tests could be damaging to such components.

Section 236.553 Seal, where required. Waiver is requested exempting CBTM equipment from the seal requirement in this section.

Justification: The CBTM system will allow the crew to inhibit the CBTM functions and equipment through an on-board manual function. Use of the on-board inhibit function will be electronically monitored and archived.

Section 236.563 Delay time. Waiver is requested exempting CBTM from the delay time requirement in this section.

Justification: The CBTM braking algorithm continuously computes braking distance to the next target where a stop is required based on dispatcher issued authorities, not signals.

Section 236.564 Acknowledging time. Waiver is requested exempting CBTM from the acknowledging time requirement in this section.

Justification: The CBTM pilot is a test program during which these types of parameters will be refined and modified.

Section 236.566 Locomotive of each train operating in train stop, train control or cab signal territory; equipped. Waiver is requested to the extent that the equipment requirements in this section shall not apply to CBTM during the test period.

Justification: The CBTM pilot is a test program. A small subset of locomotives operating in the test territory will be CBTM-equipped; the majority of trains will not be equipped. CBTM tests require flexibility in installing, removing, turning on and turning off the on-board equipment. CSXT requires the flexibility to permanently disable or remove CBTM equipment.

Section 236.567 Restrictions imposed when device fails and/or is cut out en route. Waiver is requested exempting CBTM operations from the restrictions associated with device failure or cutout.

Justification: The CBTM pilot is a test program requiring flexibility in installing, removing, turning on and turning off the on-board equipment. Since CBTM is a safety overlay, a failure or deactivation of CBTM equipment has the effect only of suspending the safety enhancements associated with CBTM without compromising the underlying safety provisions of existing method of operation. If a CBTM device fails, operations will continue in a normal mode. The dispatcher will be immediately notified before CBTM equipment is inhibited. Moreover, the dispatcher is immediately notified if CBTM equipment fails, eliminating any need for a reduction in speed.

Section 236.586 Daily or after trip test. Waiver is requested exempting the CBTM pilot program from the test requirements of this section.

Justification: The CBTM pilot is a test program during which requirements for a daily or after-trip test, if necessary, will be defined. CBTM equipment is many times more reliable than the equipment for which this regulation was promulgated.

Section 236.587 Departure test. Waiver is requested exempting the CBTM pilot program from the test requirements of this section.

Justification: The CBTM pilot is itself a test program during which the requirements for a departure test will be defined. Further, it is likely the departure test will be made without human intervention and/or outside CBTM territory.

Section 236.588 Periodic test. Waiver is requested exempting the CBTM pilot program from the test requirements of this section.

Justification: The CBTM pilot is itself a test program during which the requirements for periodic testing will be defined.

Section 236.703 Aspect. Clarification is requested exempting the CBTM display from this definition.

Justification: CBTM is not an automatic cab signal system. CBTM is an overlay system designed for non-signaled territory and does not include any visual representation of signal aspects or indications.

Section 236.805 Signal, cab. Clarification is requested exempting the CBTM display from this definition.

Justification: CBTM is not an automatic cab signal system. CBTM is an overlay system designed for non-signaled territory and does not include any visual representation of signal aspects or indications.

Section 240.127 Criteria for examining skill performance. Waiver is requested exempting the CBTM pilot program from the testing procedures in this section.

Justification: The CBTM pilot is itself a test program. Criteria and procedures for CBTM performance evaluation do not yet exist; they will be determined during the program. Since CBTM is a limited test program, there is not justification for including it in our engineer certification procedures. A training program will be developed and implemented for engineers operating CBTM-equipped locomotives.

Section 240.129 Criteria for monitoring operational performance of certified engineers. Waiver is requested exempting the CBTM pilot program from the performance monitoring procedures in this section.

Justification: The CBTM pilot is itself a test program. Criteria and procedures for CBTM performance evaluation do not yet exist; they will be determined during the program.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before

the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number H–98–6) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street, S.W., Mail Stop 10, Washington, D.C. 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.—5:00 p.m.) at FRA's temporary docket room located at 1120 Vermont Avenue, N.W., Room 7051, Washington, D.C. 20005.

Issued in Washington, D.C. on August 24, 1998.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 98–23376 Filed 8–28–98; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33648]

Norfolk Southern Railway Company; Merger Exemption; Norfolk and Western Railway Company

Norfolk Southern Railway Company (NSR),[1] has filed a notice of exemption to merge Norfolk and Western Railway Company (NWR)[2] into NSR.

The transaction is expected to be consummated on or shortly after September 1, 1998. The transaction will simplify NSR's corporate structure and eliminate costs associated with separate accounting, tax, bookkeeping and reporting functions.

Because the parties are members of the same corporate family, and the merger will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers operating outside the corporate family, the transaction qualifies for the class exemption at 49 CFR 1180.2(d)(3).

As a condition to the use of this exemption, any employees adversely affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.,* 360 I.C.C. 60, 84–90 (1979).

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33648, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on James A. Squires, Three Commercial Place, Norfolk, VA 23510–9241.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: August 24, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–23351 Filed 8–28–98; 8:45 am]

BILLING CODE 4915–00–P

[1] NSR is a Class I rail carrier, which is controlled through stock ownership by Norfolk Southern Corporation, a noncarrier holding company.

[2] NW is Class I rail carrier, and is a wholly owned direct subsidiary of NSR. Once NW is merged into NSR, its separate corporate existence will cease.

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 21, 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, Pub. L. 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 30, 1998 to be assured of consideration.

Financial Management Service (FMS)

OMB Number: 1510–0034.

Form Number: POD 315.

Type of Review: Extension.

Title: Depositor's Application to Withdraw Postal Savings.

Description: This form is prepared by the applicant for payment of a Postal Savings Account. This form is used to identify the depositor and ensure that payment is made to the proper person. POD Form 315 was formerly used by the Post Office Department for processing payments, when payments of accounts were their responsibility.

Respondents: Individuals or households.

Estimated Number of Respondents: 700.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 350 hours.

Clearance Officer: Jacqueline R. Perry (301) 344–8577, Financial Management Service, 3361–L 75th Avenue, Landover, MD 20785.

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. 98–23342 Filed 8–28–98; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 21, 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 30, 1998 to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0391.

Recordkeeping Requirement Number: ATF REC 5210/10.

Type of Review: Extension.

Title: Tobacco—Record of Disposition of More than 60,000 Cigarettes in a Single Transaction.

Description: Records must be maintained by tobacco products manufacturers and cigarette distributors showing details of large cigarette transactions. The records are also used to trace the movement of contraband

cigarettes and helps curtail the illicit traffic in cigarettes between states.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 9,500.

Estimated Burden Hours Per Recordkeeper: 120 hours.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 1,140,000 hours.

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, N.W., Washington, DC 20226.

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. 98–23343 Filed 8–28–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

August 18, 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, Pub. L. 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 30, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0062.

Form Number: IRS Form 3903.

Type of Review: Revision.

Title: Moving Expenses.

Description: Internal Revenue Code (IRC) section 217 requires itemization of various allowable moving expenses. Form 3903 is filed with Form 1040 by individuals claiming employment related moves. The data is used to help verify that the expenses are deductible and that the deduction is computed correctly.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 678,678.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—33 minutes.
Learning about the law or the form—9 minutes.
Preparing the form—13 minutes.
Copying, assembling, and sending the form to the IRS—14 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 773,693 hours.

OMB Number: 1545–0087.

Form Number: IRS Forms 1040–ES/V(OCR), 1040–ES(NR) and 1040–ES(Español).

Type of Review: Revision.

Title: Estimated Tax for Individuals (U.S. Citizens and Residents) (1040–ES/V (OCR)); U.S. Estimated Tax for Nonresident Alien Individuals (1040–ES(NR)); and Contribuciones Federales Estimadas Del Trabajo Por Cuenta Propia Y Sobre El Empleo De Empleados Domesticos—Puerto Rico (1040–ES(Español).

Description: Form 1040–ES is used by individuals (including self-employed) to make estimated tax payments if their estimated tax due is $500 or more. IRS uses the data to credit taxpayers' accounts and to determine if estimated tax has been properly computed and timely paid.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 14,563,250.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law or the form	Preparing the form/worksheet/ voucher	Copying, assembling, and sending the form to the IRS
1040–ES/V (OCR)	1 hr., 19 min	17 min	49 min	10 min.
1040–ES (NR)	40 min	12 min	59 min	10 min.
1040–ES (Español)	7 min	7 min	35 min	10 min.

Frequency of Response: Quarterly.

Estimated Total Reporting/ Recordkeeping Burden: 105,621,392 hours.

OMB Number: 1545–0162.

Form Number: IRS Form 4136.

Type of Review: Revision.

Title: Credit for Federal Tax Paid on Fuels.

Description: Internal Revenue Code section 34 allows a credit for Federal excise tax for certain fuel uses. This form is used to figure the amount of the income tax credit. The data is used to verify the validity of the claim for the type of nontaxable or exempt use.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms.

Estimated Number of Respondents/ Recordkeepers: 619,851.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—22 hr., 14 min.
Learning about the law or the form—18 min.
Preparing and sending the form to the IRS—41 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 3,668,255 hours.

OMB Number: 1545–0458.

Form Number: IRS Form 4852.

Type of Review: Revision.

Title: Substitute for Form W–2, Wage and Tax Statement or Form 1099R, Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRA's Insurance Contracts, Etc.

Description: In the absence of a Form W–2 or 1099R from the employer or payer, Form 4852 is used by the taxpayer to estimate gross wages, pensions, annuities, retirement or IRA payments received as well as income or FICA tax withheld during the year. It is attached to the return for processing.

Respondents: Individuals or households, Business or other for-profit, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 1,500,000.

Estimated Burden Hours Per Respondent: 18 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 450,000 hours.

OMB Number: 1545–1007.

Form Number: IRS Form 8606.

Type of Review: Revision.

Title: Nondeductible IRAs.

Description: Internal Revenue Code (IRC) section 408(o) requires certain information regarding nondeductible contributions to traditional IRAs (reported on Part I of Form 8606). IRC section 408A(d) requires information regarding conversions from traditional IRAs to Roth IRAs and distributions from Roth IRAs (reported on Parts II and III of Form 8606). IRC section 530 requires information regarding distributions from Ed IRAs (reported on Part V of Form 8606).

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 2,000,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—53 min.
Learning about the law or the form—2 hr., 0 min.
Preparing the form—2 hr., 0 min.
Copying, assembling, and sending the form to the IRS—1 hr., 53 min.

Frequency of Response: Annually.

Estimated Total Reporting/Reporting Burden: 2,551,220 hours.

OMB Number: 1545–1102.

Regulation Project Number: PS–19–92 Final.

Type of Review: Extension.

Title: Carryover Allocation and Other Rules Relating to the Low-Income Housing Credit.

Description: The regulations provide the Service the Information it needs to ensure that low-income housing tax credits are being properly allocated under section 42. This is accomplished through the use of carryover allocation documents, election statements, and binding agreements executed between taxpayers (e.g., individuals, businesses, etc.) and housing credit agencies.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, State, Local or Tribal Government.

Estimated Number of Respondents/Recordkeepers: 2,230.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hr., 48 min.

Frequency of Response: Other (one-time).

Estimated Total Reporting/Recordkeeping Burden: 4,008 hours.

OMB Number: 1545–01141.

Notice Number: Notice 89–102.

Type of Review: Extension.

Title: Treatment of Acquisition of Certain Financial Institutions; Tax Consequences of Federal Financial Assistance.

Description: Section 597 of the Internal Revenue Code provides that the Secretary shall provide guidance concerning the tax consequences of Federal financial assistance received by qualifying institutions. These institutions may defer payment of Federal income tax attributable to the assistance. Required information identifies deferred tax liabilities.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 250.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 125 hours.

OMB Number: 1545–1153.

Regulation Project Number: PS–73–89 (TD 8370) Final.

Type of Review: Extension.

Title: Excise Tax on Chemicals That Deplete the Ozone Layer and on Products Containing Such Chemicals.

Description: Section 4681 imposes a tax on ozone-depleting chemicals sold or used by a manufacturer or importer thereof and imported taxable productions sold or used by an importer thereof. A floor stocks tax is also imposed. This regulation provides reporting and recordkeeping rules.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 150,316.

Estimated Burden Hours Per Respondent/Recordkeeper: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Reporting Burden: 75,142 hours.

OMB Number: 1545–1155.

Regulation Project Number: PS–74–89 (TD 8282) Final.

Type of Review: Extension.

Title: Election of Reduced Research Credit.

Description: These regulations prescribe the procedure for making the election described in section 280C(c) of the Internal Revenue Code. Taxpayers making this election must reduce their 41(a) research credit, but are not required to reduce their deductions for qualified research expenses, as required in paragraphs (1) and (2) of section 280C(c).

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 200.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 50 hours.

OMB Number: 1545–1430.

Form Number: IRS Forms 935, 935–A and 945–V.

Type of Review: Revision.

Title: Annual Return of Withheld Federal Income Tax (945); Annual Record of Federal Tax Liability (945–A); and Form 945 Payment Voucher (945–V).

Description: Form 945 is used to report income tax withholding on nonpayroll payments including backup withholding and withholding on pensions, annuities, IRA's, military retirement and gambling winnings. Form 945–A is used to report nonpayroll tax liabilities. Form 945–V is used by those taxpayers who submit a payment with their return.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents/Recordkeepers: 193,468.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law or the form	Preparing the form
945	6 hr., 14 min	30 min	35 min.
945–A	9 hr., 34 min	30 min	41 min.
945–V	59 min.		

Frequency of Response: Annually

Estimated Total Reporting/Reporting Burden: 2,028,215 hours.

OMB Number: 1545–1605.

Revenue Ruling Number: Revenue Ruling 98–30.

Type of Review: Extension.

Title: Negative Election in a Section 401(k) Plan.

Description: Revenue Ruling 98–30 describes certain criteria that must be met before an employee's compensation can be contributed to an employer's section 401(k) plan in the absence of an affirmative election by the employee.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,000 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. 98–23344 Filed 8–28–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

August 21, 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 30, 1998, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1072.

Regulation Project Number: INTL–952–86 NPRM and Temporary.

Type of Review: Extension.

Title: Allocation and Apportionment of Interest Expense and Certain Other Expenses.

Description: The regulations provide rules concerning the allocation and apportionment of expenses to foreign source income for purposes of the foreign tax credit and other provisions.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 15,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 3,750 hours.

OMB Number: 1545–1156.

Regulation Project Number: Regulation section 26 CFR Part 1.6001–1.

Type of Review: Extension.

Title: Records.

Description: Internal Revenue Code section 6001 requires, in part, that every person liable for tax, or for the collection of that tax, keep such records and comply with such rules and regulations as the Secretary may form time to time prescribe. These records are needed to ensure proper compliance with the Code.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Recordkeepers: 1.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour.

Estimated Total Reporting/Recordkeeping Burden: 1 hour.

OMB Number: 1545–1287.

Regulation Project Number: FI–3–91 Final.

Type of Review: Extension.

Title: Capitalization of Certain Policy Acquisition Expenses.

Description: Insurance companies that enter into reinsurance agreements must determine the amounts to be capitalized under those agreements consistently. The regulations provide elections to permit companies to shift the burden of capitalization for their mutual benefit.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 2,070.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 2,070 hours.

OMB Number: 1545–1342.

Form Number: IRS Form W–5.

Type of Review: Extension.

Title: Earned Income Credit Advance Payment Certificate.

Description: Form W–5 is used by employees to see if they are eligible for the earned income credit and to request part of the credit in advance with their pay. Eligible employees who want advance payments must give Form W–5 to their employers.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 183,450.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—7 minutes

Learning about the law or the form—11 minutes

Preparing the form—27 minutes

Frequency of Response: Annually

Estimated Total Reporting/Reporting Burden: 137,588 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. 98–23345 Filed 8–28–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

August 25, 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 30, 1998, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0010.

Form Number: IRS Form W–4.

Type of Review: Extension.

Title: Employee's Withholding Allowance Certificate.

Description: Employees file this form to tell employers (1) the number of withholding allowances claimed, (2) additional dollar amount they want withheld each pay period, (3) if they are entitled to claim exemption from withholding. Employers use this information to figure the correct tax to withhold from the employee's wages.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, Federal

Government, State, Local or Tribal Government.

Estimated Number of Respondents/Recordkeepers: 54,209,079.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—46 min.
Learning about the law or the form—13 min.
Preparing the form—1 hr., 10 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 116,007,429 hours.

OMB Number: 1545–0072.
Form Number: IRS Form 2119.
Type of Review: Extension.
Title: Sale of Your Home.

Description: Taxpayers who sold their main home prior to May 7, 1997, use Form 2119, even if they had a loss, and whether or not they replaced the home. The form is also used by taxpayers age 55 or older who elect to exclude the gain on the sale of their main home. The information is used to determine whether or not the sale has been reported correctly. Due to changes made to Internal Revenue Code (IRC) section 121 by the Taxpayer Relief Act of 1997, Form 2119 will be eliminated for 1998 and subsequent years.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 10,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—46 min.
Learning about the law or the form—20 min.
Preparing the form—1 hr., 54 min.
Copying, assembling, and sending the form to the IRS—25 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 34,100 hours.

OMB Number: 1545–0112.
Form Number: IRS Form 1099-INT.
Type of Review: Revision.
Title: Interest Income.

Description: This form is used for reporting interest income paid, as required by sections 6049 and 6041 of the Internal Revenue Code. It is used to verify that payees are correctly reporting their income.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, Federal Government.

Estimated Number of Respondents/Recordkeepers: 709,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 13 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 54,979,533 hours.

OMB Number: 1545–0187.
Form Number: IRS Form 4835.
Type of Review: Extension.
Title: Farm Rental Income and Expenses.

Description: This form is used by landowners (or sub-lessors) to report farm income based on crops or livestock produced by the tenant when the landowner (or sub-lessor) does not materially participate in the operation or management of the farm. This form is attached to Form 1040 and the data is used to determine whether the proper amount of rental income has been reported.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 407,719.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—2 hr., 57 min.
Learning about the law or the form—5 min.
Preparing the form—1 hr., 2 min.
Copying, assembling, and sending the form to the IRS—20 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 1,793,964 hours.

OMB Number: 1545–0191.
Form Number: IRS Form 4952.
Type of Review: Extension.
Title: Investment Interest Expense Deduction.

Description: Form 4952 is used by taxpayers who paid or accrued interest on money borrowed to purchase or carry investment property. The form is used to compute the allowable deduction for interest on investment indebtedness and the information obtained is necessary to verify the amount actually deducted.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 800,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—13 min.
Learning about the law or the form—16 min.
Preparing the form—21 min.
Copying, assembling, and sending the form for the IRS—10 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 808,000 hours.

OMB Number: 1545–0890.
Form Number: IRS Form 1120-A.
Type of Review: Extension.
Title: U.S. Corporation, Short-Form Income Tax Return.

Description: Form 1120-A is used by small corporations, those with less than $500,000 of income and assets, to compute their taxable income and tax liability. The IRS uses Form 1120-A to determine whether corporations have correctly computed their tax liability.

Respondents: Business or other for-profit, Farms.

Estimated Number of Respondents/Recordkeepers: 285,777.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—44 hr., 14 min.
Learning about the law or the form—23 hr., 38 min.
Preparing the form—41 hr., 13 min.
Copying, assembling, and sending the form to the IRS—4 hr., 34 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 32,481,414 hours.

OMB Number: 1545–0997.
Form Number: IRS Form 1099–S.
Type of Review: Extension.
Title: Proceeds From Real Estate Transactions.

Description: Form 1099-S is used by the real estate reporting person to report proceeds from a real estate transaction to the IRS.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/Recordkeepers: 75,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 8 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 510,455 hours.

OMB Number: 1545–1148.
Regulation Project Number: EE–113–90 (TD 8324) Final and Temporary.
Type of Review: Extension.
Title: Employee Business Expenses—Reporting and Withholding on Employee Business Expense Reimbursements and Allowances.

Description: These temporary and final regulations provide rules concerning the taxation of and reporting and withholding on, employee business expense reimbursements and other expense allowance arrangements.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Recordkeepers: 1,419,456.

Estimated Burden Hours Per Recordkeeper: 30 minutes.

Estimated Total Recordkeeping Burden: 709,728 hours.

OMB Number: 1545–1265.
Regulation Project Number: IA–120–86 Final.
Type of Review: Extension.
Title: Capitalization of Interest.

Description: The regulations require taxpayers to maintain contemporaneous

written records of estimates, to file a ruling request to segregate activities in applying the interest capitalization rules, and to request the consent of the Commissioner to change their methods of accounting for the capitalization of interest.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers:

Respondents—50
Recordkeepers—500,000

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—0 hr., 14 min.
Response—2 hr., 0 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 116,767 hours.

OMB Number: 1545–1292.

Regulation Project Number: PS–97–91 and PS–101–90 Final.

Type of Review: Extension.

Title: Enhanced Oil Recovery Credit.

Description: The regulation provides guidance concerning the costs subject to the enhanced oil recovery credit, the circumstances under which the credit is available, and procedures for certifying to the Internal Revenue Service that a project meets the requirements of section 43(c) of the Internal Revenue Code.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 20.

Estimated Burden Hours Per Respondent: 73 hours.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1,460 hours.

OMB Number: 1545–1326.

Form Number: IRS Form 2555–EZ.

Type of Review: Extension.

Title: Foreign Earned Income Exclusion.

Description: This form is used by U.S. citizens and resident aliens who qualify for the foreign earned income exclusion. This information is used by the IRS to determine if a taxpayer qualifies for the exclusion. Form 2555-EZ is a less burdensome form that will be used where foreign earned income is $72,000 or less.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 43,478.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—26 min.
Learning about the law or the form—18 min.
Preparing the form—42 min.
Copying, assembling, and sending the form to the IRS—35 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 87,826 hours.

OMB Number: 1545–1374.

Form Number: IRS Form 8834.

Type of Review: Extension.

Title: Qualified Electric Vehicle Credit.

Description: Form 8834 is used to compute an allowable credit for qualified electric vehicles placed in service after June 30, 1993. Section 1913(b) under P.L. 102–1018.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 500.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—7 hr., 10 min.
Learning about the law or the form—30 min.
Preparing, copying, assembling, and sending the form to the IRS—38 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 4,155 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.

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federal register

Monday
August 31, 1998

Part II

State Justice Institute

Proposed Grant Guideline; Notice

STATE JUSTICE INSTITUTE

Grant Guideline

AGENCY: State Justice Institute.

ACTION: Proposed grant guideline.

SUMMARY: This Guideline sets forth the administrative, programmatic, and financial requirements attendant to Fiscal Year 1999 State Justice Institute grants, cooperative agreements, and contracts.

DATES: The Institute invites public comment on the Guideline until September 30, 1998.

ADDRESSES: Comments should be sent to the State Justice Institute, 1650 King St. (Suite 600), Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: David I. Tevelin, Executive Director, or Richard Van Duizend, Deputy Director, State Justice Institute, 1650 King St. (Suite 600), Alexandria, VA 22314, (703) 684–6100.

SUPPLEMENTARY INFORMATION: Pursuant to the State Justice Institute Act of 1984, 42 U.S.C. 10701, *et seq.*, as amended, the Institute is authorized to award grants, cooperative agreements, and contracts to State and local courts, nonprofit organizations, and others for the purpose of improving the quality of justice in the State courts of the United States.

Status of FY 1999 Appropriations

The Senate has approved an FY 1999 appropriation of $14 million for the Institute. The House of Representatives has approved a $6.85 million appropriation. The final amount will be determined by a Conference Committee. The grant program proposed in this Guideline and the funding targets noted for specific programs may be modified in the Final Grant Guideline after final Congressional action on the appropriation.

Types of Grants Available and Funding Schedules

The SJI grant program is designed to be responsive to the most important needs of the State courts. To meet the full range of the courts' diverse needs, the Institute offers five different categories of grants. The types of grants available in FY 1999 and the funding cycles for each program are provided below:

Project Grants

These grants are awarded to support innovative education, research, demonstration, and technical assistance projects that can improve the administration of justice in State courts nationwide. Except for ''Single Jurisdiction'' project grants awarded under section II.C.1. (see below), project grants are intended to support innovative projects of national significance. As provided in section V. of the Guideline, project grants may ordinarily not exceed $200,000 a year; however, grants in excess of $150,000 are likely to be rare, and awarded only to support projects likely to have a significant national impact.

Applicants must ordinarily submit a concept paper (see section VI.) and an application (see section VII.) in order to obtain a project grant. As indicated in Section VI.C., the Board may make an ''accelerated'' grant of less than $40,000 on the basis of the concept paper alone when the need for the project is clear and little additional information about the operation of the project would be provided in an application.

The FY 1999 mailing deadline for project grant concept papers is **November 24, 1998.** Papers must be postmarked or bear other evidence of submission by that date. The Board of Directors will meet in early March 1999 to invite formal applications based on the most promising concept papers. Applications will be due on May 12, 1999 and awards will be approved by the Board in July.

Single Jurisdiction Project Grants

Section II.C.1. reserves up to $300,000 for Projects Addressing a Critical Need of a Single State or Local Jurisdiction. To receive a grant under this program, an applicant must demonstrate that (1) the proposed project is essential to meeting a critical need of the jurisdiction and (2) the need cannot be met solely with State and local resources within the foreseeable future. Applicants are encouraged to submit proposals to replicate approaches or programs that have been evaluated as effective under an SJI grant. Examples of projects that could be replicated are listed in Appendix IV.

Technical Assistance Grants

Section II.C.2. reserves up to $400,000 for Technical Assistance Grants. Under this program, a State or local court may receive a grant of up to $30,000 to engage outside experts to provide technical assistance to diagnose, develop, and implement a response to a jurisdiction's problems.

Letters of application for a Technical Assistance grant may be submitted at any time. Applicants submitting letters between June 12 and September 30, 1998 will be notified of the Board's decision by December 11, 1997; those submitting letters between October 1, 1998 and January 15, 1999 will be notified by March 31, 1999; those submitting letters between January 16, 1999 and March 12, 1999 will be notified by May 28, 1999; and those submitting letters between March 14, 1999 and June 11, 1999 will be notified by August 31, 1999. Applicants submitting letters between June 12 and September 30, 1999 will be notified of the Board's decision by December 17, 1999.

Curriculum Adaptation Grants

A grant of up to $20,000 may be awarded to a State or local court to replicate or modify a model training program developed with SJI funds. The Guideline allocates up to $100,000 for these grants in FY 1999. See section II.B.2.b.ii.

Letters requesting Curriculum Adaptation grants may be submitted at any time during the fiscal year. However, in order to permit the Institute sufficient time to evaluate these proposals, letters must be submitted no later than 90 days before the projected date of the training program. See section II.B.2.b.ii.(c).

Scholarships

The Guideline allocates up to $200,000 of FY 1999 funds for scholarships to enable judges and court managers to attend out-of-State education and training programs. See section II.B.2.b.iii.

The Institute proposes to make two significant changes in the scholarship program this year. The first is that scholarships for eligible applicants will be approved largely on a ''first come, first served'' basis, although the Institute may approve or disapprove scholarship requests in order to achieve appropriate balances on the basis of geography, program provider, and type of court or applicant (e.g., trial judge, appellate judge, trial court administrator). The second is that scholarships will be approved only for programs that either (1) address topics included in the Guideline's Special Interest categories (section II.B.); (2) enhance the skills of judges and court managers; or (3) are part of a graduate program for judges or court personnel.

Applicants interested in obtaining a scholarship for a program beginning between January 1 and March 31, 1999 must submit their applications and any required accompanying documents between October 1 and December 1, 1998. For programs beginning between April 1 and June 30, 1999, the applications and documents must be submitted between January 8 and March 8, 1999. For programs beginning between July 1 and September 30, 1999,

the applications and documents must be submitted between April 1 and June 1, 1999. For programs beginning between October 1 and December 31, 1999, the applications and documents must be submitted between July 1 and September 1, 1999. For programs beginning between January 1 and March 31, 2000, the applications and documents must be submitted between October 1 and December 1, 1999.

Renewal Grants

There are two types of renewal grants available from SJI: Continuation grants (see sections III.G., V.C. and D., and IX.A.) and On-going support grants (see sections III.H., V.C. and D., and IX.B.). Continuation grants are intended to enhance the specific program or service begun during the initial grant period. On-going support grants may be awarded for up to a three-year period to support national-scope projects that provide the State courts with critically needed services, programs, or products.

The Guideline establishes a target for renewal grants of approximately 25% of the total amount projected to be available for grants in FY 1999. See section IX. Grantees should accordingly be aware that the award of a grant to support a project does not constitute a commitment to provide either continuation funding or on-going support.

An applicant for a continuation or on-going support grant must submit a letter notifying the Institute of its intent to seek such funding, no later than 120 days before the end of the current grant period. The Institute will then notify the applicant of the deadline for its renewal grant application. See section IX.

Special Interest Categories

The Guideline includes 12 Special Interest categories, i.e., those project areas that the Board has identified as being of particular importance to the State courts this year. The selection of these categories was based on the Board and staff s experience and observations over the past year, the recommendations received from judges, court managers, lawyers, members of the public, and other groups interested in the administration of justice, and the issues identified in recent years' concept papers and applications.

Section II.B. of the Proposed Guideline includes the following Special Interest categories:

Improving Public Confidence in the Courts;

Education and Training for Judges and Other Key Court Personnel (this category includes Curriculum Adaptation grants, Scholarships for Judges and Key Court Personnel, and National Conferences);

Dispute Resolution and the Courts;

Application of Technology;

Court Management, Financing, and Planning;

Managed Care and the Courts;

Substance Abuse and the Courts;

Children and Families in Court;

Improving the Courts' Response to Domestic Violence;

Improving Sentencing Practices;

Improving Court Security; and

The Relationship Between State and Federal Courts.

Conferences

The Institute is soliciting proposals to conduct a National Conference on Evaluating the Impact of 'Future and the Courts' Activities. See section II.B.2.b.iv.

Recommendations to Grant Writers

Over the past 12 years, Institute staff have reviewed approximately 3,600 concept papers and 1,700 applications. On the basis of those reviews, inquiries from applicants, and the views of the Board, the Institute offers the following recommendations to help potential applicants present workable, understandable proposals that can meet the funding criteria set forth in this Guideline.

The Institute suggests that applicants make certain that they address the questions and issues set forth below when preparing a concept paper or application.

Concept papers and applications should, however, be presented in the formats specified in sections VI. and VII. of the Guideline, respectively.

1. What is the subject or problem you wish to address?

Describe the subject or problem and how it affects the courts and the public. Discuss how your approach will improve the situation or advance the state of the art or knowledge, and explain why it is the most appropriate approach to take. When statistics or research findings are cited to support a statement or position, the source of the citation should be referenced in a footnote or a reference list.

2. What do you want to do?

Explain the goal(s) of the project in simple, straightforward terms. The goals should describe the intended consequences or expected overall effect of the proposed project (e.g., to enable judges to sentence drug-abusing offenders more effectively, or to dispose of civil cases within 24 months), rather than the tasks or activities to be conducted (e.g., hold three training sessions, or install a new computer system).

To the greatest extent possible, an applicant should avoid a specialized vocabulary that is not readily understood by the general public. Technical jargon does not enhance a paper, nor does a clever but uninformative title.

3. How will you do it?

Describe the methodology carefully so that what you propose to do and how you would do it are clear. All proposed tasks should be set forth so that a reviewer can see a logical progression of tasks, and relate those tasks directly to the accomplishment of the project's goal(s). When in doubt about whether to provide a more detailed explanation or to assume a particular level of knowledge or expertise on the part of the reviewers, provide the additional information. A description of project tasks also will help identify necessary budget items. All staff positions and project costs should relate directly to the tasks described. The Institute encourages applicants to attach letters of cooperation and support from the courts and related agencies that will be involved in or directly affected by the proposed project.

4. How will you know it works?

Include an evaluation component that will determine whether the proposed training, procedure, service, or technology accomplished the objectives it was designed to meet. Concept papers and applications should present the criteria that will be used to evaluate the project's effectiveness; identify program elements which will require further modification; and describe how the evaluation will be conducted, when it will occur during the project period, who will conduct it, and what specific measures will be used. In most instances, the evaluation should be conducted by persons not connected with the implementation of the procedure, training, service, or technique, or the administration of the project.

The Institute has also prepared a more thorough list of recommendations to grant writers regarding the development of project evaluation plans. Those recommendations are available from the Institute upon request.

5. How will others find out about it?

Include a plan to disseminate the results of the training, research, or demonstration beyond the jurisdictions and individuals directly affected by the project. The plan should identify the specific methods which will be used to inform the field about the project, such as the publication of law review or journal articles, or the distribution of key materials. A statement that a report or research findings ''will be made

available to'' the field is not sufficient. The specific means of distribution or dissemination as well as the types of recipients should be identified. Reproduction and dissemination costs are allowable budget items.

6. What are the specific costs involved?

The budget in both concept papers and applications should be presented clearly. Major budget categories such as personnel, benefits, travel, supplies, equipment, and indirect costs should be identified separately. The components of ''Other'' or ''Miscellaneous'' items should be specified in the application budget narrative, and should not include set-asides for undefined contingencies.

7. What, if any, match is being offered?

Courts and other units of State and local government (not including publicly-supported institutions of higher education) are required by the State Justice Institute Act to contribute a match (cash, non-cash, or both) of at least 50 percent of the grant funds requested from the Institute. All other applicants also are encouraged to provide a matching contribution to assist in meeting the costs of a project.

The match requirement works as follows: If, for example, the total cost of a project is anticipated to be $150,000, a State or local court or executive branch agency may request up to $100,000 from the Institute to implement the project. The remaining $50,000 (50% of the $100,000 requested from SJI) must be provided as match.

Cash match includes funds directly contributed to the project by the applicant, or by other public or private sources. It does not include income generated from tuition fees or the sale of project products. Non-cash match refers to in-kind contributions by the applicant, or other public or private sources. This includes, for example, the monetary value of time contributed by existing personnel or members of an advisory committee (but not the time spent by participants in an educational program attending program sessions). When match is offered, the nature of the match (cash or in-kind) should be explained and, at the application stage, the tasks and line items for which costs will be covered wholly or in part by match should be specified.

8. Which of the two budget forms should be used?

Section VII.A.3. of the SJI Grant Guideline encourages use of the spreadsheet format of Form C1 if the application requests $100,000 or more. Form C1 also works well for projects with discrete tasks, regardless of the dollar value of the project. Form C, the tabular format, is preferred for projects lacking a number of discrete tasks, or for projects requiring less than $100,000 of Institute funding. Generally, use the form that best lends itself to representing most accurately the budget estimates for the project.

9. How much detail should be included in the budget narrative?

The budget narrative of an application should provide the basis for computing all project-related costs, as indicated in section VII.D. of the SJI Grant Guideline. To avoid common shortcomings of application budget narratives, applicants should include the following information:

Personnel estimates that accurately provide the amount of time to be spent by personnel involved with the project and the total associated costs, including current salaries for the designated personnel (e.g., Project Director, 50% for one year, annual salary of $50,000 = $25,000). If salary costs are computed using an hourly or daily rate, the annual salary and number of hours or days in a work-year should be shown.

Estimates for supplies and expenses supported by a complete description of the supplies to be used, the nature and extent of printing to be done, anticipated telephone charges, and other common expenditures, with the basis for computing the estimates included (e.g., 100 reports × 75 pages each × .05/page = $375.00). Supply and expense estimates offered simply as ''based on experience'' are not sufficient.

In order to expedite Institute review of the budget, make a final comparison of the amounts listed in the budget narrative with those listed on the budget form. In the rush to complete all parts of the application on time, there may be many last-minute changes; unfortunately, when there are discrepancies between the budget narrative and the budget form or the amount listed on the application cover sheet, it is not possible for the Institute to verify the amount of the request. A final check of the numbers on the form against those in the narrative will preclude such confusion.

10. What travel regulations apply to the budget estimates?

Transportation costs and per diem rates must comply with the policies of the applicant organization, and a copy of the applicant's travel policy should be submitted as an appendix to the application. If the applicant does not have a travel policy established in writing, then travel rates must be consistent with those established by the Institute or the Federal Government (a copy of the Institute's travel policy is available upon request). The budget narrative should state which regulations are in force for the project.

The budget narrative also should include the estimated fare, the number of persons traveling, the number of trips to be taken, and the length of stay. The estimated costs of travel, lodging, ground transportation, and other subsistence should be listed and explained separately. It is preferable for the budget to be based on the actual costs of traveling to and from the project or meeting sites. If the points of origin or destination are not known at the time the budget is prepared, an average airfare may be used to estimate the travel costs. For example, if it is anticipated that a project advisory committee will include members from around the country, a reasonable airfare from a central point to the meeting site, or the average of airfares from each coast to the meeting site may be used. Applicants should arrange travel so as to be able to take advantage of advance-purchase price discounts whenever possible.

13. What meeting costs may be covered with grant funds?

SJI grant funds may cover the reasonable cost of meeting rooms, necessary audio-visual equipment, meeting supplies, and working meals.

14. Does the budget truly reflect all costs required to complete the project?

After preparing the program narrative portion of the application, applicants may find it helpful to list all the major tasks or activities required by the proposed project, including the preparation of products, and note the individual expenses, including personnel time, related to each. This will help to ensure that, for all tasks described in the application (e.g., development of a videotape, research site visits, distribution of a final report), the related costs appear in the budget and are explained correctly in the budget narrative.

Recommendations to Grantees

The Institute's staff works with grantees to help assure the smooth operation of the project and compliance with the Guideline. On the basis of monitoring more than 1,600 grants, the Institute staff offers the following suggestions to aid grantees in meeting the administrative and substantive requirements of their grants.

1. After the grant has been awarded, when are the first quarterly reports due?

Quarterly Progress Reports and Financial Status Reports must be submitted within 30 days after the end of every calendar quarter—i.e. no later than January 30, April 30, July 30, and

October 30—regardless of the project's start date. The reporting periods covered by each quarterly report end 30 days before the respective deadline for the report. When an award period begins December 1, for example, the first Quarterly Progress Report describing project activities between December 1 and December 31 will be due on January 30. A Financial Status Report should be submitted even if funds have not been obligated or expended.

By documenting what has happened over the past three months, Quarterly Progress Reports provide an opportunity for project staff and Institute staff to resolve any questions before they become problems, and make any necessary changes in the project time schedule, budget allocations, etc. The Quarterly Project Report should describe project activities, their relationship to the approved timeline, and any problems encountered and how they were resolved, and outline the tasks scheduled for the coming quarter. It is helpful to attach copies of relevant memos, draft products, or other requested information. An original and one copy of a Quarterly Progress Report and attachments should be submitted to the Institute.

Additional Quarterly Progress Report or Financial Status Report forms may be obtained from the grantee's Program Manager at SJI, or photocopies may be made from the supply received with the award.

2. Do reporting requirements differ for renewal grants?

Recipients of a continuation or on-going support grant are required to submit quarterly progress and financial status reports on the same schedule and with the same information as recipients of a grant for a single new project.

A continuation grant and each yearly grant under an on-going support award should be considered as a separate phase of the project. The reports should be numbered on a grant rather than project basis. Thus, the first quarterly report filed under a continuation grant or a yearly increment of an on-going support award should be designated as number one, the second as number two, and so on, through the final progress and financial status reports due within 90 days after the end of the grant period.

3. What information about project activities should be communicated to SJI?

In general, grantees should provide prior notice of critical project events such as advisory board meetings or training sessions so that the Institute Program Manager can attend if possible. If methodological, schedule, staff, budget allocations, or other significant changes become necessary, the grantee should contact the Program Manager prior to implementing any of these changes, so that possible questions may be addressed in advance. Questions concerning the financial requirements section of the Guideline, quarterly financial reporting, or payment requests, should be addressed to the Grants Financial Manager listed in the award letter.

It is helpful to include the grant number assigned to the award on all correspondence to the Institute.

4. Why is it important to address the special conditions that are attached to the award document?

In some instances, a list of special conditions is attached to the award document. Special conditions may be imposed to establish a schedule for reporting certain key information, to assure that the Institute has an opportunity to offer suggestions at critical stages of the project, and to provide reminders of some, but not all of the requirements contained in the Grant Guideline. Accordingly, it is important for grantees to check the special conditions carefully and discuss with their Program Manager any questions or problems they may have with the conditions. Most concerns about timing, response time, and the level of detail required can be resolved in advance through a telephone conversation. The Institute's primary concern is to work with grantees to assure that their projects accomplish their objectives, not to enforce rigid bureaucratic requirements. However, if a grantee fails to comply with a special condition or with other grant requirements, the Institute may, after proper notice, suspend payment of grant funds or terminate the grant.

Sections X., XI., and XII. of the Grant Guideline contain the Institute's administrative and financial requirements. Institute Finance Division staff are always available to answer questions and provide assistance regarding these provisions.

5. What is a Grant Adjustment?

A Grant Adjustment is the Institute's form for acknowledging the satisfaction of special conditions, or approving changes in grant activities, schedule, staffing, sites, or budget allocations requested by the project director. It also may be used to correct errors in grant documents or deobligate funds from the grant.

6. What schedule should be followed in submitting requests for reimbursements or advance payments?

Requests for reimbursements or advance payments may be made at any time after the project start date and before the end of the 90-day close-out period. However, the Institute follows the U.S. Treasury's policy limiting advances to the minimum amount required to meet immediate cash needs. Given normal processing time, grantees should not seek to draw down funds for periods greater than 30 days from the date of the request.

7. Do procedures for submitting requests for reimbursement or advance payment differ for renewal grants?

The basic procedures are the same for any grant. A continuation grant or the yearly grant under an on-going support award should be considered as a separate phase of the project. Payment requests should be numbered on a grant rather than a project basis. The first request for funds from a continuation grant or a yearly increment under an on-going support award should be designated as number one, the second as number two, and so on through the final payment request for that grant.

8. If things change during the grant period, can funds be reallocated from one budget category to another?

The Institute recognizes that some flexibility is required in implementing a project design and budget. Thus, grantees may shift funds among direct cost budget categories. When any one reallocation or the cumulative total of reallocations are expected to exceed five percent of the approved project budget, a grantee must specify the proposed changes, explain the reasons for the changes, and request Institute approval.

The same standard applies to renewal grants. In addition, prior written Institute approval is required to shift leftover funds from the original award to cover activities to be conducted under the renewal award, or to use renewal grant monies to cover costs incurred during the original grant period.

9. What is the 90-day close-out period?

Following the last day of the grant, a 90-day period is provided to allow for all grant-related bills to be received and posted, and grant funds drawn down to cover these expenses. No obligations of grant funds may be incurred during this period. The last day on which an expenditure of grant funds can be obligated is the end date of the grant period. Similarly, the 90-day period is not intended as an opportunity to finish and disseminate grant products. This should occur before the end of the grant period.

During the 90 days following the end of the award period, all monies that have been obligated should be expended. All payment requests must be received by the end of the 90-day ''close-out-period.'' Any unexpended

monies held by the grantee that remain after the 90-day follow-up period must be returned to the Institute. Any funds remaining in the grant that have not been drawn down by the grantee will be deobligated.

10. Are funds granted by SJI ''Federal'' funds?

The State Justice Institute Act provides that, except for purposes unrelated to this question, ''the Institute shall not be considered a department, agency, or instrumentality of the Federal Government.'' 42 U.S.C. § 10704(c)(1). Because SJI receives appropriations from Congress, some grantee auditors have reported SJI grants funds as ''Other Federal Assistance.'' This classification is acceptable to SJI but is not required.

11. If SJI is not a Federal Agency, do OMB circulars apply with respect to audits?

Except to the extent that they are inconsistent with the express provisions of the SJI Grant Guideline, Office of Management and Budget (OMB) Circulars A–110, A–21, A–87, A–88, A–102, A–122, A–128 and A–133 are incorporated into the Grant Guideline by reference. Because the Institute's enabling legislation specifically requires the Institute to ''conduct, or require each recipient to provide for, an annual fiscal audit'' [see 42 U.S.C. 10711(c)(1)], the Grant Guideline sets forth options for grantees to comply with this statutory requirement. (See Section XI.J.)

SJI will accept audits conducted in accordance with the Single Audit Act of 1984 and OMB Circulars A–128, or A–133, in satisfaction of the annual fiscal audit requirement. Grantees that are required to undertake these audits in conjunction with Federal grants may include SJI funds as part of the audit even if the receipt of SJI funds would not require such audits. This approach gives grantees an option to fold SJI funds into the governmental audit rather than to undertake a separate audit to satisfy SJI's Guideline requirements.

In sum, educational and nonprofit organizations that receive payments from the Institute that are sufficient to meet the applicability thresholds of OMB Circular A–133 must have their annual audit conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States rather than with generally accepted auditing standards. Grantees in this category that receive amounts below the minimum threshold referenced in Circular A–133 must also submit an annual audit to SJI, but they would have the option to conduct an audit of the entire grantee organization in accordance with generally accepted auditing standards; include SJI funds in an audit of Federal funds conducted in accordance with the Single Audit Act of 1984 and OMB Circulars A–128 or A–133; or conduct an audit of only the SJI funds in accordance with generally accepted auditing standards. (See Guideline Section XI.J.) A copy of the above-noted circulars may be obtained by calling OMB at (202) 395–7250.

12. Does SJI have a CFDA number?

Auditors often request that a grantee provide the Institute's Catalog of Federal Domestic Assistance (CFDA) number for guidance in conducting an audit in accordance with Government Accounting Standards.

Because SJI is not a Federal agency, it has not been issued such a number, and there are no additional compliance tests to satisfy under the Institute's audit requirements beyond those of a standard governmental audit.

Moreover, because SJI is not a Federal agency, SJI funds should not be aggregated with Federal funds to determine if the applicability threshold of Circular A–133 has been reached. For example, if in fiscal year 1997 grantee ''X'' received $10,000 in Federal funds from a Department of Justice (DOJ) grant program and $20,000 in grant funds from SJI, the minimum A–133 threshold would not be met. The same distinction would preclude an auditor from considering the additional SJI funds in determining what Federal requirements apply to the DOJ funds.

Grantees who are required to satisfy either the Single Audit Act, OMB Circulars A–128, or A–133 and who include SJI grant funds in those audits, need to remember that because of its status as a private non-profit corporation, SJI is not on routing lists of cognizant Federal agencies. Therefore, the grantee needs to submit a copy of the audit report prepared for such a cognizant Federal agency directly to SJI. The Institute's audit requirements may be found in Section XI.J. of the Grant Guideline.

The following Grant Guideline is proposed by the State Justice Institute for FY 1999:

State Justice Institute Grant Guideline

Table of Contents

I. Background

The Institute was established by Pub. L. 98–620 to improve the administration of justice in the State courts in the United States. Incorporated in the State of Virginia as a private, nonprofit corporation, the Institute is charged, by statute, with the responsibility to:

A. Direct a national program of financial assistance designed to assure that each citizen of the United States is provided ready access to a fair and effective system of justice;

B. Foster coordination and cooperation with the Federal judiciary;

C. Promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and

D. Encourage education for judges and support personnel of State court systems through national and State organizations, including universities.

To accomplish these broad objectives, the Institute is authorized to provide funds to State courts, national organizations which support and are supported by State courts, national judicial education organizations, and other organizations that can assist in improving the quality of justice in the State courts.

The Institute is supervised by an 11-member Board of Directors appointed by the President, by and with the consent of the Senate. The Board is statutorily composed of six judges, a State court administrator, and four members of the public, no more than two of whom can be of the same political party.

Through the award of grants, contracts, and cooperative agreements, the Institute is authorized to perform the following activities:

A. Support research, demonstrations, special projects, technical assistance, and training to improve the administration of justice in the State courts;

B. Provide for the preparation, publication, and dissemination of information regarding State judicial systems;

C. Participate in joint projects with Federal agencies and other private grantors;

D. Evaluate or provide for the evaluation of programs and projects funded by the Institute to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have contributed to improving the quality of justice in the State courts;

E. Encourage and assist in furthering judicial education;

F. Encourage, assist, and serve in a consulting capacity to State and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services; and

G. Be responsible for the certification of national programs that are intended to aid and improve State judicial systems.

II. Scope of the Program

During FY 1999, the Institute will consider applications for funding support that address any of the areas specified in its enabling legislation. The Board, however, has designated 12 program categories as being of ''special interest.'' See section II.B.

A. Authorized Program Areas

The Institute is authorized to fund projects addressing one or more of the following program areas listed in the State Justice Institute Act, the Battered Women's Testimony Act, the Judicial Training and Research for Child Custody Litigation Act, and the International Parental Kidnapping Crime Act.

1. Assistance to State and local court systems in establishing appropriate procedures for the selection and removal of judges and other court personnel and in determining appropriate levels of compensation;

2. Education and training programs for judges and other court personnel for the performance of their general duties and for specialized functions, and national and regional conferences and seminars for the dissemination of information on new developments and innovative techniques;

3. Research on alternative means for using judicial and nonjudicial personnel in court decisionmaking activities, implementation of demonstration programs to test such innovative approaches, and evaluations of their effectiveness;

4. Studies of the appropriateness and efficacy of court organizations and financing structures in particular States, and support to States to implement plans for improved court organization and financing;

5. Support for State court planning and budgeting staffs and the provision of technical assistance in resource allocation and service forecasting techniques;

6. Studies of the adequacy of court management systems in State and local courts, and implementation and evaluation of innovative responses to records management, data processing, court personnel management, reporting and transcription of court proceedings, and juror utilization and management;

7. Collection and compilation of statistical data and other information on the work of the courts and on the work of other agencies which relates to and affects the work of courts;

8. Studies of the causes of trial and appellate court delay in resolving cases, and establishing and evaluating experimental programs for reducing case processing time;

9. Development and testing of methods for measuring the performance of judges and courts, and experiments in the use of such measures to improve the functioning of judges and the courts;

10. Studies of court rules and procedures, discovery devices, and evidentiary standards to identify problems with the operation of such rules, procedures, devices, and standards, and the development of alternative approaches to better reconcile the requirements of due process with the need for swift and certain justice, and testing of the utility of those alternative approaches;

11. Studies of the outcomes of cases in selected areas to identify instances in which the substance of justice meted out by the courts diverges from public expectations of fairness, consistency, or equity, and the development, testing, and evaluation of alternative approaches to resolving cases in such problem areas;

12. Support for programs to increase court responsiveness to the needs of citizens through citizen education, improvement of court treatment of witnesses, victims, and jurors, and development of procedures for obtaining and using measures of public satisfaction with court processes to improve court performance;

13. Testing and evaluating experimental approaches to provide increased citizen access to justice, including processes which reduce the cost of litigating common grievances, and alternative techniques and mechanisms for resolving disputes between citizens;

14. Collection and analysis of information regarding the admissibility and quality of expert testimony on the experiences of battered women offered as part of the defense in criminal cases under State law, as well as sources of and methods to obtain funds to pay costs incurred to provide such testimony, particularly in cases involving indigent women defendants;

15. Development of training materials to assist battered women, operators of domestic violence shelters, battered women's advocates, and attorneys to use expert testimony on the experiences of battered women in appropriate cases, and individuals with expertise in the experiences of battered women to develop skills appropriate to providing such testimony;

16. Research regarding State judicial decisions relating to child custody litigation involving domestic violence;

17. Development of training curricula to assist State courts to develop an understanding of, and appropriate responses to child custody litigation involving domestic violence;

18. Dissemination of information and training materials and provision of technical assistance regarding the issues listed in paragraphs 14–17 above;

19. Development of national, regional, and in-State training and educational programs dealing with criminal and civil aspects of interstate and international parental child abduction;

20. Other programs, consistent with the purposes of the State Justice Institute Act, as may be deemed appropriate by the Institute, including projects dealing with the relationship between Federal and State court systems such as where there is concurrent State-Federal jurisdiction and where Federal courts, directly or indirectly, review State court proceedings.

Funds will not be made available for the ordinary, routine operation of court systems or programs in any of these areas.

B. Special Interest Program Categories

1. General Description

The Institute is interested in funding both innovative programs and programs of proven merit that can be replicated in other jurisdictions. Although applications in any of the statutory program areas are eligible for funding in FY 1999, the Institute is especially interested in funding those projects that:

a. Formulate new procedures and techniques, or creatively enhance existing arrangements to improve the courts;

b. Address aspects of the State judicial systems that are in special need of serious attention;

c. Have national significance by developing products, services, and techniques that may be used in other States; and

d. Create and disseminate products that effectively transfer the information and ideas developed to relevant audiences in State and local judicial systems, or provide technical assistance to facilitate the adaptation of effective programs and procedures in other State and local jurisdictions.

A project will be identified as a ''Special Interest'' project if it meets the four criteria set forth above and (1) it falls within the scope of the ''special interest'' program areas designated below, or (2) information coming to the attention of the Institute from the State courts, their affiliated organizations, the research literature, or other sources demonstrates that the project responds to another special need or interest of the State courts.

Concept papers and applications which address a ''Special Interest'' category will be accorded a preference in the rating process. (See the selection criteria listed in sections VI.B., ''Concept Paper Submission Requirements for New Projects,'' and VIII.B., ''Application Review Procedures.'')

2. Specific Categories

The Board has designated the areas set forth below as ''Special Interest'' program categories. The order of listing does not imply any ordering of priorities among the categories.

a. Improving public confidence in the courts. This category includes demonstration, evaluation, research, and education projects designed to improve the responsiveness of courts to public concerns regarding the fairness, equity, accessibility, timeliness, and comprehensibility of the court process, and test innovative methods for increasing the public's confidence in the State courts.

The Institute is particularly interested in supporting innovative projects that examine, develop, and test methods that trial or appellate courts may use to:

- Test methods for more effectively achieving the educational function of the court by clearly communicating information to litigants and the public about judicial decisions, the trial and appellate court process, and court operations;
- Eliminate race, ethnic, and gender bias in the courts through innovative programs, procedures, materials, and court-community collaborations to help make courts more accessible, understandable, and inclusive for all segments of the communities they serve;
- Assure that judges and court employees meet the highest ethical standards and that judicial disciplinary procedures are known, fair, and effective;
- Address court-community problems resulting from the influx of legal and illegal immigrants, including projects to inform judges about the effects of recent Federal and State legislation regarding immigrants; design and assess procedures for use in custody, visitation, and other domestic relations cases when key family members or property are outside the United States; and develop protocols to facilitate service of process, the enforcement of orders of judgment, and the disposition of criminal and juvenile cases when a non-U.S. citizen or corporation is involved;
- Demonstrate and evaluate approaches courts can use to implement the concept of restorative justice, including methods for involving the community in the sentencing process;
- Test the impact of methods for improving juror comprehension in criminal and civil cases, including preparation and use of jury instructions in as ''plain English'' as possible, and providing access to videotaped instructions and testimony, electronically-based evidence, and other aids to comprehension in the jury room.

In addition, the Institute is interested in supporting projects to complement or enhance the National Conference on Unrepresented Litigants in Court, scheduled to be held in late 1999. and anticipates supporting projects to implement the action plans and findings developed at that Conference in fiscal year 2000. However, applicants are advised that **Institute funds may not be used to directly or indirectly support legal representation of individuals in specific cases.**

Previous SJI-supported projects that address these issues include: *Enhancing Court-Community Relationships: A National Town Hall Meeting Videoconference and projects to implement the action plans developed at the conference; national and State conferences on Enhancing Public Trust and Confidence in the Courts; educational materials for court employees on serving the public; surveys and focus groups to identify concerns about the courts and assess how courts are serving the needs of the public; a videotape on the role and operation of a State supreme court; a demonstration of the use of reparative community sentencing boards and community volunteers to monitor adult probationers and to monitor guardianships; evaluation of community-based court programs in New York City; and guidelines for court-annexed day-care systems;*

Serving Unrepresented Litigants: A national conference on unrepresented litigants in courts; a guidebook on the extent of self-representation and the problems being encountered, and the procedures, and programs being used by courts to assist pro se litigants; educational materials and a benchbook to assist courts in responding to individuals and groups unwilling to comply with legal and administrative procedures; developing and evaluating various means by which courts can assist unrepresented litigants including local and Statewide self-service centers, touchscreen computer kiosks, videotapes, plain-English forms and other written materials; assessing effective and efficient methods for providing legal representation to indigent parties in criminal and family cases; and examining the methods courts in rural communities can use to assure access and fairness for immigrants;

Eliminating Race and Ethnic Bias in the Courts: Presenting a National Conference on Eliminating Race and Ethnic Bias in the Courts and supporting projects to implement the action plans developed at the conference; examining the applicability of various dispute resolution procedures to different cultural groups; and developing educational programs and materials for judges and court staff on diversity and related issues;

Facilitating the Use of Qualified Court Interpreters: Preparing a manual and other materials for managing and coordinating court interpretation services; developing basic and graduate level curricula and other materials for training and assisting court interpreters; and assessing the feasibility and effectiveness of interpreting in court via the telephone;

Improving Jury Service and Jury System Management: Developing a manual for implementing innovations in jury selection, use, and management; preparing a guide for making juries accessible to persons with disabilities; documenting methods for reducing juror stress; and assessing the effect of allowing jurors to discuss the evidence prior to the deliberations on the verdict.

b. Education and training for judges and other key court personnel. The Institute is interested in supporting an array of projects that will continue to strengthen and broaden the availability of court education programs at the State,

regional, and national levels. This category is divided into four subsections: (i) Innovative Educational Programs; (ii) Curriculum Adaptation Projects; (iii) Scholarships; and (iv) National Conferences.

i. Innovative educational programs. This category includes support for the development and pilot-testing of innovative, high-quality educational programs for judges or court personnel that address key substantive and administrative issues of concern to the nation's courts, or help local courts or State court systems develop or enhance their capacity to deliver quality continuing education. Programs may be designed for presentation at the local, State, regional, or national level. Ordinarily, court education programs should be based on some form of assessment of the needs of the target audience; include clearly stated learning objectives that delineate the new knowledge or skills that participants will acquire (as opposed to a description of what will be taught); incorporate adult education principles and multiple teaching/learning methods; and result in the development of a disseminable curriculum as defined in section III.J.

(a) The Institute is particularly interested in the development of education programs that:

- Include innovative self-directed learning packages for use by judges and court personnel, and distance-learning approaches to assist those who do not have ready access to classroom-centered programs. These packages and approaches should include the appropriate use of various media and technologies such as Internet-based programming, interactive CD–ROM or floppy disk-based programs, videos, or other audio and visual media, supported by written materials or manuals. They also should include a meaningful program evaluation and a self-evaluation process that assesses pre-and post-program knowledge and skills;
- Familiarize faculty with the effective use of instructional technology including methods for effectively presenting information through distance learning approaches including the Internet, videos, and satellite teleconferences;
- Assist local courts, State court systems, and court systems in a geographic region to develop or enhance a comprehensive program of continuing education, training, and career development for judges and court personnel as an integral part of court operations;
- Test the effectiveness of including a variety of experiential instructional approaches in judicial branch education programs such as field studies and interchanges with community programs, organizations, and institutions; and
- Encourage intergovernmental teambuilding, collaboration, and planning among the judicial, executive, and legislative branches of government, or courts within a metropolitan area or multi-State region

(b) The Institute also is interested in supporting the development and testing of curricula on issues of critical importance to the courts, including those listed in the other Special Interest categories described in this Chapter.

ii. Curriculum Adaptation Projects. (a) Description of the program. The Board is reserving up to $160,000 to provide support for projects that adapt a model curriculum developed with SJI support and to pilot test it to determine its appropriateness, quality, and effectiveness for inclusion in the jurisdiction's judicial branch education program. An illustrative list of the curricula that may be appropriate for adaptation is contained in Appendix III.

The goal of the Curriculum Adaptation program is to provide State and local courts with sufficient support to modify a model curriculum, course module, or national or regional conference program developed with SJI funds so as to meet a State's or local jurisdiction's educational needs, to pilot-test it to determine its appropriateness, quality, and effectiveness, and train future instructors to enable them to make future presentations of the curriculum. It is anticipated that the adapted curriculum will become part of the grantee's ongoing educational offerings.

Only State or local courts may apply for Curriculum Adaptation funding. Grants to support adaptation of educational programs previously developed with SJI funds are limited to no more than $20,000 each. As with other awards to State or local courts, cash or in-kind match must be provided in an amount equal to at least 50% of the grant amount requested.

(b) Review criteria and procedures. Curriculum Adaptation grants will be awarded on the basis of criteria including: the goals and objectives of the proposed project; the need for outside funding to support the program; the appropriateness of the educational approach in achieving the project's educational objectives; the likelihood of effective implementation and integration into the State's or local jurisdiction's ongoing educational programming; and expressions of interest by the judges and/or court personnel who would be directly involved in or affected by the project. In making curriculum adaptation awards, the Institute will also consider factors such as the reasonableness of the amount requested, compliance with match requirements, diversity of subject matter, geographic diversity, the level of appropriations available in the current year, and the amount expected to be available in succeeding fiscal years.

The Board anticipates acting upon applications within 45 days after receipt. Grant funds will be available only after Board approval, and negotiation of the final terms of the grant.

(c) *Application procedures.* In lieu of concept papers and formal applications, applicants should submit a detailed letter and three photocopies. Although there is no prescribed form for the letter, or a minimum or maximum page limit, letters of application should include the following information to assure that each of the review criteria listed above is addressed:

- *Project Description.* What is the title of the model curriculum to be adapted and who developed it? What are the project's goals? Why is this education program needed at the present time? What program components would be implemented, and what types of modifications, if any, are anticipated in length, format, learning objectives, teaching methods, or content? Who would be responsible for adapting the model curriculum? Who would the participants be, how many would there be, how will they be recruited, and from where would they come (e.g., from across the State, from a single local jurisdiction, from a multi-State region)?
- *Need for Funding.* Why are sufficient State or local resources unavailable to fully support the modification and presentation of the model curriculum? What is the potential for replicating or integrating the program in the future using State or local funds, once it has been successfully adapted and tested?
- *Likelihood of Implementation.* What is the proposed timeline for modifying and presenting the program? Who would serve as faculty and how were they selected? What measures would be taken to facilitate subsequent presentations of the adapted program? (Ordinarily, an independent evaluation of a curriculum adaptation project is not required; however, the results of any evaluation should be included in the final report.)
- *Expressions of Interest By Judges and/or Court Personnel.* Does the proposed program have the support of the court system leadership, and of judges, court managers, and judicial education personnel who are expected

to attend? (This may be demonstrated by attaching letters of support.)

• *Budget and Matching State Contribution.* Applicants should attach a copy of *budget Form E* (see Appendix V) and *a budget narrative* (see Section VII.B.) that describes the basis for the computation of all project-related costs and the source of the match offered.

• *Chief Justice's Concurrence.* Local courts should attach a concurrence form signed by the Chief Justice of the State or his or her designee. (See Form B, Appendix VI.)

Letters of application may be submitted at any time. However, applicants should allow at least 90 days between the date of submission and the date of the proposed program to allow sufficient time for needed planning.

(d) *Grantee responsibilities.* A recipient of a Curriculum Adaptation grant must:

(1) Comply with the same quarterly reporting requirements as other Institute grantees (see Section X.L.);

(2) Include in each grant product a prominent acknowledgment that support was received from the Institute, along with the ''SJI'' logo and a disclaimer paragraph (See section X.Q.); and

(3) Submit two copies of the manuals, handbooks, or conference packets developed under the grant at the conclusion of the grant period, along with a final report that includes any evaluation results and explains how the grantee intends to present the program in the future.

iii. Scholarships for Judges and Court Personnel. The Institute is reserving up to $200,000 to support a scholarship program for State court judges and court managers.

(a) *Program description/scholarship amounts.* The purposes of the Institute scholarship program are to: enhance the skills, knowledge, and abilities of judges and court managers; enable State court judges and court managers to attend out-of-State educational programs sponsored by national and State providers that they could not otherwise attend because of limited State, local and personal budgets; and provide States, judicial educators, and the Institute with evaluative information on a range of judicial and court-related education programs.

Scholarships will be granted to individuals only for the purpose of attending an out-of-State educational program within the United States.

A scholarship may cover the cost of tuition and transportation up to a maximum total of $1,500 per scholarship. (Transportation expenses include round-trip coach airfare or train fare. Recipients who drive to the site of the program may receive $.31/mile up to the amount of the advanced purchase round-trip airfare between their home and the program site.) Funds to pay tuition and transportation expenses in excess of $1,500, and other costs of attending the program such as lodging, meals, materials, transportation to and from airports, and local transportation (including rental cars) at the site of the education program, must be obtained from other sources or be borne by the scholarship recipient.

Scholarship applicants are encouraged to check other sources of financial assistance and to combine aid from various sources whenever possible. In addition, **scholarship recipients are encouraged to check with their tax advisor to determine whether the scholarship constitutes taxable income under Federal and State law.**

(b) *Eligibility requirements.* Because of the limited amount of funds available: (1) Recipients. Scholarships can be awarded only to full-time judges of State or local trial and appellate courts; full-time professional, State or local court personnel with management responsibilities; and supervisory and management probation personnel in judicial branch probation offices. Senior judges, part-time judges, quasi-judicial hearing officers including referees and commissioners, State administrative law judges, staff attorneys, law clerks, line staff, law enforcement officers, and other executive branch personnel are not eligible to receive a scholarship.

(2) Courses. Scholarships can be awarded only for courses presented in a U.S. jurisdiction other than the one in which the applicant resides that are designed to enhance the skills of new or experienced judges and court managers; address any of the topics listed in the Institute's Special Interest categories; or are offered by a recognized graduate program for judges or court managers. The annual or midyear meeting of a State or national organization of which the applicant is a member does not qualify as an out-of-State educational program for scholarship purposes, even though it may include workshops or other training sessions.

(c) *Application procedures.* (1) Forms. Judges and court managers interested in receiving a scholarship must submit the Institute's Judicial Education Scholarship Application Form and the written concurrence of the Chief Justice of their State's Supreme Court (or the Chief Justice's designee) on the Institute's Judicial Education Scholarship Concurrence form (Forms S1 & S2, see Appendix V). The signature of the presiding judge of the applicant's court cannot be substituted for that of the Chief Justice or the Chief Justice's designee. Court managers, other than elected clerks of court, also must submit a letter of support from their immediate supervisor.

An applicant may apply for a scholarship for only one educational program during any one application cycle.

(2) Dates. Scholarship applications with the accompanying documents must be submitted during the periods specified below:

October 1–December 1, 1998, for programs beginning between January 1 and March 31, 1999;

January 8–March 8, 1999, for programs beginning between April 1 and June 30, 1999;

April 1–June 1, 1999, for programs beginning between July 1 and September 30, 1999;

July 1–September 1, 1999, for programs beginning between October 1 and December 31, 1999; and

October 1–December 1, 1999, for programs beginning between January 1 and March 31, 2000.

No exceptions or extensions will be granted. For the Scholarship application cycle beginning January 8, 1999 and all subsequent cycles, applications sent prior to the application period will be considered to have been sent one week *after the beginning of that application period.* All the required items must be received in order for an application to be considered. If the Concurrence form or letter of support is sent separately from the application, the postmark date of the last item to be sent will be used in applying the above criteria.

All applications should be sent by mail or courier (not fax or e-mail) to: **Scholarship Program Coordinator, State Justice Institute, 1650 King Street, Suite 600, Alexandria, VA 22314.**

Applicants are encouraged not to wait for the decision on the scholarship to register for the educational program they wish to attend.

(d) *Selection criteria/review procedures.* Scholarships will be awarded on the basis of:

• The date on which the application and concurrence (and support letter, if required) were sent;

• The unavailability of State or local funds to cover the costs of attending the program or scholarship funds from another source;

′ Geographic balance among the recipients;

• The balance of scholarships among educational programs;

• The balance of scholarships among the types of courts represented; and

• The level of appropriations available to the Institute in the current

year and the amount expected to be available in succeeding fiscal years.

The postmark or courier receipt will be used to determine the date on which the application form and other required items were sent.

The Institute intends to notify each applicant whether a scholarship has been approved within 30 days after the close of the relevant application period. The Institute will reserve sufficient funds each quarter to assure the availability of scholarships throughout the year.

(e) *Non-transferability.* A scholarship is not transferable to another individual. It may be used only for the course specified in the application unless attendance at a different course that meets the eligibility requirements is approved in writing by the Institute. Decisions on such requests will be made within 30 days after the receipt of the request letter.

(f) Responsibilities of scholarship recipients. Scholarship recipients are responsible for disseminating the information received from the course to their court colleagues locally, and if possible, throughout the State (e.g., by developing a formal seminar, circulating the written material, or discussing the information at a meeting or conference). Recipients also must submit to the Institute a certificate of attendance at the program, an evaluation of the educational program they attended, and a copy of the notice of any scholarship funds received from other sources. A copy of the evaluation must be sent to the Chief Justice of their State. A State or local jurisdiction may impose additional requirements on scholarship recipients.

In order to receive the funds authorized by a scholarship award, recipients must submit a Scholarship Payment Voucher (Form S3) together with a tuition statement from the program sponsor, and a transportation fare receipt (or statement of the driving mileage to and from the recipient's home to the site of the educational program). Scholarship Payment Vouchers should be submitted within 90 days after the end of the course which the recipient attended.

iv. National Conferences. This category includes support for national conferences on topics of major concern to State court judges and personnel across the nation. Applicants are encouraged to consider the use of videoconference and other technologies to increase participation and limit travel expenses in planning and presenting conferences. In planning a conference, applicants should provide for a written, video, or computer-based product that would widely disseminate information, findings, and any recommendations resulting from the conference.

The Institute is particularly interested in supporting a National Symposium on Evaluating the Impact of 'Future and the Courts' Activities. In the late 1980's, Virginia and Arizona established the first commissions on the future of their State courts. SJI contributed support to those commissions, and in May 1990, under a cooperative agreement with the American Judicature Society, convened a ''National Conference on the Future and the Courts'' in San Antonio. Over the next several years, almost every State court system established a ''futures'' commission, convened a futures conference, or engaged in some other long-range planning exercise. Each of those ventures produced a set of recommendations for steps that could be taken by the courts, the legislature, the bar, other professional disciplines, and the public to improve the administration of justice in the State. Anecdotal information suggest that, in many States, those recommendations produced significant long-term change in a number of areas but, in other States, little, if any, change occurred. The purpose of the national conference would be to:

(a) Evaluate the impact of the national and State futures activities conducted over the past decade;

(b) Identify the reasons why some States were more successful than others in implementing change; and

(c) Assess what steps can be taken or methods developed to:

(1) Facilitate the recommended changes that are still appropriate;

(2) More fully institutionalize long-range planning by State court systems and, where appropriate, local courts; and

(3) Assist each State court system or local court in identifying future trends that may significantly affect its ability to deliver justice.

The Board wishes to emphasize that it does not envision this conference as a second San Antonio conference. The purpose of the proposed conference should not be to develop trends, scenarios, and strategies for improving American courts over the next 30 years, but to meet the specific goals articulated above.

c. Dispute resolution and the courts.

This category includes research, evaluation, and demonstration projects to evaluate or enhance the effectiveness of court-connected dispute resolution programs. The Institute is interested in projects that facilitate comparison among research studies by using similar measures and definitions; address the nature and operation of ADR programs within the context of the court system as a whole; and compare dispute resolution processes to attorney settlement as well as trial. Specific topics of interest include:

- Determining the appropriate timing for referrals to dispute resolution services to enhance settlements and reduce time to disposition;
- Assessing the effect of different referral methods including any differences in outcome between voluntary and mandatory referrals;
- Comparing the appropriateness and effectiveness of facilitative and evaluative mediation in various types of cases;
- Evaluating the effectiveness of the use of family group conferencing procedures in dependency, delinquency, and status offense cases;
- Evaluating innovative court-connected dispute resolution programs for resolving specific types of cases such as minor criminal cases, probate proceedings, land-use disputes, and complex and multi-party litigation;
- Testing of methods that courts can use to assure the quality of court-connected dispute resolution programs; and
- Developing methods to eliminate race, ethnic, or gender bias in court-connected dispute resolution programs, testing approaches for assuring that such programs are open to all members of the community served by the court, and assessing whether having a mediator pool that reflects the diversity of the community it serves, has an impact on the use of mediation by minorities and its effectiveness.

Applicants should be aware that the Institute will not provide operational support for on-going ADR programs or start-up costs of non-innovative ADR programs. Courts also should be advised that it is preferable for the applicant to use its funds to support the operational costs of an innovative program and request Institute funds to support related technical assistance, training, and evaluation elements of the program.

In previous funding cycles, the Institute has supported projects to evaluate the use of mediation in civil, domestic relations, juvenile, guardianship, medical malpractice, appellate, and minor criminal cases, as well as in resolving grievances of court employees. SJI grants also have supported assessments of the impact of private judging on State courts; multi-door courthouse programs; arbitration of civil cases; screening and intake procedures for mediation; early referrals to mediation in divorce proceedings;

and trial and appellate level civil settlement programs.

In addition, SJI has supported two national conferences on court-connected dispute resolution; a national ADR resource center and a national database of court-connected dispute resolution programs; training programs for judges and mediators; the testing of Statewide and trial court-based ADR monitoring/evaluation systems and implementation manuals; the promulgation and implementation of principles and policies regarding the qualifications, selection, and training of court-connected neutrals; development of standards for court-annexed mediation programs; development of guidelines to help mediators avoid conduct that may be considered the unauthorized practice of law; and an examination of the applicability of various dispute resolution procedures to different cultural groups.

d. Application of technology. This category includes the testing of innovative applications of technology to improve the operation of court management systems and judicial practices at both the trial and appellate court levels.

The Institute seeks to support local experiments with promising but untested applications of technology in the courts that include an evaluation of the impact of the technology in terms of costs, benefits, and staff workload, and a training component to assure that staff is appropriately educated about the purpose and use of the new technology. In this context, ''untested'' refers to novel applications of technology developed for the private sector and other fields that have not previously been applied to the courts.

The Institute is particularly interested in supporting efforts to:

- Evaluate innovative approaches for filing pleadings and documents electronically;
- Develop model rules or standards to govern the use of electronic filing, electronic notices, and electronic data and document interchange;
- Test innovative telecommunications links among courts, and between courts and executive branch or private agencies and services.
- Test innovative applications of voice recognition technology by judges and clerks in the adjudication process;
- Evaluate and document the innovative uses of technology to improve jury management;
- Assess the impact of the use of comprehensive electronic court records systems on case management and court procedures;
- Demonstrate and evaluate the use of technology to assist judicial decisionmaking;
- Evaluate the use of digital audio and video technology for making a record of court proceedings;
- Demonstrate and evaluate the use of videoconferencing technology to present testimony by witnesses in remote locations, and appellate arguments (but see the limitations specified below);
- Assess the impact of the use of multimedia CD–ROM-based briefs on the courts, parties, counsel, and the trial or appellate process;
- Assist courts in determining the policies and procedures that should govern public access to information filed in electronically stored case records; and
- Assist courts in identifying and solving potential ''Year 2000'' problems.

Ordinarily, the Institute will not provide support for the purchase of equipment or software in order to implement a technology that is commonly used by courts, such as videoconferencing between courts and jails, optical imaging for recordkeeping, and automated management information systems. (See also section XI.H.2.b. regarding other limits on the use of grant funds to purchase equipment and software.)

In previous funding cycles, grants have been awarded to support projects that: demonstrate, document, and evaluate the availability of electronic forms and information on the Internet to assist pro se litigants; access to case data via the Internet; electronic filing and document transfer; an electronic document management system; a court management information display system; the integration of bar-coding technology with an existing automated case management system; an on-bench automated system for generating and processing court orders; an automated judicial education management system; a document management system for small courts using imaging technology; a computerized citizen intake and referral service; an ''analytic judicial desktop system'' to assist judges in making sentencing decisions; the application of voice-recognition technology to stenomask reporting; and the use of automated teller machines for paying jurors.

Grants have also supported national court technology conferences; a court technology laboratory to provide judges and court managers an opportunity to test automated court-related hardware and software; a technical information service to respond to specific inquiries concerning court-related technologies; development of recommendations for electronic transfer of court documents, model rules on the use of computer-generated demonstrative evidence and electronic documentary evidence, and guidelines on privacy and public access to electronic court information and on court access to the information superhighway; implementation and evaluation of a Statewide automated integrated case docketing and record-keeping system; computer simulation models to assist State courts in evaluating potential strategies for improving civil caseflow; and an examination of the impact of the use of technology in the trial process.

e. Court planning, management, financing. The Institute is interested in supporting projects that explore emerging issues that will affect the State courts as they enter the 21st Century, as well as projects that develop and test innovative approaches for managing the courts, and securing, managing, and demonstrating the effective use of the resources required to fully meet the responsibilities of the judicial branch, and institutionalizing long-range planning processes. In particular the Institute is interested in:

i. Demonstration, evaluation, education, research, and technical assistance projects to:

- Develop, implement, and assess innovative case management techniques for specialized calendars including but not limited to drug courts, domestic violence courts, juvenile courts, and family courts;
- Facilitate communication, information sharing, and coordination between the juvenile and criminal courts;
- Assess the effects of innovative management approaches designed to assure quality services to court users;
- Strengthen the judge's and court manager's skills in leadership, planning, and building community confidence in the courts;
- Develop and test innovative educational programs and materials to enhance the core competencies required of court managers and staff;
- Develop and test methods for facilitating and implementing change and for encouraging excellence in court operations;
- Demonstrate and assess the effective use of staff teams in court operations; and
- Implement and evaluate approaches for institutionalizing long-range strategic planning in individual States and local jurisdictions including development of the capacity to conduct environmental scanning, trends analysis, and benchmarking.

ii. Demonstration, evaluation, education, technical assistance, and research projects to implement the National Agenda for Assuring Prompt and Affordable Justice in the 21st Century, including projects to:

- Document and publicize successful innovative programs and practices and establish mentor courts to assist other jurisdictions in reducing litigation costs and delay.
- Develop and test rules and procedures that will establish economic and other incentives that reduce the cost and time required for the resolution of disputes.
- Examine and test how the techniques applied to pretrial caseflow management and trial management in general jurisdiction court civil and criminal cases can be used to reduce the cost and time required in limited jurisdiction high volume courts, domestic relations proceedings, cases involving children, and post-adjudication matters.

iii. The preparation of ''think pieces'' exploring emerging issues that may result in significant changes in the court process or judicial administration and their implications for judges, court managers, policymakers, and the public. Grants supporting such projects are limited to no more than $10,000. The resulting essay should be directed to the court community and be of publishable quality.

Possible topics include, but are not limited to:

- The implications on court procedures, court operations, and judicial selection of the changing expectations about the proper role of courts—from adjudicators to problem solvers;
- The proper balance between collaboration with the community and judicial independence;
- The implications of the increasing commerce via the Internet for the State courts—what special problems may arise and what new rules and procedures may be needed to address those problems;
- How the increased litigation resulting from the North American Free Trade Agreement and the global integration of business affect the State courts—are special rules and procedures needed?
- What the new ''community courts'' can learn from the experience of the old justice of the peace courts,
- The appropriateness of modifying methods for selecting, qualifying, and using juries; and
- The likely extent, nature, and impact on the courts of litigation arising from ''Year 2000'' problems.

In previous funding cycles, the Institute has supported national and Statewide ''future and the courts'' conferences and training; curricula, guidebooks, a video on visioning, and a long-range planning guide for trial courts; the testing of coordinated State/local approaches to institutionalizing long-range planning by the courts; and technical assistance to courts conducting futures and long-range planning.

SJI has also supported technical assistance and training to assist jurisdictions establish court-led multi-agency teams to address critical community problems; executive management programs for teams of judges and court administrators; a test of the feasibility of implementing the Trial Court Performance Standards in general jurisdiction and family courts; Appellate Court Performance Standards and Measures; tests of the use of TQM approaches in trial and appellate court and State court administrative offices; revision of the Standards on Judicial Administration; projects identifying the causes of delay in trial and appellate courts; the preparation of a national agenda for assuring prompt and affordable justice and the development of educational programs for reducing litigation cost and delay in civil, criminal, domestic relations, and juvenile courts; the testing of various types of weighted caseload systems; a National Interbranch Conference on Funding the State Courts; and National Symposia on Court Management.

f. Managed care and the courts. The First National Conference on Managed Care and the Criminal Justice System, held June 28–30, 1998 in Albuquerque, highlighted what many judges and court personnel need to know about the implications of managed care for the courts and for court-ordered substance abuse, mental health, and other services. Accordingly, the Institute is interested in supporting educational, research, and demonstration projects to:

- Develop and test State, regional, and local educational programs for judges and court staff on the implications of managed care for the provision of drug and alcohol treatment, mental health treatment, and other services to adult and juvenile offenders, neglected and abused children and their families, and persons subject to civil commitment. In addition to defining managed care principles and procedures, the curricula and materials (which could include modules for use at State judicial conferences and meetings of State clerk and court managers associations) should cover such matters as: (i) Strategies for ensuring that contracts with managed care organizations satisfactorily address court concerns such as protecting public safety, dealing appropriately with non-compliance by a person under court order, reporting, providing ancillary services, and (ii) assuring the continuity and prompt provision of ordered services; and methods for establishing collaborative public sector managed care programs for court-ordered services.
- Draft model managed care contract provisions and letters of agreement for the provision of court-ordered treatment and services to adults and juveniles.
- Develop and test performance measures to determine the quality and appropriateness of court-ordered treatment and services.
- Document public sector and private sector managed care programs that effectively provide court-ordered treatment and other services to adults and juveniles.

g. Substance abuse. This category includes education, technical assistance, research, and evaluation projects to assist courts in handling a large volume of substance abuse-related criminal, civil, juvenile, and domestic relations cases fairly and expeditiously. **(It does not include providing support for planning, establishing, operating, or enhancing a local drug court.)** The Institute is particularly interested in projects to:

- Evaluate the effectiveness of ''family drug court'' programs (i.e. specialized calendars that provide intensely supervised, court-enforced substance abuse treatment and other services to families involved in child neglect, child abuse, domestic violence, or other family cases);
- Develop a self-evaluation guide for ''juvenile drug court'' programs;
- Develop and test curricula on the specific knowledge and skills needed to manage drug court programs for adults, juveniles, or families.
- Develop and test effective approaches for identifying and treating substance abuse by judges, lawyers, and court staff, and determining and lessening the impact on the courts of such substance abuse.

(Applicants interested in obtaining grants to plan, implement, operate, or enhance a drug court program should contact the Drug Court Program Office, Office of Justice Programs, U.S. Department of Justice.)

The Institute has supported the presentation of the 1995 National Symposium on the Implementation and Operation of Court-Enforced Drug Treatment Programs as well as the 1991 National Conference on Substance

Abuse and the Courts, and efforts to implement the State and local plans developed at these Conferences.

It has also supported projects to evaluate court-enforced treatment programs, and other court-based alcohol and drug assessment programs; develop a self-evaluation guide for drug courts; test the applicability of drug courts in non-urban sites and develop guidance for jurisdictions establishing juvenile drug courts; involve community groups and families in drug court programs; assess the impact of legislation and court decisions dealing with drug-affected infants; develop strategies for coping with increasing caseload pressures, and benchbooks and other educational materials on child abuse and neglect cases involving parental substance abuse and appropriate sentences for pregnant substance abusers; test the use of a dual diagnostic treatment model for domestic violence cases in which substance abuse was a factor; and present local and regional educational programs for judges and other court personnel on substance abuse and its treatment. In addition, SJI has supported an information system that permits courts, criminal justice agencies, and drug treatment providers to share information electronically.

h. Children and families in court. This category includes education, demonstration, evaluation, technical assistance, and research projects to identify and inform judges of innovative, effective approaches for handling cases involving children and families. The Institute is particularly interested in projects to:

- Develop and test innovative protocol, procedures, educational programs, and other measures to determine and address the service needs of children exposed to family violence and the methods for mitigating those effects when issuing protection, custody, visitation, or other orders;
- Develop and test guidelines, curricula, and other materials to assist judges in establishing and enforcing custody, and support orders in cases in which a child s parents were never married to each other;
- Develop and test effective approaches for the detention, adjudication, and disposition of juveniles under age 13 who are accused of involvement in a violent offense;
- Develop and test procedures and programs to include victims of offenses committed by juveniles in the juvenile court process (other than victim-offender mediation programs);
- Create and test educational programs, guidelines, and monitoring systems to assure that the juvenile justice system meets the needs of girls and children of color;
- Develop and test innovative techniques for improving communication, sharing information, and coordinating juvenile and criminal courts and divisions;
- Design or evaluate information systems that not only provide aggregate data, but are able to track individual cases, individual juveniles, and specific families, so that judges and court managers can manage their caseloads effectively, track placement and service delivery, and coordinate orders in different proceedings involving members of the same family; and
- Develop and test educational programs to assure that everyone coming into contact with courts serving children and families are treated with dignity, respect, and courtesy.

See also the topics listed in the Special Interest Category on Managed Care and the Courts (section II.B.2.f.)

In previous funding cycles, the Institute supported national and State conferences on courts, children, and the family; a review of juvenile courts in light of the upcoming 100th anniversary of the founding of the first juvenile court; testing of alternative models for achieving the goals of a family court without altering court structure; the authority of the juvenile court to enforce treatment orders and the role of juvenile court judges; validation of a risk assessment tool for juvenile offenders; and an assessment of the effectiveness of various intervention strategies for young violent offenders and for low-risk juvenile offenders.

In addition, the Institute has supported a symposium on the resolution of interstate child welfare issues; and educational materials on the questioning of child witnesses, determining the best interest of a child and making reasonable efforts to preserve families, adjudicating allegations of child sexual abuse when custody is in dispute, child victimization, handling child abuse and neglect cases when parental substance abuse is involved, and on children as the silent victims of spousal abuse.

Other Institute grants have supported the development of computer-based training on the Uniform Interstate Family Support Act, and the examination of supervised visitation programs, effective court responses when domestic violence and custody disputes coincide, and foster care review procedures.

The Institute also has supported projects to enhance coordination of cases involving the same family that are being heard in different courts; develop an MIS system to link the court with executive branch and private juvenile justice agencies and services; assist States considering establishment of a family court; develop national and State-based training materials for guardians ad litem as well as a set of performance measures; test the use of differentiated case management in juvenile court and methods for reducing the use of continuances; and develop innovative approaches for coordinating the appointment of guardians and Federal representative payees for disabled persons.

i. Improving the courts' response to domestic violence. This category includes innovative education, demonstration, technical assistance, evaluation, and research projects to improve the fair and effective processing, consideration, and disposition of cases concerning domestic violence and gender-related violent crimes, including projects to:

- Develop and test methods for facilitating recognition and enforcement of protection orders issued by a State, Federal, or Tribal court in another jurisdiction;
- Determine the effective use of information contained in protection order files stored in court electronic databases consistent with the protection of the privacy and safety of victims of violence;
- Evaluate the effectiveness of domestic violence courts (i.e., specialized calendars or divisions for considering domestic violence cases and related matters), including their impact on victims, offenders, and court operations;
- Assess the effectiveness of including jurisdiction over family violence in a unified family court;
- Demonstrate effective ways to coordinate the response to domestic violence and gender-related crimes of violence among courts, criminal justice agencies, and social services programs, and to assure that courts are fully accessible to victims of domestic violence and other gender-related violent crimes;
- Test the effectiveness of innovative sentencing and treatment approaches in cases involving domestic violence and other gender-related crimes including sentences that incorporate restorative justice measures.

Institute funds may not be used to provide operational support to programs offering direct services or compensation to victims of crimes. (Applicants interested in obtaining such operational support should contact the Office for Victims of Crime (OVC), Office of Justice Programs, U.S.

Department of Justice, or the agency in their State that awards OVC funds to State and local victim assistance and compensation programs.)

In previous funding cycles, the Institute supported national and State conferences on family violence and the courts as well as projects to implement the action plans developed at these conferences; preparation of descriptions of innovative court practices in family violence cases, including programs for battered mothers and their children; and development of recommendations on how to improve access to rural courts for victims of family violence, conduct fatality reviews, and collect and report dispositional and other data concerning family violence cases.

The Institute also supported a national conference, national and regional symposia, and the development of guides on the implementation of the full faith and credit requirements included in the Violence Against Women Act; and the drafting of a proposed uniform statute on the recognition of protection orders from other jurisdictions.

In addition, Institute grants have resulted in the development of curricula for judges on a range of topics regarding the handling of family violence, rape, and sexual assault cases; evaluations of the effectiveness of specialized domestic violence calendars, court-ordered treatment for family violence offenders, the use of alternatives to adjudication in child abuse cases, and procedures to improve the effectiveness of civil protection orders for family violence victims; research on the use of mediation in domestic relations cases involving allegations of violence, the relevancy of culture in adjudicating and disposing of family violence cases, and effective sentencing of sex offenders; and analyses of the issues related to the use of expert testimony in criminal cases involving domestic violence.

The Institute also has funded testing of procedures for coordinating multiple cases involving a single family and for electronic filing of petitions for protection orders; development of links among courts, criminal justice agencies, and service providers to share information and assist victims of violence; and the production of videotapes and other educational programs for the parties in divorce actions and their children.

j. Improving sentencing practices. This category includes education, demonstration, technical assistance, evaluation, and research projects to address and implement the findings and recommendations reached at the National Symposium on Sentencing: The Judicial Response to Crime. In particular, the Institute is interested in projects to:

- Identify and document effective sentencing approaches for particular types of offenders and offenses including juvenile offenders tried as adults;
- Improve public understanding of sentencing options and approaches and their cost and effectiveness;
- Eliminate disparities in sentencing on the basis of race, gender, ethnicity, national origin, and income;
- Assess effective and appropriate approaches for sentencing mentally ill and mentally retarded offenders; and
- Develop and test educational programs and materials for judges on evaluating expert testimony regarding sex offenders; appropriate and effective sentencing and treatment of sex offenders; and assuring the safety of the victim, the public, and the offender when a community-based sentence is imposed.

See also the paragraph on developing and testing the effectiveness of sentences based on restorative justice principles in section II.B.2.a. and the topics listed in the Special Interest category on Managed Care and the Courts, section II.B.2.f.

In addition to the National Symposium on Sentencing, the Institute has supported development of a handbook, educational materials, symposia, and technical assistance on the appropriate and effective use of intermediate sanctions; tests of the use of day-fines, community reparation boards, special court-ordered programs for women offenders, and various fine and restitution collection programs; and presentation of a regional conference on implementation of sentencing innovations.

k. Improving court security. This category includes demonstration, evaluation, technical assistance, education, and research projects to enhance the security of courthouses and the people who use and work in them. The Institute is particularly interested in supporting innovative projects to:

- Develop policies, protocols, and procedures designed to prevent harassment, threats, and incidents endangering the lives and property of judges, court employees, jurors, litigants, witnesses, and other members of the public in court facilities;
- Evaluate innovative applications of technology to prevent courthouse incidents that endanger the lives and property of judges, court personnel, and courtroom participants; and
- Develop and test model training programs that will assist judges and court personnel in protecting their safety and that of jurors, litigants, witnesses, and other members of the public in court facilities, and in managing cases involving individuals or organizations unwilling to cooperate with legal or administrative procedures.

In previous funding cycles, the Institute has supported Statewide strategic planning to enhance court security; a demonstration project to organize sharing of court security staff between counties; a court security clearinghouse; and an educational program and benchbook on the common law court movement.

l. The relationship between State and Federal courts. This category includes education, research, demonstration, and evaluation projects designed to facilitate appropriate and effective communication, cooperation, and coordination between State and Federal courts. The Institute is particularly interested in innovative projects that:

i. Develop and test curricula and disseminate information regarding effective methods being used at the trial court, State, and Circuit levels to coordinate cases and administrative activities, and share facilities; and

ii. Develop and test new approaches to:

- Implement the habeas corpus provisions of the Anti-Terrorism Act of 1996;
- Handle capital habeas corpus cases fairly and efficiently;
- Coordinate and process mass tort cases fairly and efficiently at the trial and appellate levels;
- Coordinate cases in which there is concurrent jurisdiction including State and Federal cases brought under the Violence Against Women Act;
- Develop a guidebook for judges to assist in determining whether punitive damages should be awarded, calculating the amount in which they should be awarded, and instructing jurors regarding these issues.
- Exchange information and coordinate calendars among State and Federal courts; and
- Share facilities, jury pools, alternative dispute resolution programs, information regarding persons on pretrial release or probation, and court services.

In previous funding cycles, the Institute has supported national and regional conferences on State-Federal judicial relationships, a national conference on mass tort litigation, and the Chief Justices' Special Committee on Mass Tort Litigation.

In addition, the Institute has supported projects testing the use common electronic filing process for the

State and Federal courts in New Mexico, and other methods of State and Federal trial and appellate court cooperation; developing judicial impact statement procedures for national legislation affecting State courts; establishing procedures for facilitating certification of questions of law; assessing the impact on the State courts of diversity cases and cases brought under section 1983, the procedures used in Federal habeas corpus review of State court criminal cases, and the factors that motivate litigants to select Federal or State courts; and the mechanisms for transferring cases between Federal and State courts, as well as the methods for effectively consolidating, deciding, and managing complex litigation.

The Institute has also supported a clearinghouse of information on State constitutional law decisions; educational programs for State judges on coordination of Federal bankruptcy cases with State litigation as well as research on the impact of bankruptcy stays on State litigation; and the assignment of specialized law clerks to trial courts hearing capital cases in order to improve the fairness and efficiency of death penalty litigation at the trial level.

C. Single Jurisdiction Projects

The Board will consider supporting a limited number of projects submitted by State or local courts that address the needs of only the applicant State or local jurisdiction. The Institute has established two categories of Single Jurisdiction Projects:

1. Projects Addressing a Critical Need of a Single State or Local Jurisdiction Including ''Replication Grants''

a. Description of the program. The Board will set aside up to $300,000 to support projects submitted by State or local courts that address the needs of only the applicant State or local jurisdiction. A project under this section may address any of the topics included in the Special Interest Categories or Statutory Program Areas. Ordinarily, the Institute will not provide support solely for the purchase of equipment or software.

Concept papers for single jurisdiction projects may be submitted by a State court system, an appellate court, or a limited or general jurisdiction trial court. All awards under this category are subject to the matching requirements set forth in section X.B.1.

The Board is particularly interested in supporting projects to replicate programs, procedures, or strategies that have been developed, demonstrated, or evaluated through an SJI grant. (A list of examples of such grants is contained in Appendix IV.) Replication grants are subject to the same limits on amount and duration as other project grants. (See section V.)

b. Application procedures. Concept papers and applications requesting funds for projects under this section must meet the requirements of sections VI. (''Concept Paper Submission Requirements for New Projects'') and VII. (''Application Requirements''), respectively, and must demonstrate that:

i. The proposed project is essential to meeting a critical need of the jurisdiction; and

ii. The need cannot be met solely with State and local resources within the foreseeable future.

2. Technical Assistance Grants

a. Description of the program. The Board will set aside up to $400,000 to support the provision of technical assistance to State and local courts. The exact amount to be awarded for these grants will depend on the number and quality of the applications submitted in this category and other categories of the Guideline. The Committee will reserve sufficient funds each quarter to assure the availability of technical assistance grants throughout the year. The program is designed to provide State and local courts with sufficient support to obtain technical assistance to diagnose a problem, develop a response to that problem, and initiate implementation of any needed changes.

Technical Assistance grants are limited to no more than $30,000 each, and may cover the cost of obtaining the services of expert consultants; travel by a team of officials from one court to examine a practice, program, or facility in another jurisdiction that the applicant court is interested in replicating; or both. Technical assistance grant funds ordinarily may not be used to support production of a videotape. Normally, the technical assistance must be completed within 12 months after the start-date of the grant.

b. Eligibility for technical assistance grants. Only a State or local court may apply for a Technical Assistance grant. As with other awards to State or local courts, cash or in-kind match must be provided equal to at least 50% of the grant amount.

c. Review criteria. Technical Assistance grants will be awarded on the basis of criteria including: whether the assistance would address a critical need of the court; the soundness of the technical assistance approach to the problem; the qualifications of the consultant(s) to be hired, or the specific criteria that will be used to select the consultant(s); commitment on the part of the court to act on the consultant's recommendations; and the reasonableness of the proposed budget. The Institute also will consider factors such as the level and nature of the match that would be provided, diversity of subject matter, geographic diversity, the level of appropriations available to the Institute in the current year, and the amount expected to be available in succeeding fiscal years.

d. Application procedures. In lieu of formal applications, applicants for Technical Assistance grants may submit, at any time, an original and three copies of a detailed letter describing the proposed project and addressing the issues listed below. Letters from an individual trial or appellate court must be signed by the presiding judge or manager of that court. Letters from the State court system must be signed by the Chief Justice or State Court Administrator.

Although there is no prescribed form for the letter nor a minimum or maximum page limit, letters of application should include the following information to assure that each of the criteria is addressed:

i. Need for Funding. What is the critical need facing the court? How will the proposed technical assistance help the court meet this critical need? Why cannot State or local resources fully support the costs of the required consultant services?

ii. Project Description. What tasks would the consultant be expected to perform and how would they be accomplished? Which organization or individual would be hired to provide the assistance and how was this consultant selected? If a consultant has not yet been identified, what procedures and criteria would be used to select the consultant? (Applicants are expected to follow their jurisdiction's normal procedures for procuring consultant services.) What is the time frame for completion of the technical assistance? How would the court oversee the project and provide guidance to the consultant, and who at the court would be responsible for coordinating all project tasks and submitting quarterly progress and financial status reports?

If the consultant has been identified, the applicant should provide a letter from that individual or organization documenting interest in and availability for the project, as well as the consultant's ability to complete the assignment within the proposed time period and for the proposed cost. The consultant must agree to submit a detailed written report to the court and

the Institute upon completion of the technical assistance.

iii. Likelihood of Implementation. What steps have been/will be taken to facilitate implementation of the consultant's recommendations upon completion of the technical assistance? For example, if the support or cooperation of specific court officials or committees, other agencies, funding bodies, organizations, or a court other than the applicant will be needed to adopt the changes recommended by the consultant and approved by the court, how will they be involved in the review of the recommendations and development of the implementation plan?

iv. Budget and Matching State Contribution. A completed Form E, ''Preliminary Budget'' (see Appendix V) and budget narrative must be included with the applicant's letter requesting technical assistance. The estimated cost of the technical assistance services should be broken down into the categories listed on the budget form rather than aggregated under the Consultant/Contractual category.

The budget narrative should provide the basis for all project-related costs, including the basis for determining the estimated consultant costs, if compensation of the consultant is required (e.g., number of days per task times the requested daily consultant rate). **Applicants should be aware that consultant rates above $300 per day must be approved in advance by the Institute, and that no consultant will be paid at a rate in excess of $900 per day.** In addition, the budget should provide for submission of two copies of the consultant's final report to the Institute.

Recipients of technical assistance grants do not have to submit an audit, but must maintain appropriate documentation to support expenditures. (See section X.M.)

v. Support for the Project from the State Supreme Court or its Designated Agency or Council. Written concurrence on the need for the technical assistance must be submitted. This concurrence may be a copy of SJI Form B (see Appendix VI) signed by the Chief Justice of the State Supreme Court or the Chief Justice's designee, or a letter from the State Chief Justice or designee. The concurrence may be submitted with the applicant's letter or under separate cover prior to consideration of the application. The concurrence also must specify whether the State Supreme Court would receive, administer, and account for the grant funds, if awarded, or would designate the local court or a specified agency or council to receive the funds directly.

Letters of application may be submitted at any time; however, all of the letters received during a calendar quarter will be considered at one time. Applicants submitting letters between *June 12 and September 30, 1998* will be notified of the Board's decision by **December 11, 1998**; those submitting letters between *October 1, 1998 and January 15, 1999* will be notified by **March 31, 1999**; notification of the Board's decisions concerning letters mailed between *January 16 and March 12, 1999,* will be made by **May 28, 1999**; notice of decisions regarding letters submitted between *March 13 and June 11, 1999* will be made by **August 31, 1999**. Subject to the availability of sufficient appropriations for fiscal year 2000, applicants submitting letters between *June 12 and September 30, 1999,* will be notified by **December 17, 1999**.

If the support or cooperation of agencies, funding bodies, organizations, or courts other than the applicant would be needed in order for the consultant to perform the required tasks, written assurances of such support or cooperation should accompany the application letter. Support letters also may be submitted under separate cover; however, to ensure that there is sufficient time to bring them to the attention of the Board's Technical Assistance Committee, letters sent under separate cover must be received not less than three weeks prior to the Board meeting at which the technical assistance requests will be considered (i.e., by October 30, 1998, and February 11, April 9, and July 16, 1999).

vi. Grantee Responsibilities. Technical Assistance grant recipients are subject to the same quarterly reporting requirements as other Institute grantees. At the conclusion of the grant period, a Technical Assistance grant recipient must complete a Technical Assistance Evaluation Form. The grantee also must submit to the Institute two copies of a final report that explains how it intends to act on the consultant's recommendations, as well as two copies of the consultant's written report.

III. Definitions

The following definitions apply for the purposes of this Guideline:

A. Institute

The State Justice Institute.

B. State Supreme Court

The highest appellate court in a State, or, for the purposes of the Institute program, a constitutionally or legislatively established judicial council that acts in place of that court. In States having more than one court with final appellate authority, State Supreme Court shall mean that court which also has administrative responsibility for the State's judicial system. State Supreme Court also includes the office of the court or council, if any, it designates to perform the functions described in this Guideline.

C. Designated Agency or Council

The office or judicial body which is authorized under State law or by delegation from the State Supreme Court to approve applications for funds and to receive, administer, and be accountable for those funds.

D. Grantee

The organization, entity, or individual to which an award of Institute funds is made. For a grant based on an application from a State or local court, grantee refers to the State Supreme Court or its designee.

E. Subgrantee

A State or local court which receives Institute funds through the State Supreme Court.

F. Match

The portion of project costs not borne by the Institute. Match includes both in-kind and cash contributions. Cash match is the direct outlay of funds by the grantee to support the project. In-kind match consists of contributions of time, services, space, supplies, etc., made to the project by the grantee or others (e.g., advisory board members) working directly on the project. Under normal circumstances, allowable match may be incurred only during the project period. When appropriate, and with the prior written permission of the Institute, match may be incurred from the date of the Board of Directors' approval of an award. Match does not include project-related income such as tuition or revenue from the sale of grant products, or the time of participants attending an education program. Amounts contributed as cash or in-kind match may not be recovered through the sale of grant products during or following the grant period.

G. Continuation Grant

A grant of no more than 24 months to permit completion of activities initiated under an existing Institute grant or enhancement of the products or services produced during the prior grant period.

H. On-going Support Grant

A grant of up to 36 months to support a project that is national in scope and that provides the State courts with

services, programs or products for which there is a continuing important need.

I. Human Subjects

Individuals who are participants in an experimental procedure or who are asked to provide information about themselves, their attitudes, feelings, opinions and/or experiences through an interview, questionnaire, or other data collection technique.

J. Curriculum

The materials needed to replicate an education or training program developed with grant funds including, but not limited to: the learning objectives; the presentation methods; a sample agenda or schedule; an outline of presentations and other instructors' notes; copies of overhead transparencies or other visual aids; exercises, case studies, hypotheticals, quizzes and other materials for involving the participants; background materials for participants; evaluation forms; and suggestions for replicating the program including possible faculty or the preferred qualifications or experience of those selected as faculty.

K. Products

Tangible materials resulting from funded projects including, but not limited to: curricula; monographs; reports; books; articles; manuals; handbooks; benchbooks; guidelines; videotapes; audiotapes; computer software; and CD–ROM disks.

IV. Eligibility for Award

In awarding funds to accomplish these objectives and purposes, the Institute has been authorized by Congress to award grants, cooperative agreements, and contracts to State and local courts and their agencies (42 U.S.C. 10705(b)(1)(A)); national nonprofit organizations controlled by, operating in conjunction with, and serving the judicial branches of State governments (42 U.S.C. 10705 (b)(1)(B)); and national nonprofit organizations for the education and training of judges and support personnel of the judicial branch of State governments (42 U.S.C. 10705(b)(1)(C)).

An applicant will be considered a national education and training applicant under section 10705(b)(1)(C) if: (1) the principal purpose or activity of the applicant is to provide education and training to State and local judges and court personnel; and (2) the applicant demonstrates a record of substantial experience in the field of judicial education and training.

The Institute also is authorized to make awards to other nonprofit organizations with expertise in judicial administration, institutions of higher education, individuals, partnerships, firms, corporations, and private agencies with expertise in judicial administration, provided that the objectives of the relevant program area(s) can be served better. In making this judgment, the Institute will consider the likely replicability of the projects' methodology and results in other jurisdictions. For-profit organizations are also eligible for grants and cooperative agreements; however, they must waive their fees.

The Institute may also make awards to Federal, State or local agencies and institutions other than courts for services that cannot be adequately provided through nongovernmental arrangements.

In addition, the Institute may enter into inter-agency agreements with other public or private funders to support projects consistent with the purpose of the State Justice Institute Act.

Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court or its designated agency or council. The latter shall receive all Institute funds awarded to such courts and be responsible for assuring proper administration of Institute funds, in accordance with section XI.B.2. of this Guideline. A list of persons to contact in each State regarding approval of applications from State and local courts and administration of Institute grants to those courts is contained in Appendix I.

V. Types of Projects and Grants; Size of Awards

A. Types of Projects

Except as expressly provided in section II.B.2.b. and II.C. above, the Institute has placed no limitation on the overall number of awards or the number of awards in each special interest category. The general types of projects are:

1. Education and training;
2. Research and evaluation;
3. Demonstration; and
4. Technical assistance.

B. Types of Grants

The Institute has established the following types of grants:

1. Project grants (See sections II.B., and C.1., VI., and VII.);
2. Continuation grants (See sections III.H. and IX.A.);
3. On-going Support grants (See sections III.I. and IX.B.);
4. Technical Assistance grants (See section II.C.2);
5. Curriculum Adaptation grants (See section II.B.2.b.ii.); and
6. Scholarships (See section II.B.2.b.iii).

C. Maximum Size of Awards

1. Except as specified below, applications for new project grants and applications for continuation grants may request funding in amounts up to $200,000, although new and continuation awards in excess of $150,000 are likely to be rare and to be made, if at all, only for highly promising proposals that will have a significant impact nationally.

2. Applications for on-going support grants may request funding in amounts up to $600,000 over three years, although awards in excess of $450,000 are likely to be rare. At the discretion of the Board, the funds for on-going support grants may be awarded either entirely from the Institute's appropriations for the fiscal year of the award or from the Institute's appropriations for successive fiscal years beginning with the fiscal year of the award. When funds to support the full amount of an on-going support grant are not awarded from the appropriations for the fiscal year of award, funds to support any subsequent years of the grant will be made available upon (1) the satisfactory performance of the project as reflected in the Quarterly Progress Reports required to be filed and grant monitoring; (2) the availability of appropriations for that fiscal year; and (3) a determination that the project continues to fall within the Institute's priorities.

3. Applications for technical assistance grants may request funding in amounts up to $30,000.

4. Applications for curriculum adaptation grants may request funding in amounts up to $20,000.

5. Applications for scholarships may request funding in amounts up to $1,500.

D. Length of Grant Periods

1. Grant periods for all new and continuation projects ordinarily will not exceed 15 months.

2. Grant periods for on-going support grants ordinarily will not exceed 36 months.

3. Grant periods for technical assistance grants and curriculum adaptation grants ordinarily will not exceed 12 months.

VI. Concept Paper Submission Requirements for New Projects

Concept papers are an extremely important part of the application process because they enable the

Institute to learn the program areas of primary interest to the courts and to explore innovative ideas, without imposing heavy burdens on prospective applicants. The use of concept papers also permits the Institute to better project the nature and amount of grant awards. The concept paper requirement and the submission deadlines for concept papers and applications may be waived by the Executive Director for good cause (e.g., the proposed project could provide a significant benefit to the State courts or the opportunity to conduct the project did not arise until after the deadline).

A. Format and Content

All concept papers must include a cover sheet, a program narrative, and a preliminary budget.

1. The Cover Sheet

The cover sheet for all concept papers must contain:

a. A title that clearly describes the proposed project;

b. The name and address of the court, organization, or individual submitting the paper;

c. The name, title, address (if different from that in b.), and telephone number of a contact person who can provide further information about the paper;

d. The letter of the Special Interest Category (see section II.B.2.) or the number of the statutory Program Area (see section II.A.) that the proposed project addresses most directly; and

e. The estimated length of the proposed project.

Applicants requesting the Board to waive the application requirement and approve a grant of less than $40,000 based on the concept paper, should add APPLICATION WAIVER REQUESTED to the information on the cover page.

2. The Program Narrative

The program narrative of a concept paper should be no longer than necessary, **but must not exceed eight (8) double-spaced pages on 8½ by 11 inch paper. Margins must be at least 1 inch and type size must be at least 12 point and 12 cpi.** The pages should be numbered. The narrative should describe:

a. Why is this project needed and how will it benefit State courts? If the project is to be conducted in a specific location(s), applicants should discuss the particular needs of the project site(s) to be addressed by the project, why those needs are not being met through the use of existing materials, programs, procedures, services, or other resources, and the benefits that would be realized by the proposed site(s).

If the project is not site-specific, applicants should discuss the problems that the proposed project will address, why existing materials, programs, procedures, services, or other resources do not adequately resolve those problems, and the benefits that would be realized from the project by State courts generally.

b. What will be done if a grant is awarded? Applicants should include a summary description of the project to be conducted and the approach to be taken, including the anticipated length of the grant period. Applicants requesting a waiver of the application requirement for a grant of less than $40,000 should explain the proposed methods for conducting the project as fully as space allows, and include a detailed task schedule as an attachment to the concept paper.

c. How will the effects and quality of the project be determined? Applicants should include a summary description of how the project will be evaluated, including the evaluation criteria.

d. How will others find out about the project and be able to use the results? Applicants should describe the products that will result, the degree to which they will be applicable to courts across the nation, and to whom the products and results of the project will be disseminated in addition to the SJI-designated libraries (e.g., State chief justices, specified groups of trial judges, State court administrators, specified groups of trial court administrators, State judicial educators, or other audiences).

3. The Budget

a. Preliminary budget. A preliminary budget must be attached to the narrative that includes the information specified on Form E included in Appendix VI of this Guideline. Applicants should be aware that prior written Institute approval is required for any consultant rate in excess of $300 per day, and that Institute funds may not be used to pay a consultant in excess of $900 per day.

b. Concept papers requesting accelerated award of a grant of less than $40,000. Applicants requesting a waiver of the application requirement and approval of a grant based on a concept paper under section VI.C., must attach to Form E (see Appendix VI) a budget narrative that explains the basis for each of the items listed, and indicates whether the costs would be paid from grant funds, through a matching contribution, or from other sources. Courts requesting an accelerated award must also attach a Certificate of State Approval (Form B) signed by the Chief Justice of the State Supreme Court or the Chief Justice s designee.

4. Letters of Cooperation or Support

The Institute encourages concept paper applicants to attach letters of cooperation and support from the courts and related agencies that will be involved in or directly affected by the proposed project. Letters of support also may be sent under separate cover. However, in order to ensure that there is sufficient time to bring them to the Board's attention, support letters sent under separate cover must be received no later than January 6, 1999.

5. Page Limits

a. The Institute will not accept concept papers with program narratives exceeding the limits set in sections VI.A.2. The page limit does not include the cover page, budget form, the budget narrative if required under section VI.A.3.b., the task schedule if required under section VI.A.2.b., and any letters of cooperation or endorsements. Additional material should not be attached unless it is essential to impart a clear understanding of the project.

b. Applicants submitting more than one concept paper may include material that would be identical in each concept paper in a cover letter, and incorporate that material by reference in each paper. The incorporated material will be counted against the eight-page limit for each paper. A copy of the cover letter should be attached to each copy of each concept paper.

6. Sample Concept Papers

Sample concept papers from previous funding cycles are available from the Institute upon request.

B. Selection Criteria

1. All concept papers will be evaluated on the basis of the following criteria:

a. The demonstration of need for the project;

b. The soundness and innovativeness of the approach described;

c. The benefits to be derived from the project;

d. The reasonableness of the proposed budget;

e. The proposed project's relationship to one of the ''Special Interest'' categories set forth in section II.B; and

f. The degree to which the findings, procedures, training, technology, or other results of the project can be transferred to other jurisdictions.

''Single jurisdiction'' concept papers submitted pursuant to section II.C. will be rated on the proposed project's relation to one of the ''Special Interest''

categories set forth in section II.B., and on the special requirements listed in section II.C.1.

2. In determining which concept papers will be approved for award or selected for development into full applications, the Institute will also consider the availability of financial assistance from other sources for the project; the amount and nature (cash or in-kind) of the applicant's anticipated match; whether the applicant is a State court, a national court support or education organization, a non-court unit of government, or another type of entity eligible to receive grants under the Institute's enabling legislation (see 42 U.S.C. 10705(b), as amended and section IV above); the extent to which the proposed project would also benefit the Federal courts or help the State courts enforce Federal constitutional and legislative requirements, and the level of appropriations available to the Institute in the current year and the amount expected to be available in succeeding fiscal years.

C. Review Process

Concept papers will be reviewed competitively by the Board of Directors. Institute staff will prepare a narrative summary and a rating sheet assigning points for each relevant selection criterion for those concept papers which fall within the scope of the Institute's funding program and merit serious consideration by the Board. Staff will also prepare a list of those papers that, in the judgment of the Executive Director, propose projects that lie outside the scope of the Institute's funding program or are not likely to merit serious consideration by the Board. The narrative summaries, rating sheets, and list of non-reviewed papers will be presented to the Board for its review. Committees of the Board will review concept paper summaries within assigned program areas and prepare recommendations for the full Board. The full Board of Directors will then decide which concept paper applicants should be invited to submit formal applications for funding. The decision to invite an application is solely that of the Board of Directors.

The Board may waive the application requirement and approve a grant based on a concept paper for a project requiring less than $40,000, when the need for and benefits of the project are clear, and the methodology and budget require little additional explanation. Applicants considering whether to request consideration for an accelerated award should make certain that the proposed budget is sufficient to accomplish the project objectives in a quality manner. Because the Institute's experience has been that projects to conduct empirical research or a program evaluation ordinarily require a more thorough explanation of the methodology to be used than can be provided within the space limitations of a concept paper, the Board is unlikely to waive the application requirement for such projects.

D. Submission Requirements

Except as noted below, an original and three copies of all concept papers submitted for consideration in Fiscal Year 1999 must be sent by first class or overnight mail or by courier (but not by fax or e-mail) no later than November 24, 1998.

A postmark or courier receipt will constitute evidence of the submission date. All envelopes containing concept papers should be marked CONCEPT PAPER and should be sent to: **State Justice Institute, 1650 King Street, Suite 600, Alexandria, Virginia 22314.**

The Institute will send written notice to all persons submitting concept papers, informing them of the Board's decisions regarding their papers and of the key issues and questions that arose during the review process. A decision by the Board not to invite an application may not be appealed, but applicants may resubmit the concept paper or a revision thereof in a subsequent round of funding. The Institute will also notify the designated State contact listed in Appendix I when the Board invites applications that are based on concept papers which are submitted by courts within their State or which specify a participating site within their State.

Receipt of each concept paper will be acknowledged in writing. Extensions of the deadline for submission of concept papers will not be granted.

VII. Application Requirements for New Projects

An application for Institute funding support must include an application form; budget forms (with appropriate documentation); a project abstract and program narrative; a disclosure of lobbying form, when applicable; and certain certifications and assurances. The required application forms will be sent to applicants invited to submit a full application. Applicants may photocopy the forms to make completion easier.

A. Forms

1. Application Form (FORM A)

The application form requests basic information regarding the proposed project, the applicant, and the total amount of funding support requested from the Institute. It also requires the signature of an individual authorized to certify on behalf of the applicant that the information contained in the application is true and complete, that submission of the application has been authorized by the applicant, and that if funding for the proposed project is approved, the applicant will comply with the requirements and conditions of the award, including the assurances set forth in Form D.

2. Certificate of State Approval (FORM B)

An application from a State or local court must include a copy of FORM B signed by the State's Chief Justice or Chief Judge, the director of the designated agency, or the head of the designated council. The signature denotes that the proposed project has been approved by the State's highest court or the agency or council it has designated. It denotes further that if funding for the project is approved by the Institute, the court or the specified designee will receive, administer, and be accountable for the awarded funds.

3. Budget Forms (FORM C or C1)

Applicants may submit the proposed project budget either in the tabular format of FORM C or in the spreadsheet format of FORM C1. Applicants requesting $100,000 or more are strongly encouraged to use the spreadsheet format. If the proposed project period is for more than a year, a separate form should be submitted for each year or portion of a year for which grant support is requested, as well as for the total length of the project.

In addition to FORM C or C1, applicants must provide a detailed budget narrative providing an explanation of the basis for the estimates in each budget category. (See section VII.D.)

If funds from other sources are required to conduct the project, either as match or to support other aspects of the project, the source, current status of the request, and anticipated decision date must be provided.

4. Assurances (FORM D)

This form lists the statutory, regulatory, and policy requirements and conditions with which recipients of Institute funds must comply.

5. Disclosure of Lobbying Activities

This form requires applicants other than units of State or local government to disclose whether they, or another entity that is part of the same organization as the applicant, have

advocated a position before Congress on any issue, and to identify the specific subjects of their lobbying efforts. (See section X.D.)

B. Project Abstract

The abstract should highlight the purposes, goals, methods and anticipated benefits of the proposed project. It should not exceed 1 single-spaced page on 8½ by 11 inch paper.

C. Program Narrative

The program narrative for an application should not exceed 25 double-spaced pages on 8½ by 11 inch paper. Margins must be at least 1 inch, and type size must be at least 12-point and 12 cpi. The pages should be numbered. This page limit does not include the forms, the abstract, the budget narrative, and any appendices containing resumes and letters of cooperation or endorsement. Additional background material should be attached only if it is essential to impart a clear understanding of the proposed project. Numerous and lengthy appendices are strongly discouraged.

The program narrative should address the following topics:

1. Project Objectives

The applicant should include a clear, concise statement of what the proposed project is intended to accomplish. In stating the objectives of the project, applicants should focus on the overall programmatic objective (e.g., to enhance understanding and skills regarding a specific subject, or to determine how a certain procedure affects the court and litigants) rather than on operational objectives (e.g., provide training for 32 judges and court managers, or review data from 300 cases).

2. Program Areas To Be Covered

The applicant should list the Special Interest Category or Categories that are addressed by the proposed project (see section II.B.). If the proposed project does not fall within one of the Institute's Special Interest Categories, the applicant should list the Statutory Program Area or Areas that are addressed by the proposed project. (See section II.A.)

3. Need for the Project

If the project is to be conducted in a specific location(s), the applicant should discuss the particular needs of the project site(s) to be addressed by the project and why those needs are not being met through the use of existing materials, programs, procedures, services, or other resources.

If the project is not site-specific, the applicant should discuss the problems that the proposed project would address, and why existing materials, programs, procedures, services, or other resources do not adequately resolve those problems. The discussion should include specific references to the relevant literature and to the experience in the field.

4. Tasks, Methods and Evaluation

a. Tasks and methods. The applicant should delineate the tasks to be performed in achieving the project objectives and the methods to be used for accomplishing each task. For example:

i. For research and evaluation projects, the applicant should include the data sources, data collection strategies, variables to be examined, and analytic procedures to be used for conducting the research or evaluation and ensuring the validity and general applicability of the results. For projects involving human subjects, the discussion of methods should address the procedures for obtaining respondents' informed consent, ensuring the respondents' privacy and freedom from risk or harm, and the protection of others who are not the subjects of research but would be affected by the research. If the potential exists for risk or harm to the human subjects, a discussion should be included that explains the value of the proposed research and the methods to be used to minimize or eliminate such risk.

ii. For education and training projects, the applicant should include the adult education techniques to be used in designing and presenting the program, including the teaching/learning objectives of the educational design, the teaching methods to be used, and the opportunities for structured interaction among the participants; how faculty will be recruited, selected, and trained; the proposed number and length of the conferences, courses, seminars, or workshops to be conducted and the estimated number of persons who will attend them; the materials to be provided and how they will be developed; and the cost to participants.

iii. For demonstration projects, the applicant should include the demonstration sites and the reasons they were selected, or if the sites have not been chosen, how they will be identified and their cooperation obtained; and how the program or procedures will be implemented and monitored.

iv. For technical assistance projects, the applicant should explain the types of assistance that will be provided; the particular issues and problems for which assistance will be provided; how requests will be obtained and the type of assistance determined; how suitable providers will be selected and briefed; how reports will be reviewed; and the cost to recipients.

b. Evaluation. Every project design must include an evaluation plan to determine whether the project met its objectives. The evaluation should be designed to provide an objective and independent assessment of the effectiveness or usefulness of the training or services provided; the impact of the procedures, technology, or services tested; or the validity and applicability of the research conducted. In addition, where appropriate, the evaluation process should be designed to provide on-going or periodic feedback on the effectiveness or utility of particular programs, educational offerings, or achievements which can then be further refined as a result of the evaluation process. The plan should present the qualifications of the evaluator(s); describe the criteria, related to the project's programmatic objectives, that will be used to evaluate the project's effectiveness; explain how the evaluation will be conducted, including the specific data collection and analysis techniques to be used; discuss why this approach is appropriate; and present a schedule for completion of the evaluation within the proposed project period.

The evaluation plan should be appropriate to the type of project proposed. For example:

i. Research. An evaluation approach suited to many research projects is a review by an advisory panel of the research methodology, data collection instruments, preliminary analyses, and products as they are drafted. The panel should be comprised of independent researchers and practitioners representing the perspectives affected by the proposed project.

ii. Education and Training. The most valuable approaches to evaluating educational or training programs will serve to reinforce the participants' learning experience while providing useful feedback on the impact of the program and possible areas for improvement. One appropriate evaluation approach is to assess the acquisition of new knowledge, skills, attitudes or understanding through participant feedback on the seminar or training event. Such feedback might include a self-assessment on what was learned along with the participant's response to the quality and effectiveness of faculty presentations, the format of

sessions, the value or usefulness of the material presented, and other relevant factors. Another appropriate approach would be to use an independent observer who might request both verbal and written responses from participants in the program. When an education project involves the development of curricular materials, an advisory panel of relevant experts can be coupled with a test of the curriculum to obtain the reactions of participants and faculty as indicated above.

iii. Demonstration. The evaluation plan for a demonstration project should encompass an assessment of program effectiveness (e.g., How well did it work?); user satisfaction, if appropriate; the cost-effectiveness of the program; a process analysis of the program (e.g., Was the program implemented as designed? Did it provide the services intended to the targeted population?); the impact of the program (e.g., What effect did the program have on the court? What benefits resulted from the program?); and the replicability of the program or components of the program.

iv. Technical Assistance. For technical assistance projects, applicants should explain how the quality, timeliness, and impact of the assistance provided will be determined, and should develop a mechanism for feedback from both the users and providers of the technical assistance.

v. Evaluation plans involving human subjects should include a discussion of the procedures for obtaining respondents' informed consent, ensuring the respondents' privacy and freedom from risk or harm, and the protection of others who are not the subjects of evaluation but would be affected by it. Other than the provision of confidentiality to respondents, human subject protection issues ordinarily are not applicable to participants evaluating an education program.

5. Project Management

The applicant should present a detailed management plan including the starting and completion date for each task; the time commitments to the project of key staff and their responsibilities regarding each project task; and the procedures that will be used to ensure that all tasks are performed on time, within budget, and at the highest level of quality. In preparing the project time line, Gantt Chart, or schedule, applicants should make certain that all project activities, including publication or reproduction of project products and their initial dissemination will occur within the proposed project period. The management plan must also provide for the submission of Quarterly Progress and Financial Reports within 30 days after the close of each calendar quarter (i.e., no later than January 30, April 30, July 30, and October 30).

Applicants should be aware that the Institute is unlikely to approve more than one limited extension of the grant period. Therefore, the management plan should be as realistic as possible and fully reflect the time commitments of the proposed project staff and consultants.

6. Products

The application should contain a description of the products to be developed by the project (e.g., training curricula and materials, videotapes, articles, manuals, or handbooks), including when they will be submitted to the Institute.

a. Dissemination Plan. The application must explain how and to whom the products will be disseminated; describe how they will benefit the State courts, including how they can be used by judges and court personnel; identify development, production, and dissemination costs covered by the project budget; and present the basis on which products and services developed or provided under the grant will be offered to the courts community and the public at large (i.e., whether products will be distributed at no cost to recipients, or if costs are involved, the reason for charging recipients and the estimated price of the product). (See section X.V.) Ordinarily, applicants should schedule all product preparation and distribution activities within the project period.

A copy of each product must be sent to the library established in each State to collect the materials developed with Institute support. (A list of these libraries is contained in Appendix II.) To facilitate their use, all videotaped products should be distributed in VHS format.

Twenty copies of all project products must be submitted to the Institute. A master copy of each videotape, in addition to 20 copies of each videotape product, must also be provided to the Institute.

b. Types of products, abstracts, and press releases. The type of product to be prepared depends on the nature of the project. For example, in most instances, the products of a research, evaluation, or demonstration project should include an article summarizing the project findings that is publishable in a journal serving the courts community nationally, an executive summary that will be disseminated to the project's primary audience, or both. Applicants proposing to conduct empirical research or evaluation projects with national import should describe how they will make their data available for secondary analysis after the grant period. (See section X.W.)

The curricula and other products developed by education and training projects should be designed for use outside the classroom so that they may be used again by original participants and others in the course of their duties.

However, all grantees must submit a diskette containing a one-page abstract summarizing the products resulting from a project in Word or ASCII for posting on the Institutes website. In addition, recipients of project grants must prepare a press release describing the project and announcing the results and distribute the release to a list of national and State judicial branch organizations. Both the format for the abstract and a list of press release recipients will be provided to grantees at least 30 days before the end of the grant period.

c. Institute review. Applicants must provide for submitting a final draft of all written grant products to the Institute for review and approval at least 30 days before the products are submitted for publication or reproduction. For products in a videotape or CD–ROM format, applicants must provide for incremental Institute review of the product at the treatment, script, rough-cut, and final stages of development, or their equivalents. 1No grant funds may be obligated for publication or reproduction of a final grant product without the written approval of the Institute.

d. Acknowledgment, disclaimer, and logo. Applicants must also provide for including in all project products a prominent acknowledgment that support was received from the Institute and a disclaimer paragraph based on the example provided in section X.Q. of the Guideline. The ''SJI'' logo must appear on the front cover of a written product, or in the opening frames of a video product, unless the Institute approves another placement.

7. Applicant Status

An applicant that is not a State or local court and has not received a grant from the Institute within the past two years should state whether it is either a national non-profit organization controlled by, operating in conjunction with, and serving the judicial branches of State governments; or a national non-profit organization for the education and training of State court judges and support personnel. See section IV. If the applicant is a nonjudicial unit of

Federal, State, or local government, it must explain whether the proposed services could be adequately provided by non-governmental entities.

8. Staff Capability

The applicant should include a summary of the training and experience of the key staff members and consultants that qualify them for conducting and managing the proposed project. Resumes of identified staff should be attached to the application. If one or more key staff members and consultants are not known at the time of the application, a description of the criteria that will be used to select persons for these positions should be included. The applicant also should identify the person who would be responsible for the financial management and financial reporting for the proposed project.

9. Organizational Capacity

Applicants that have not received a grant from the Institute within the past two years should include a statement describing the capacity of the applicant to administer grant funds including the financial systems used to monitor project expenditures (and income, if any), and a summary of the applicant's past experience in administering grants, as well as any resources or capabilities that the applicant has that will particularly assist in the successful completion of the project.

Unless requested otherwise, an applicant that has received a grant from the Institute within the past two years should describe only the changes in its organizational capacity, tax status, or financial capability that may affect its capacity to administer a grant.

If the applicant is a non-profit organization (other than a university), it must also provide documentation of its 501(c) tax exempt status as determined by the Internal Revenue Service and a copy of a current certified audit report. For purposes of this requirement, ''current'' means no earlier than two years prior to the current calendar year.

If a current audit report is not available, the Institute will require the organization to complete a financial capability questionnaire which must be signed by a Certified Public Accountant. Other applicants may be required to provide a current audit report, a financial capability questionnaire, or both, if specifically requested to do so by the Institute.

10. Statement of Lobbying Activities

Non-governmental applicants must submit the Institute's Disclosure of Lobbying Activities Form that requires them to state whether they, or another entity that is a part of the same organization as the applicant, have advocated a position before Congress on any issue, and identifies the specific subjects of their lobbying efforts.

11. Letters of Cooperation or Support

If the cooperation of courts, organizations, agencies, or individuals other than the applicant is required to conduct the project, the applicant should attach written assurances of cooperation and availability to the application, or send them under separate cover. In order to ensure that there is sufficient time to bring them to the Board's attention, letters of support sent under separate cover must be received no more than 30 days after the deadline for mailing the application.

D. Budget Narrative

The budget narrative should provide the basis for the computation of all project-related costs. When the proposed project would be partially supported by grants from other funding sources, applicants should make clear what costs would be covered by those other grants. Additional background or schedules may be attached if they are essential to obtaining a clear understanding of the proposed budget. Numerous and lengthy appendices are strongly discouraged.

The budget narrative should cover the costs of all components of the project and clearly identify costs attributable to the project evaluation. Under OMB grant guidelines incorporated by reference in this Guideline, grant funds may not be used to purchase alcoholic beverages.

1. Justification of Personnel Compensation

The applicant should set forth the percentages of time to be devoted by the individuals who will serve as the staff of the proposed project, the annual salary of each of those persons, and the number of work days per year used for calculating the percentages of time or daily rate of those individuals. The applicant should explain any deviations from current rates or established written organization policies. If grant funds are requested to pay the salary and related costs for a current employee of a court or other unit of government, the applicant should explain why this would not constitute a supplantation of State or local funds in violation of 42 U.S.C. 10706(d)(1). An acceptable explanation may be that the position to be filled is a new one established in conjunction with the project or that the grant funds will be supporting only the portion of the employee's time that will be dedicated to new or additional duties related to the project.

2. Fringe Benefit Computation

The applicant should provide a description of the fringe benefits provided to employees. If percentages are used, the authority for such use should be presented as well as a description of the elements included in the determination of the percentage rate.

3. Consultant/Contractual Services and Honoraria

The applicant should describe the tasks each consultant will perform, the estimated total amount to be paid to each consultant, the basis for compensation rates (e.g., number of days × the daily consultant rates), and the method for selection. Rates for consultant services must be set in accordance with section XI.H.2.c. Honorarium payments must be justified in the same manner as other consultant payments. Prior written Institute approval is required for any consultant rate in excess of $300 per day; Institute funds may not be used to pay a consultant at a rate in excess of $900 per day.

4. Travel

Transportation costs and per diem rates must comply with the policies of the applicant organization. If the applicant does not have an established travel policy, then travel rates must be consistent with those established by the Institute or the Federal Government. (A copy of the Institute's travel policy is available upon request.) The budget narrative should include an explanation of the rate used, including the components of the per diem rate and the basis for the estimated transportation expenses. The purpose of the travel should also be included in the narrative.

5. Equipment

Grant funds may be used to purchase only the equipment that is necessary to demonstrate a new technological application in a court, or that is otherwise essential to accomplishing the objectives of the project. Equipment purchases to support basic court operations ordinarily will not be approved. The applicant should describe the equipment to be purchased or leased and explain why the acquisition of that equipment is essential to accomplish the project's goals and objectives. The narrative should clearly identify which equipment is to be leased and which is to be purchased. The method of procurement should also be described.

Purchases for automatic data processing equipment must comply with section XI.H.2.b.

6. Supplies

The applicant should provide a general description of the supplies necessary to accomplish the goals and objectives of the grant. In addition, the applicant should provide the basis for the amount requested for this expenditure category.

7. Construction

Construction expenses are prohibited except for the limited purposes set forth in section X.H.2. Any allowable construction or renovation expense should be described in detail in the budget narrative.

8. Telephone

Applicants should include anticipated telephone charges, distinguishing between monthly charges and long distance charges in the budget narrative. Also, applicants should provide the basis used in developing the monthly and long distance estimates.

9. Postage

Anticipated postage costs for project-related mailings should be described in the budget narrative. The cost of special mailings, such as for a survey or for announcing a workshop, should be distinguished from routine operational mailing costs. The bases for all postage estimates should be included in the justification material.

10. Printing/Photocopying

Anticipated costs for printing or photocopying should be included in the budget narrative. Applicants should provide the details underlying these estimates in support of the request.

11. Indirect Costs

Applicants should describe the indirect cost rates applicable to the grant in detail. If costs often included within an indirect cost rate are charged directly (e.g., a percentage of the time of senior managers to supervise product activities), the applicant should specify that these costs are not included within their approved indirect cost rate. These rates must be established in accordance with section XI.H.4. If the applicant has an indirect cost rate or allocation plan approved by any Federal granting agency, a copy of the approved rate agreement should be attached to the application.

12. Match

The applicant should describe the source of any matching contribution and the nature of the match provided. Any additional contributions to the project should be described in this section of the budget narrative as well. If in-kind match is to be provided, the applicant should describe how the amount and value of the time, services, or materials actually contributed will be documented sufficiently clearly to permit them to be included in an audit of the grant. Applicants should be aware that the time spent by participants in education courses does not qualify as in-kind match.

Applicants that do not contemplate making matching contributions continuously throughout the course of the project or on a task-by-task basis must provide a schedule within 30 days after the beginning of the project period indicating at what points during the project period the matching contributions will be made. (See sections III.F., VIII.B., X.B. and XI.D.1.)

E. Submission Requirements

1. Every applicant must submit an original and four copies of the application package consisting of FORM A; FORM B, if the application is from a State or local court, or a Disclosure of Lobbying Form, if the applicant is not a unit of State or local government; the Budget Forms (either FORM C or C–1), the Application Abstract, Program Narrative, Budget Narrative, and any necessary appendices.

All invited must be sent by first class or overnight mail or by courier, no later than May 12, 1999. A postmark or courier receipt will constitute evidence of the submission date. Please mark APPLICATION on all application package envelopes and send to: **State Justice Institute 1650 King Street, Suite 600, Alexandria, VA 22314.**

Receipt of each proposal will be acknowledged in writing. Extensions of the deadline for submission of applications will not be granted. See section VII.C.11. for receipt deadlines for letters of support.

2. Applicants submitting more than one application may include material that would be identical in each application in a cover letter, and incorporate that material by reference in each application. The incorporated material will be counted against the 25-page limit for the program narrative. A copy of the cover letter should be attached to each copy of each application.

VIII. Application Review Procedures

A. Preliminary Inquiries

The Institute staff will answer inquiries concerning application procedures. The staff contact will be named in the Institute's letter acknowledging receipt of the application.

B. Selection Criteria

1. All applications will be rated on the basis of the criteria set forth below.

The Institute will accord the greatest weight to the following criteria:

a. The soundness of the methodology;

b. The demonstration of need for the project;

c. The appropriateness of the proposed evaluation design;

d. The applicant's management plan and organizational capabilities;

e. The qualifications of the project's staff;

f. The products and benefits resulting from the project including the extent to which the project will have long-term benefits for State courts across the nation;

g. The degree to which the findings, procedures, training, technology, or other results of the project can be transferred to other jurisdictions.

h. The reasonableness of the proposed budget;

i. The demonstration of cooperation and support of other agencies that may be affected by the project; and

j. The proposed project's relationship to one of the ''Special Interest'' categories set forth in section II.B.

2. In determining which applicants to fund, the Institute will also consider whether the applicant is a State court, a national court support or education organization, a non-court unit of government, or other type of entity eligible to receive grants under the Institute's enabling legislation (see 42 U.S.C. 10705(6) (as amended) and Section IV above); the availability of financial assistance from other sources for the project; the amount and nature (cash or in-kind) of the applicant's match; the extent to which the proposed project would also benefit the Federal courts or help State courts enforce Federal constitutional and legislative requirements; and the level of appropriations available to the Institute in the current year and the amount expected to be available in succeeding fiscal years.

C. Review and Approval Process

Applications will be reviewed competitively by the Board of Directors. The Institute staff will prepare a narrative summary of each application, and a rating sheet assigning points for each relevant selection criterion. When necessary, applications may also be reviewed by outside experts. Committees of the Board will review

applications within assigned program categories and prepare recommendations to the full Board. The full Board of Directors will then decide which applications to approve for a grant. The decision to award a grant is solely that of the Board of Directors.

Awards approved by the Board will be signed by the Chairman of the Board on behalf of the Institute.

D. Return Policy

Unless a specific request is made, unsuccessful applications will not be returned. Applicants are advised that Institute records are subject to the provisions of the Federal Freedom of Information Act, 5 U.S.C. 552.

E. Notification of Board Decision

The Institute will send written notice to applicants concerning all Board decisions to approve, defer, or deny their respective applications and the key issues and questions that arose during the review process. A decision by the Board to deny an application may not be appealed, but does not prohibit resubmission of a proposal based on that application in a subsequent round of funding. The Institute will also notify the designated State contact listed in Appendix I when grants are approved by the Board to support projects that will be conducted by or involve courts in their State.

F. Response to Notification of Approval

Applicants have 30 days from the date of the letter notifying them that the Board has approved their application to respond to any revisions requested by the Board. If the requested revisions (or a reasonable schedule for submitting such revisions) have not been submitted to the Institute within 30 days after notification, the approval may be automatically rescinded and the application presented to the Board for reconsideration.

IX. Renewal Funding Procedures and Requirements

The Institute recognizes two types of renewal funding as described below—''continuation grants'' and ''on-going support grants.'' The award of an initial grant to support a project does not constitute a commitment by the Institute to renew funding. The Board of Directors anticipates allocating no more than 25% of available FY 1999 grant funds for renewal grants.

A. Continuation Grants

1. Purpose and Scope

Continuation grants are intended to support projects with a limited duration that involve the same type of activities as the previous project. They are intended to enhance the specific program or service produced or established during the prior grant period. They may be used, for example, when a project is divided into two or more sequential phases, for secondary analysis of data obtained in an Institute-supported research project, or for more extensive testing of an innovative technology, procedure, or program developed with SJI grant support.

In order for a project to be considered for continuation funding, the grantee must have completed the project tasks and met all grant requirements and conditions in a timely manner, absent extenuating circumstances or prior Institute approval of changes to the project design. Continuation grants are not intended to provide support for a project for which the grantee has underestimated the amount of time or funds needed to accomplish the project tasks.

2. Application Procedures—Letters of Intent

In lieu of a concept paper, a grantee seeking a continuation grant must inform the Institute, by letter, of its intent to submit an application for such funding as soon as the need for renewal funding becomes apparent but **no less than 120 days** before the end of the current grant period.

a. A letter of intent must be no more than 3 single-spaced pages on 8½ by 11 inch paper and must contain a concise but thorough explanation of the need for continuation; an estimate of the funds to be requested; and a brief description of anticipated changes in the scope, focus, or audience of the project.

b. Within 30 days after receiving a letter of intent, Institute staff will review the proposed activities for the next project period and inform the grantee of specific issues to be addressed in the continuation application and the date by which the application for a continuation grant must be submitted.

3. Application Format

An application for a continuation grant must include an application form, budget forms (with appropriate documentation), a project abstract conforming to the format set forth in section VII.B., a program narrative, a budget narrative, a Certificate of State Approval (FORM B) if the applicant is a State or local court, a disclosure of lobbying form (from applicants other than units of State or local government), and any necessary appendices.

The program narrative should conform to the length and format requirements set forth in section VII.C. However, rather than the topics listed in section VII.C., the program narrative of an application for a continuation grant should include:

a. Project objectives. The applicant should clearly and concisely state what the continuation project is intended to accomplish.

b. Need for continuation. The applicant should explain why continuation of the project is necessary to achieve the goals of the project, and how the continuation will benefit the participating courts or the courts community generally. That is, to what extent will the original goals and objectives of the project be unfulfilled if the project is not continued, and conversely, how will the findings or results of the project be enhanced by continuing the project?

c. Report of current project activities. The applicant should discuss the status of all activities conducted during the previous project period. Applicants should identify any activities that were not completed, and explain why.

d. Evaluation findings. The applicant should present the key findings, impact, or recommendations resulting from the evaluation of the project, if they are available, and how they will be addressed during the proposed continuation. If the findings are not yet available, applicants should provide the date by which they will be submitted to the Institute. **Ordinarily, the Board will not consider an application for continuation funding until the Institute has received the evaluator's report.**

e. Tasks, methods, staff and grantee capability. The applicant should fully describe any changes in the tasks to be performed, the methods to be used, the products of the project, and how and to whom those products will be disseminated, as well as any changes in the assigned staff or the grantee's organizational capacity. Applicants should include, in addition, the criteria and methods by which the proposed continuation project would be evaluated.

f. Task schedule. The applicant should present a detailed task schedule and timeline for the next project period.

g. Other sources of support. The applicant should indicate why other sources of support are inadequate, inappropriate or unavailable.

4. Budget and Budget Narrative

The applicant should provide a complete budget and budget narrative conforming to the requirements set forth in paragraph VII.D. Changes in the funding level requested should be discussed in terms of corresponding increases or decreases in the scope of

activities or services to be rendered. In addition, the applicant should estimate the amount of grant funds that will remain unobligated at the end of the current grant period.

5. References to Previously Submitted Material

An application for a continuation grant should not repeat information contained in a previously approved application or other previously submitted materials, but should provide specific references to such materials where appropriate.

6. Submission Requirements, Review and Approval Process, and Notification of Decision

The submission requirements set forth in section VII.E., other than the deadline for mailing, apply to applications for a continuation grant. Such applications will be rated on the selection criteria set forth in section VIII.B. The key findings and recommendations resulting from an evaluation of the project and the proposed response to those findings and recommendations will also be considered. The review and approval process, return policy, and notification procedures are the same as those for new projects set forth in sections VIII.C.–VIII.E.

B. On-going Support Grants

1. Purpose and Scope

On-going support grants are intended to support projects that are national in scope and that provide the State courts with services, programs or products for which there is a continuing critical need. An on-going support grant may also be used to fund longitudinal research that directly benefits the State courts. On-going support grants are subject to the limits on size and duration set forth in V.C.2. and V.D.2. The Board will consider awarding an on-going support grant for a period of up to 36 months. The total amount of the grant will be fixed at the time of the initial award. Funds ordinarily will be made available in annual increments as specified in section V.C.2.

A project is eligible for consideration for an on-going support grant if:

a. The project is supported by and has been evaluated under a grant from the Institute;

b. The project is national in scope and provides a significant benefit to the State courts;

c. There is a continuing critical need for the services, programs or products provided by the project as indicated by the level of use and support by members of the court community;

d. The project is accomplishing its objectives in an effective and efficient manner; and

e. It is likely that the service or program provided by the project would be curtailed or significantly reduced without Institute support.

Each project supported by an on-going support grant must include an evaluation component assessing its effectiveness and operation throughout the grant period. The evaluation should be independent, but may be designed collaboratively by the evaluator and the grantee. The design should call for regular feedback from the evaluator to the grantee throughout the project period concerning recommendations for mid-course corrections or improvement of the project, as well as periodic reports to the Institute at relevant points in the project.

An interim evaluation report must be submitted 18 months into the grant period. The decision to obligate Institute funds to support the third year of the project will be based on the interim evaluation findings and the applicant's response to any deficiencies noted in the report.

A final evaluation assessing the effectiveness, operation of, and continuing need for the project must be submitted 90 days before the end of the 3-year project period. In addition, a detailed annual task schedule must be submitted not later than 45 days before the end of the first and second years of the grant period, along with an explanation of any necessary revisions in the projected costs for the remainder of the project period. (See also section IX.B.3.h.)

2. Letters of Intent

In lieu of a concept paper, a grantee seeking an on-going support grant must inform the Institute, by letter, of its intent to submit an application for such funding as soon as the need for renewal funding becomes apparent but no less than 120 days before the end of the current grant period. The letter of intent should be in the same format as that prescribed for continuation grants in section IX.A.2.a.

3. Format

An application for an on-going support grant must include an application form, budget forms (with appropriate documentation), a Certificate of State Approval (FORM B) if the applicant is a State or local court, a disclosure of lobbying form (from applicants other than units of State or local government), a project abstract conforming to the format set forth in section VII.B., a program narrative, a budget narrative, and any necessary appendices.

The program narrative should conform to the length and format requirements set forth in section VII.C. However, rather than the topics listed in section VII.C., the program narrative of applications for on-going support grants should address:

a. Description of need for and benefits of the project. The applicant should provide a detailed discussion of the benefits provided by the project to the State courts around the country, including the degree to which State courts, State court judges, or State court managers and personnel are using the services or programs provided by the project.

b. Demonstration of court support. The applicant should demonstrate support for the continuation of the project from the courts community.

c. Report on current project activities. The applicant should discuss the extent to which the project has met its goals and objectives, identify any activities that have not been completed, and explain why.

d. Evaluation findings. The applicant should attach a copy of the final evaluation report regarding the effectiveness, impact, and operation of the project, specify the key findings or recommendations resulting from the evaluation, and explain how they will be addressed during the proposed renewal period. Ordinarily, the Board will not consider an application for on-going support until the Institute has received the evaluator's report.

e. Objectives, tasks, methods, staff and grantee capability. The applicant should describe fully any changes in the objectives; tasks to be performed; the methods to be used; the products of the project; how and to whom those products will be disseminated; the assigned staff; and the grantee's organizational capacity. The grantee also should describe the steps it will take to obtain support from other sources for the continued operation of the project.

f. Task schedule. The applicant should present a general schedule for the full proposed project period and a detailed task schedule for the first year of the proposed new project period.

g. Other sources of support. The applicant should describe what efforts it has taken to secure support for the project from other sources and discuss why other sources of support are inadequate, inappropriate, or unavailable.

4. Budget and Budget Narrative

The applicant should provide a complete three-year budget and budget narrative conforming to the requirements set forth in paragraph VII.D., and estimate the amount of grant funds that will remain unobligated at the end of the current grant period. Changes in the funding level requested should be discussed in terms of corresponding increases or decreases in the scope of activities or services to be rendered. A complete budget narrative should be provided for the full project as well as for each year, or portion of a year, for which grant support is requested. Changes in the funding level requested should be discussed in terms of corresponding increases or decreases in the scope of activities or services to be rendered. The budget should provide for realistic cost-of-living and staff salary increases over the course of the requested project period. Applicants should be aware that the Institute is unlikely to approve a supplemental budget increase for an on-going support grant in the absence of well-documented, unanticipated factors that clearly justify the requested increase.

5. References to Previously Submitted Material

An application for an on-going support grant should not repeat information contained in a previously approved application or other previously submitted materials, but should provide specific references to such materials where appropriate.

6. Submission Requirements, Review and Approval Process, and Notification of Decision

The submission requirements set forth in section VII.E., other than the deadline for mailing, apply to applications for an on-going support grant. Such applications will be rated on the selection criteria set forth in section VIII.B. The key findings and recommendations resulting from an evaluation of the project and the proposed response to those findings and recommendations will also be considered. The review and approval process, return policy, and notification procedures are the same as those for new projects set forth in sections VIII.C.–VIII.E.

X. Compliance Requirements

The State Justice Institute Act contains limitations and conditions on grants, contracts and cooperative agreements of which applicants and recipients should be aware. In addition to eligibility requirements which must be met to be considered for an award from the Institute, all applicants should be aware of and all recipients will be responsible for ensuring compliance with the following:

A. State and Local Court Systems

Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council. The Supreme Court or its designee shall receive, administer, and be accountable for all funds awarded on the basis of such an application. 42 U.S.C. 10705(b)(4). Appendix I to this Guideline lists the person to contact in each State regarding the administration of Institute grants to State and local courts.

B. Matching Requirements

1. All awards to courts or other units of State or local government (not including publicly supported institutions of higher education) require a match from private or public sources of not less than 50% of the total amount of the Institute's award. For example, if the total cost of a project is anticipated to be $150,000, a State court or executive branch agency may request up to $100,000 from the Institute to implement the project. The remaining $50,000 (50% of the $100,000 requested from SJI) must be provided as a match. A cash match, non-cash match, or both may be provided, but the Institute will give preference to those applicants that provide a cash match to the Institute's award. (For a further definition of match, see section III.F.)

The requirement to provide match may be waived in exceptionally rare circumstances upon the request of the Chief Justice of the highest court in the State and approval by the Board of Directors. 42 U.S.C. 10705(d).

2. Other eligible recipients of Institute funds are not required to provide a match, but are encouraged to contribute to meeting the costs of the project. In instances where match is proposed, the grantee is responsible for ensuring that the total amount proposed is actually contributed. If a proposed contribution is not fully met, the Institute may reduce the award amount accordingly, in order to maintain the ratio originally provided for in the award agreement (see sections VIII.B. above and XI.D.).

C. Conflict of Interest

Personnel and other officials connected with Institute-funded programs shall adhere to the following requirements:

1. No official or employee of a recipient court or organization shall participate personally through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in any proceeding, application, request for a ruling or other determination, contract, grant, cooperative agreement, claim, controversy, or other particular matter in which Institute funds are used, where to his/her knowledge he/she or his/her immediate family, partners, organization other than a public agency in which he/she is serving as officer, director, trustee, partner, or employee or any person or organization with whom he/she is negotiating or has any arrangement concerning prospective employment, has a financial interest.

2. In the use of Institute project funds, an official or employee of a recipient court or organization shall avoid any action which might result in or create the appearance of:

a. Using an official position for private gain; or

b. Affecting adversely the confidence of the public in the integrity of the Institute program.

3. Requests for proposals or invitations for bids issued by a recipient of Institute funds or a subgrantee or subcontractor will provide notice to prospective bidders that the contractors who develop or draft specifications, requirements, statements of work, and/or requests for proposals for a proposed procurement will be excluded from bidding on or submitting a proposal to compete for the award of such procurement.

D. Lobbying

Funds awarded to recipients by the Institute shall not be used, indirectly or directly, to influence Executive orders or similar promulgations by Federal, State or local agencies, or to influence the passage or defeat of any legislation by Federal, State or local legislative bodies. 42 U.S.C. 10706(a).

It is the policy of the Board of Directors to award funds only to support applications submitted by organizations that would carry out the objectives of their applications in an unbiased manner. Consistent with this policy and the provisions of 42 U.S.C. 10706, the Institute will not knowingly award a grant to an applicant that has, directly or through an entity that is part of the same organization as the applicant, advocated a position before Congress on the specific subject matter of the application.

E. Political Activities

No recipient shall contribute or make available Institute funds, program personnel, or equipment to any political party or association, or the campaign of

any candidate for public or party office. Recipients are also prohibited from using funds in advocating or opposing any ballot measure, initiative, or referendum. Officers and employees of recipients shall not intentionally identify the Institute or recipients with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office. 42 U.S.C. 10706(a).

F. Advocacy

No funds made available by the Institute may be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities. 42 U.S.C. 10706(b).

G. Prohibition Against Litigation Support

No funds made available by the Institute may be used directly or indirectly to support legal assistance to parties in litigation, including cases involving capital punishment.

H. Supplantation and Construction

To ensure that funds are used to supplement and improve the operation of State courts, rather than to support basic court services, funds shall not be used for the following purposes:

1. To supplant State or local funds supporting a program or activity (such as paying the salary of court employees who would be performing their normal duties as part of the project, or paying rent for space which is part of the court's normal operations);

2. To construct court facilities or structures, except to remodel existing facilities or to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program; or

3. Solely to purchase equipment.

I. Confidentiality of Information

Except as provided by Federal law other than the State Justice Institute Act, no recipient of financial assistance from SJI may use or reveal any research or statistical information furnished under the Act by any person and identifiable to any specific private person for any purpose other than the purpose for which the information was obtained. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.

J. Human Research Protection

All research involving human subjects shall be conducted with the informed consent of those subjects and in a manner that will ensure their privacy and freedom from risk or harm and the protection of persons who are not subjects of the research but would be affected by it, unless such procedures and safeguards would make the research impractical. In such instances, the Institute must approve procedures designed by the grantee to provide human subjects with relevant information about the research after their involvement and to minimize or eliminate risk or harm to those subjects due to their participation.

K. Nondiscrimination

No person may, on the basis of race, sex, national origin, disability, color, or creed be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity supported by Institute funds. Recipients of Institute funds must immediately take any measures necessary to effectuate this provision.

L. Reporting Requirements

Recipients of Institute funds, other than scholarships awarded under section II.B.2.b.iii., shall submit Quarterly Progress and Financial Reports within 30 days of the close of each calendar quarter (that is, no later than January 30, April 30, July 30, and October 30). Two copies of each report must be sent. The Quarterly Progress Reports shall include a narrative description of project activities during the calendar quarter, the relationship between those activities and the task schedule and objectives set forth in the approved application or an approved adjustment thereto, any significant problem areas that have developed and how they will be resolved, and the activities scheduled during the next reporting period.

The quarterly financial status report shall be submitted in accordance with section XI.G.2. of this Guideline. A final project progress report and financial status report shall be submitted within 90 days after the end of the grant period in accordance with section XI.K.2. of this Guideline.

M. Audit

Recipients, other than those noted below, must provide for an annual fiscal audit which shall include an opinion on whether the financial statements of the grantee present fairly its financial position and financial operations are in accordance with generally accepted accounting principles. (See section XI.J. of the Guideline for the requirements of such audits.) Recipients of a scholarship, curriculum adaptation, or technical assistance grant are not required to submit an audit, but must maintain appropriate documentation to support all expenditures.

N. Suspension of Funding

After providing a recipient reasonable notice and opportunity to submit written documentation demonstrating why fund termination or suspension should not occur, the Institute may terminate or suspend funding of a project that fails to comply substantially with the Act, the Guideline, or the terms and conditions of the award. 42 U.S.C. 10708(a).

O. Title to Property

At the conclusion of the project, title to all expendable and nonexpendable personal property purchased with Institute funds shall vest in the recipient court, organization, or individual that purchased the property if certification is made to and approved by the Institute that the property will continue to be used for the authorized purposes of the Institute-funded project or other purposes consistent with the State Justice Institute Act. If such certification is not made or the Institute disapproves such certification, title to all such property with an aggregate or individual value of $1,000 or more shall vest in the Institute, which will direct the disposition of the property.

P. Original Material

All products prepared as the result of Institute-supported projects must be originally-developed material unless otherwise specified in the award documents. Material not originally developed that is included in such products must be properly identified, whether the material is in a verbatim or extensive paraphrase format.

Q. Acknowledgment and Disclaimer

Recipients of Institute funds shall acknowledge prominently on all products developed with grant funds that support was received from the Institute. The ''SJI'' logo must appear on the front cover of a written product, or in the opening frames of a video product, unless another placement is approved in writing by the Institute. This includes final products printed or otherwise reproduced during the grant period, as well as reprintings or reproductions of those materials

following the end of the grant period. A camera-ready logo sheet is available from the Institute upon request.

Recipients also shall display the following disclaimer on all grant products:

This [document, film, videotape, etc.] was developed under [grant/cooperative agreement, number SJI—(insert number)] from the State Justice Institute. The points of view expressed are those of the [author(s), filmmaker(s), etc.] and do not necessarily represent the official position or policies of the State Justice Institute.

R. Institute Approval of Grant Products

No grant funds may be obligated for publication or reproduction of a final product developed with grant funds without the written approval of the Institute. Grantees shall submit a final draft of each written product to the Institute for review and approval. These drafts shall be submitted at least 30 days before the product is scheduled to be sent for publication or reproduction to permit Institute review and incorporation of any appropriate changes agreed upon by the grantee and the Institute. Grantees shall provide for timely reviews by the Institute of videotape or CD–ROM products at the treatment, script, rough cut, and final stages of development or their equivalents, prior to initiating the next stage of product development.

S. Distribution of Grant Products

In addition to the distribution specified in the grant application, grantees shall send:

1. Twenty copies of each final product developed with grant funds to the Institute, unless the product was developed under either a curriculum adaptation or a technical assistance grant, in which case submission of 2 copies is required.

2. A mastercopy of each videotape produced with grant funds to the Institute.

3. One copy of each final product developed with grant funds to the library established in each State to collect materials prepared with Institute support. (A list of these libraries is contained in Appendix II. Labels for these libraries are available from the Institute upon request.) Recipients of curriculum adaptation and technical assistance grants are not required to submit final products to State libraries.

4. A one-page abstract to the Institute summarizing the products produced during the project for posting on the Internet together with a diskette containing the abstract in Word or ASCII in a format prescribed by the Institute for posting on the Institute's website.

5. In addition, recipients of project grants must prepare a press release describing the project and announcing the results and distribute the release to a list of national and State judicial branch organizations provided by the Institute.

T. Copyrights

Except as otherwise provided in the terms and conditions of an Institute award, a recipient is free to copyright any books, publications, or other copyrightable materials developed in the course of an Institute-supported project, but the Institute shall reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the materials for purposes consistent with the State Justice Institute Act.

U. Inventions and Patents

If any patentable items, patent rights, processes, or inventions are produced in the course of Institute-sponsored work, such fact shall be promptly and fully reported to the Institute. Unless there is a prior agreement between the grantee and the Institute on disposition of such items, the Institute shall determine whether protection of the invention or discovery shall be sought. The Institute will also determine how the rights in the invention or discovery, including rights under any patent issued thereon, shall be allocated and administered in order to protect the public interest consistent with ''Government Patent Policy'' (President's Memorandum for Heads of Executive Departments and Agencies, February 18, 1983, and statement of Government Patent Policy).

V. Charges for Grant-Related Products/ Recovery of Costs

When Institute funds fully cover the cost of developing, producing, and disseminating a product, (e.g., a report, curriculum, videotape or software), the product should be distributed to the field without charge. When Institute funds only partially cover the development, production, or dissemination costs, the grantee may, with the Institute's prior written approval, recover its costs for developing, producing, and disseminating the material to those requesting it, to the extent that those costs were not covered by Institute funds or grantee matching contributions.

Applicants should disclose their intent to sell grant-related products in both the concept paper and the application. Grantees must obtain the written, prior approval of the Institute of their plans to recover project costs through the sale of grant products.

Written requests to recover costs ordinarily should be received during the grant period and should specify the nature and extent of the costs to be recouped, the reason that such costs were not budgeted (if the rationale was not disclosed in the approved application), the number of copies to be sold, the intended audience for the products to be sold, and the proposed sale price. If the product is to be sold for more than $25.00, the written request also should include a detailed itemization of costs that will be recovered and a certification that the costs were not supported by either Institute grant funds or grantee matching contributions.

In the event that the sale of grant products results in revenues that exceed the costs to develop, produce, and disseminate the product, the revenue must continue to be used for the authorized purposes of the Institute-funded project or other purposes consistent with the State Justice Institute Act that have been approved by the Institute. See sections III.F. and XI.F. for requirements regarding project-related income realized during the project period.

W. Availability of Research Data for Secondary Analysis

Upon request, grantees must make available for secondary analysis a diskette(s) or data tape(s) containing research and evaluation data collected under an Institute grant and the accompanying code manual. Grantees may recover the actual cost of duplicating and mailing or otherwise transmitting the data set and manual from the person or organization requesting the data. Grantees may provide the requested data set in the format in which it was created and analyzed.

X. Approval of Key Staff

If the qualifications of an employee or consultant assigned to a key project staff position are not described in the application or if there is a change of a person assigned to such a position, a recipient shall submit a description of the qualifications of the newly assigned person to the Institute. Prior written approval of the qualifications of the new person assigned to a key staff position must be received from the Institute before the salary or consulting fee of that person and associated costs may be paid or reimbursed from grant funds.

XI. Financial Requirements

A. Accounting Systems and Financial Records

All grantees, subgrantees, contractors, and other organizations directly or indirectly receiving Institute funds are required to establish and maintain accounting systems and financial records to accurately account for funds they receive. These records shall include total program costs, including Institute funds, State and local matching shares, and any other fund sources included in the approved project budget.

1. Purpose

The purpose of this section is to establish accounting system requirements and offer guidance on procedures which will assist all grantees/subgrantees in:

a. Complying with the statutory requirements for the awarding, disbursement, and accounting of funds;

b. Complying with regulatory requirements of the Institute for the financial management and disposition of funds;

c. Generating financial data which can be used in the planning, management and control of programs; and

d. Facilitating an effective audit of funded programs and projects.

2. References

Except where inconsistent with specific provisions of this Guideline, the following regulations, directives and reports are applicable to Institute grants and cooperative agreements under the same terms and conditions that apply to Federal grantees. These materials supplement the requirements of this section for accounting systems and financial recordkeeping and provide additional guidance on how these requirements may be satisfied. (Circulars may be obtained from OMB by calling 202–395–7250.)

a. Office of Management and Budget (OMB) Circular A–21, Cost Principles for Educational Institutions.

b. Office of Management and Budget (OMB) Circular A–87, Cost Principles for State and Local Governments.

c. Office of Management and Budget (OMB) Circular A–88 (revised), Indirect Cost Rates, Audit and Audit Follow-up at Educational Institutions.

d. Office of Management and Budget (OMB) Circular A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

e. Office of Management and Budget (OMB) Circular A–110, Grants and Agreements with Institutions of Higher Education, Hospitals and other Non-Profit Organizations.

f. Office of Management and Budget (OMB) Circular A–128, Audits of State and Local Governments.

g. Office of Management and Budget (OMB) Circular A–122, Cost Principles for Non-profit Organizations.

h. Office of Management and Budget (OMB) Circular A–133, Audits of Institutions of Higher Education and Other Non-profit Institutions.

B. Supervision and Monitoring Responsibilities

1. Grantee Responsibilities

All grantees receiving direct awards from the Institute are responsible for the management and fiscal control of all funds. Responsibilities include accounting for receipts and expenditures, maintaining adequate financial records, and refunding expenditures disallowed by audits.

2. Responsibilities of State Supreme Court

Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council.

The State Supreme Court or its designee shall receive all Institute funds awarded to such courts; be responsible for assuring proper administration of Institute funds; and be responsible for all aspects of the project, including proper accounting and financial recordkeeping by the subgrantee. These responsibilities include:

a. Reviewing financial operations. The State Supreme Court or its designee should be familiar with, and periodically monitor, its subgrantees' financial operations, records system and procedures. Particular attention should be directed to the maintenance of current financial data.

b. Recording financial activities. The subgrantee's grant award or contract obligation, as well as cash advances and other financial activities, should be recorded in the financial records of the State Supreme Court or its designee in summary form. Subgrantee expenditures should be recorded on the books of the State Supreme Court **Or** evidenced by report forms duly filed by the subgrantee. Non-Institute contributions applied to projects by subgrantees should likewise be recorded, as should any project income resulting from program operations.

c. Budgeting and budget review. The State Supreme Court or its designee should ensure that each subgrantee prepares an adequate budget as the basis for its award commitment. The detail of each project budget should be maintained on file by the State Supreme Court.

d. Accounting for non-institute contributions. The State Supreme Court or its designee will ensure, in those instances where subgrantees are required to furnish non-Institute matching funds, that the requirements and limitations of the Guideline are applied to such funds.

e. Audit requirement. The State Supreme Court or its designee is required to ensure that subgrantees have met the necessary audit requirements set forth by the Institute (see sections X.M. and XI.J).

f. Reporting irregularities. The State Supreme Court, its designees, and its subgrantees are responsible for promptly reporting to the Institute the nature and circumstances surrounding any financial irregularities discovered.

C. Accounting System

The grantee is responsible for establishing and maintaining an adequate system of accounting and internal controls for itself and for ensuring that an adequate system exists for each of its subgrantees and contractors. An acceptable and adequate accounting system is considered to be one which:

1. Properly accounts for receipt of funds under each grant awarded and the expenditure of funds for each grant by category of expenditure (including matching contributions and project income);

2. Assures that expended funds are applied to the appropriate budget category included within the approved grant;

3. Presents and classifies historical costs of the grant as required for budgetary and evaluation purposes;

4. Provides cost and property controls to assure optimal use of grant funds;

5. Is integrated with a system of internal controls adequate to safeguard the funds and assets covered, check the accuracy and reliability of the accounting data, promote operational efficiency, and assure conformance with any general or special conditions of the grant;

6. Meets the prescribed requirements for periodic financial reporting of operations; and

7. Provides financial data for planning, control, measurement, and evaluation of direct and indirect costs.

D. Total Cost Budgeting and Accounting

Accounting for all funds awarded by the Institute shall be structured and executed on a ''total project cost'' basis.

That is, total project costs, including Institute funds, State and local matching shares, and any other fund sources included in the approved project budget shall be the foundation for fiscal administration and accounting. Grant applications and financial reports require budget and cost estimates on the basis of total costs.

1. Timing of Matching Contributions

Matching contributions need not be applied at the exact time of the obligation of Institute funds. However, the full matching share must be obligated during the award period, except that, with the prior written permission of the Institute, contributions made following approval of the grant by the Institute's Board of Directors but before the beginning of the grant may be counted as match. Grantees that do not contemplate making matching contributions continuously throughout the course of a project, or on a task-by-task basis, are required to submit a schedule within 30 days after the beginning of the project period indicating at what points during the project period the matching contributions will be made. In instances where a proposed cash match is not fully met, the Institute may reduce the award amount accordingly, in order to maintain the ratio originally provided for in the award agreement.

2. Records for Match

All grantees must maintain records which clearly show the source, amount, and timing of all matching contributions. In addition, if a project has included, within its approved budget, contributions which exceed the required matching portion, the grantee must maintain records of those contributions in the same manner as it does the Institute funds and required matching shares. For all grants made to State and local courts, the State Supreme Court has primary responsibility for grantee/subgrantee compliance with the requirements of this section. (See section XI.B.2.)

E. Maintenance and Retention of Records

All financial records, supporting documents, statistical records and all other records pertinent to grants, subgrants, cooperative agreements or contracts under grants shall be retained by each organization participating in a project for at least three years for purposes of examination and audit. State Supreme Courts may impose record retention and maintenance requirements in addition to those prescribed in this chapter.

1. Coverage

The retention requirement extends to books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, canceled checks, and related documents and records. Source documents include copies of all grant and subgrant awards, applications, and required grantee/subgrantee financial and narrative reports. Personnel and payroll records shall include the time and attendance reports for all individuals reimbursed under a grant, subgrant or contract, whether they are employed full-time or part-time. Time and effort reports will be required for consultants.

2. Retention Period

The three-year retention period starts from the date of the submission of the final expenditure report or, for grants which are renewed annually, from the date of submission of the annual expenditure report.

3. Maintenance

Grantees and subgrantees are expected to see that records of different fiscal years are separately identified and maintained so that requested information can be readily located. Grantees and subgrantees are also obligated to protect records adequately against fire or other damage. When records are stored away from the grantee's/subgrantee's principal office, a written index of the location of stored records should be on hand, and ready access should be assured.

4. Access

Grantees and subgrantees must give any authorized representative of the Institute access to and the right to examine all records, books, papers, and documents related to an Institute grant.

F. Project-Related Income

Records of the receipt and disposition of project-related income must be maintained by the grantee in the same manner as required for the project funds that gave rise to the income and must be reported to the Institute. (See section XI.G.2.) The policies governing the disposition of the various types of project-related income are listed below.

1. Interest

A State and any agency or instrumentality of a State, including State institutions of higher education and State hospitals, shall not be held accountable for interest earned on advances of project funds. When funds are awarded to subgrantees through a State, the subgrantees are not held accountable for interest earned on advances of project funds. Local units of government and nonprofit organizations that are direct grantees must refund any interest earned. Grantees shall ensure minimum balances in their respective grant cash accounts.

2. Royalties

The grantee/subgrantee may retain all royalties received from copyrights or other works developed under projects or from patents and inventions, unless the terms and conditions of the grant provide otherwise.

3. Registration and Tuition Fees

Registration and tuition fees shall be used to pay project-related costs not covered by the grant, or to reduce the amount of grant funds needed to support the project. Registration and tuition fees may be used for other purposes only with the prior written approval of the Institute. Estimates of registration and tuition fees, and any expenses to be offset by the fees, should be included in the application budget forms and narrative.

4. Income From the Sale of Grant Products

When grant funds fully cover the cost of producing and disseminating a limited number of copies of a product, the grantee may, with the written prior approval of the Institute, sell additional copies reproduced at its expense only at a price intended to recover actual reproduction and distribution costs that were not covered by Institute grant funds or grantee matching contributions to the project. When grant funds only partially cover the costs of developing, producing and disseminating a product, the grantee may, with the written prior approval of the Institute, recover costs for developing, reproducing, and disseminating the material to the extent that those costs were not covered by Institute grant funds or grantee matching contributions. If the grantee recovers its costs in this manner, then amounts expended by the grantee to develop, produce, and disseminate the material may not be considered match.

If the sale of products occurs during the project period, the costs and income generated by the sales must be reported on the Quarterly Financial Status Reports and documented in an auditable manner. Whenever possible, the intent to sell a product should be disclosed in the concept paper and application or reported to the Institute in writing once a decision to sell products has been made. The grantee must request approval to recover its product

development, reproduction, and dissemination costs as specified in section X.V.

5. Other

Other project income shall be treated in accordance with disposition instructions set forth in the grant's terms and conditions.

G. Payments and Financial Reporting Requirements

1. Payment of Grant Funds

The procedures and regulations set forth below are applicable to all Institute grant funds and grantees.

a. Request for advance or reimbursement of funds. Grantees will receive funds on a ''Check-Issued'' basis. Upon receipt, review, and approval of a Request for Advance or Reimbursement by the Institute, a check will be issued directly to the grantee or its designated fiscal agent. A request must be limited to the grantee's immediate cash needs. The Request for Advance or Reimbursement, along with the instructions for its preparation, will be included in the official Institute award package.

b. Continuation and on-going support awards. For purposes of submitting Requests for Advance or Reimbursement, recipients of continuation and on-going support grants should treat each grant as a new project and number their requests accordingly (i.e. on a grant rather than a project basis). For example, the first request for payment from a continuation grant or each year of an on-going support would be number 1, the second number 2, etc. (See Recommendations to Grantees in the Introduction for further guidance.)

c. Termination of advance and reimbursement funding. When a grantee organization receiving cash advances from the Institute:

i. Demonstrates an unwillingness or inability to attain program or project goals, or to establish procedures that will minimize the time elapsing between cash advances and disbursements, or cannot adhere to guideline requirements or special conditions;

ii. Engages in the improper award and administration of subgrants or contracts; or

iii. Is unable to submit reliable and/or timely reports; the Institute may terminate advance financing and require the grantee organization to finance its operations with its own working capital. Payments to the grantee shall then be made by check to reimburse the grantee for actual cash disbursements. In the event the grantee continues to be deficient, the Institute may suspend reimbursement payments until the deficiencies are corrected.

d. Principle of minimum cash on hand. Recipient organizations should request funds based upon immediate disbursement requirements. Grantees should time their requests to ensure that cash on hand is the minimum needed for disbursements to be made immediately or within a few days. Idle funds in the hands of subgrantees will impair the goals of good cash management.

2. Financial Reporting

a. General requirements. In order to obtain financial information concerning the use of funds, the Institute requires that grantees/subgrantees of these funds submit timely reports for review.

Three copies of the Financial Status Report are required from all grantees, other than recipients of scholarships under section II.B.2.b.iii., for each active quarter on a calendar-quarter basis. This report is due within 30 days after the close of the calendar quarter. It is designed to provide financial information relating to Institute funds, State and local matching shares, project income, and any other sources of funds for the project, as well as information on obligations and outlays. A copy of the Financial Status Report, along with instructions for its preparation, will be included in the official Institute Award package. In circumstances where an organization requests substantial payments for a project prior to the completion of a given quarter, the Institute may request a brief summary of the amount requested, by object class, in support of the Request for Advance or Reimbursement.

b. Additional requirements for Renewal Grants. Grantees receiving a continuation or on-going support grant should number their quarterly Financial Status Reports on a grant rather than a project basis. For example, the first quarterly report for a continuation grant or each year of an on-going support award should be number 1, the second number 2, etc.

3. Consequences of Non-Compliance with Submission Requirements

Failure of the grantee organization to submit required financial and program reports may result in a suspension or termination of grant payments.

H. Allowability of Costs

1. General

Except as may be otherwise provided in the conditions of a particular grant, cost allowability shall be determined in accordance with the principles set forth in *OMB Circulars A–87,* Cost Principles for State and Local Governments; *A–21,* Cost Principles Applicable to Grants and Contracts with Educational Institutions; and *A–122,* Cost Principles for Non-Profit Organizations. No costs may be recovered to liquidate obligations which are incurred after the approved grant period. Copies of these circulars may be obtained from OMB by calling (202) 395–7250.

2. Costs Requiring Prior Approval

a. Pre-agreement costs. The written prior approval of the Institute is required for costs which are considered necessary to the project but occur prior to the award date of the grant.

b. Equipment. Grant funds may be used to purchase or lease only that equipment which is essential to accomplishing the goals and objectives of the project. The written prior approval of the Institute is required when the amount of automated data processing (ADP) equipment to be purchased or leased exceeds $10,000 or the software to be purchased exceeds $3,000.

c. Consultants. The written prior approval of the Institute is required when the rate of compensation to be paid a consultant exceeds $300 a day. Institute funds may not be used to pay a consultant at a rate in excess of $900 per day.

3. Travel Costs

Transportation and per diem rates must comply with the policies of the applicant organization. If the applicant does not have an established written travel policy, then travel rates shall be consistent with those established by the Institute or the Federal Government. Institute funds may not be used to cover the transportation or per diem costs of a member of a national organization to attend an annual or other regular meeting of that organization.

4. Indirect Costs

These are costs of an organization that are not readily assignable to a particular project, but are necessary to the operation of the organization and the performance of the project. The cost of operating and maintaining facilities, depreciation, and administrative salaries are examples of the types of costs that are usually treated as indirect costs. It is the policy of the Institute that all costs should be budgeted directly; however, if a recipient has an indirect cost rate approved by a Federal agency as set forth below, the Institute will accept that rate.

a. Approved plan available. i. The Institute will accept an indirect cost rate or allocation plan approved for a grantee during the preceding two years by any Federal granting agency on the basis of allocation methods substantially in accord with those set forth in the applicable cost circulars. A copy of the approved rate agreement must be submitted to the Institute.

ii. Where flat rates are accepted in lieu of actual indirect costs, grantees may not also charge expenses normally included in overhead pools, e.g., accounting services, legal services, building occupancy and maintenance, etc., as direct costs.

iii. Organizations with an approved indirect cost rate, utilizing total direct costs as the base, usually exclude contracts under grants from any overhead recovery. The negotiated agreement will stipulate that contracts are excluded from the base for overhead recovery.

b. Establishment of indirect cost rates. In order to be reimbursed for indirect costs, a grantee or organization must first establish an appropriate indirect cost rate. To do this, the grantee must prepare an indirect cost rate proposal and submit it to the Institute within three months after the start of the grant period to assure recovery of the full amount of allowable indirect costs. The rate must be developed in accordance with principles and procedures appropriate to the type of grantee institution involved as specified in the applicable OMB Circular. Copies of OMB Circulars may be obtained directly from OMB by calling (202) 395–7250.

c. No approved plan. If an indirect cost proposal for recovery of actual indirect costs is not submitted to the Institute within three months after the start of the grant period, indirect costs will be irrevocably disallowed for all months prior to the month that the indirect cost proposal is received. This policy is effective for all grant awards.

I. Procurement and Property Management Standards

1. Procurement Standards

For State and local governments, the Institute adopts the standards set forth in Attachment O of *OMB Circular A–102.* Institutions of higher education, hospitals; other non-profit organizations will be governed by the standards set forth in Attachment O of *OMB Circular A–110.*

2. Property Management Standards

The property management standards as prescribed in Attachment N of *OMB Circulars A–102* and *A–110* shall be applicable to all grantees and subgrantees of Institute funds except as provided in section X.O.

All grantees/subgrantees are required to be prudent in the acquisition and management of property with grant funds. If suitable property required for the successful execution of projects is already available within the grantee or subgrantee organization, expenditures of grant funds for the acquisition of new property will be considered unnecessary.

J. Audit Requirements

1. Implementation

Each recipient of a grant from the Institute other than a scholarship, curriculum adaptation, or technical assistance grant (including a State or local court receiving a subgrant from the State Supreme Court) shall provide for an annual fiscal audit. The audit may be of the entire grantee organization (e.g., a university) or of the specific project funded by the Institute. Audits conducted in accordance with the Single Audit Act of 1984 and OMB Circular A–128, or OMB Circular A–133 will satisfy the requirement for an annual fiscal audit. The audit shall be conducted by an independent Certified Public Accountant, or a State or local agency authorized to audit government agencies.

Grantees who receive funds from a Federal agency and who satisfy audit requirements of the cognizant Federal agency should submit a copy of the audit report prepared for that Federal agency to the Institute in order to satisfy the provisions of this section. Cognizant Federal agencies do not send reports to the Institute. Therefore, each grantee must send this report directly to the Institute.

2. Resolution and Clearance of Audit Reports

Timely action on recommendations by responsible management officials is an integral part of the effectiveness of an audit. Each grant recipient shall have policies and procedures for acting on audit recommendations by designating officials responsible for: follow-up, maintaining a record of the actions taken on recommendations and time schedules, responding to and acting on audit recommendations, and submitting periodic reports to the Institute on recommendations and actions taken.

3. Consequences of Non-Resolution of Audit Issues

It is the general policy of the State Justice Institute not to make new grant awards to an applicant having an unresolved audit report involving Institute awards. Failure of the grantee organization to resolve audit questions may also result in the suspension or termination of payments for active Institute grants to that organization.

K. Close-Out of Grants

1. Definition

Close-out is a process by which the Institute determines that all applicable administrative and financial actions and all required work of the grant have been completed by both the grantee and the Institute.

2. Grantee Close-Out Requirements

Within 90 days after the end date of the grant or any approved extension thereof (See section XI.K.3), the following documents must be submitted to the Institute by the grantee other than a recipient of a scholarship under section II.B.2.b.iii. These reporting requirements apply at the conclusion of any non-scholarship grant, even when the project will receive renewal funding through a continuation or on-going support grant.

a. Financial status report. The final report of expenditures must have no unliquidated obligations and must indicate the exact balance of unobligated funds. Any unobligated/unexpended funds will be deobligated from the award by the Institute. Final payment requests for obligations incurred during the award period must be submitted to the Institute prior to the end of the 90-day close-out period. Grantees on a check-issued basis, who have drawn down funds in excess of their obligations/expenditures, must return any unused funds as soon as it is determined that the funds are not required. In no case should any unused funds remain with the grantee beyond the submission date of the final financial status report.

b. Final progress report. This report should describe the project activities during the final calendar quarter of the project and the close-out period, including to whom project products have been disseminated; provide a summary of activities during the entire project; specify whether all the objectives set forth in the approved application or an approved adjustment thereto have been met and, if any of the objectives have not been met, explain the reasons therefor; and discuss what, if anything, could have been done differently that might have enhanced the impact of the project or improved its operation.

3. Extension of Close-Out Period

Upon the written request of the grantee, the Institute may extend the close-out period to assure completion of the Grantee's close-out requirements. Requests for an extension must be submitted at least 14 days before the end of the close-out period and must explain why the extension is necessary and what steps will be taken to assure that all the grantee's responsibilities will be met by the end of the extension period.

XII. Grant Adjustments

All requests for program or budget adjustments requiring Institute approval must be submitted in a timely manner by the project director. All requests for changes from the approved application will be carefully reviewed for both consistency with this Guideline and the enhancement of grant goals and objectives.

A. Grant Adjustments Requiring Prior Written Approval

There are several types of grant adjustments which require the prior written approval of the Institute. Examples of these adjustments include:

1. Budget revisions among direct cost categories which, individually or in the aggregate, exceed or are expected to exceed five percent of the approved original budget or the most recently approved revised budget. For the purposes of this section, the Institute will view budget revisions cumulatively.

For continuation and on-going support grants, funds from the original award may be used during the renewal grant period and funds awarded by a continuation or on-going support grant may be used to cover project-related expenditures incurred during the original award period, with the prior written approval of the Institute.

2. A change in the scope of work to be performed or the objectives of the project (see section XII.D.).

3. A change in the project site.

4. A change in the project period, such as an extension of the grant period and/or extension of the final financial or progress report deadline (see section XII.E.).

5. Satisfaction of special conditions, if required.

6. A change in or temporary absence of the project director (see sections XII.F. and G.).

7. The assignment of an employee or consultant to a key staff position whose qualifications were not described in the application, or a change of a person assigned to a key project staff position (see section X.X.).

8. A change in or temporary absence of the person responsible for the financial management and financial reporting for the grant.

9. A change in the name of the grantee organization.

10. A transfer or contracting out of grant-supported activities (see section XII.H.).

11. A transfer of the grant to another recipient.

12. Preagreement costs, the purchase of automated data processing equipment and software, and consultant rates, as specified in section XI.H.2.

13. A change in the nature or number of the products to be prepared or the manner in which a product would be distributed.

B. Request for Grant Adjustments

All grantees and subgrantees must promptly notify their SJI program manager, in writing, of events or proposed changes which may require an adjustment to the approved application. In requesting an adjustment, the grantee must set forth the reasons and basis for the proposed adjustment and any other information the program manager determines would help the Institute's review.

C. Notification of Approval/Disapproval

If the request is approved, the grantee will be sent a Grant Adjustment signed by the Executive Director or his designee. If the request is denied, the grantee will be sent a written explanation of the reasons for the denial.

D. Changes in the Scope of the Grant

A grantee/subgrantee may make minor changes in methodology, approach, or other aspects of the grant to expedite achievement of the grant's objectives with subsequent notification of the SJI program manager. Major changes in scope, duration, training methodology, or other significant areas must be approved in advance by the Institute.

E. Date Changes

A request to change or extend the grant period must be made at least 30 days in advance of the end date of the grant. A revised task plan should accompany requests for a no-cost extension of the grant period, along with a revised budget if shifts among budget categories will be needed. A request to change or extend the deadline for the final financial report or final progress report must be made at least 14 days in advance of the report deadline (see section XI.K.3.).

F. Temporary Absence of the Project Director

Whenever absence of the project director is expected to exceed a continuous period of one month, the plans for the conduct of the project director's duties during such absence must be approved in advance by the Institute. This information must be provided in a letter signed by an authorized representative of the grantee/subgrantee at least 30 days before the departure of the project director, or as soon as it is known that the project director will be absent. The grant may be terminated if arrangements are not approved in advance by the Institute.

G. Withdrawal of/Change in Project Director

If the project director relinquishes or expects to relinquish active direction of the project, the Institute must be notified immediately. In such cases, if the grantee/subgrantee wishes to terminate the project, the Institute will forward procedural instructions upon notification of such intent. If the grantee wishes to continue the project under the direction of another individual, a statement of the candidate's qualifications should be sent to the Institute for review and approval. The grant may be terminated if the qualifications of the proposed individual are not approved in advance by the Institute.

H. Transferring or Contracting Out of Grant-Supported Activities

A principal activity of the grant-supported project shall not be transferred or contracted out to another organization without specific prior approval by the Institute. All such arrangements should be formalized in a contract or other written agreement between the parties involved. Copies of the proposed contract or agreement must be submitted for prior approval at the earliest possible time. The contract or agreement must state, at a minimum, the activities to be performed, the time schedule, the policies and procedures to be followed, the dollar limitation of the agreement, and the cost principles to be followed in determining what costs, both direct and indirect, are to be allowed. The contract or other written agreement must not affect the grantee's overall responsibility for the direction of the project and accountability to the Institute.

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David I. Tevelin,

Executive Director.

Appendix I—List of Contacts Regarding Administration of Institute Grants to State and Local Courts

Mr. Frank Gregory, Administrative Director, Administrative Office of the Courts, 300 Dexter Avenue, Montgomery, AL 36130, (205) 834–7990
Ms. Stephanie J. Cole, Administrative Director, Alaska Court System, 303 K Street, Anchorage, AK 99501, (907) 264–0547
Mr. David K. Byers, Administrative Director, Supreme Court of Arizona, 1501 West Washington Street, Suite 411, Phoenix, AZ 85007–3330, (602) 542–9301
Mr. James D. Gingerich, Director, Administrative Office of the Courts, 625 Marshall, Little Rock, AR 72201, (501) 682–9400
Mr. William C. Vickrey, State Court Administrator, Administrative Office of the Courts, 303 Second Street, South Tower, San Francisco, CA 94107, (415) 396–9115
Mr. Steven V. Berson, State Court Administrator, Colorado Judicial Department, 1301 Pennsylvania Street, Suite 300, Denver, CO 80203–2416, (303) 861–1111, ext. 585
Honorable Aaron Ment, Chief Court Administrator, Supreme Court of Connecticut, 231 Capitol Avenue, Drawer N, Station A, Hartford, CT 06106, (860) 566–4461
Mr. Lawrence P. Webster, Director, Administrative Office of the Courts, Carvel State Office Building, 820 N. French Street, Wilmington, DE 19801, (302) 577–2480
Mr. Ulysses Hammond, Executive Officer, Courts of the District of Columbia, 500 Indiana Avenue, N.W., Washington, D.C. 20001, (202) 879–1700
Mr. Kenneth Palmer, State Courts Administrator, Florida State Courts System, Supreme Court Building, Tallahassee, FL 32399–1900, (904) 922–5081
Mr. Hulett Askew, Interim Director, Administrative Office of the Georgia Courts, The Judicial Council of Georgia, 244 Washington Street, S.W., Suite 500, Atlanta, GA 30334–5900, (404) 656–5171
Daniel J. Tydingco, Administrative Director, Superior Court of Guam, Judiciary Building, 120 West O'Brien Drive, Agana, Guam 96910, 011 (671) 475–3544
Mr. Michael F. Broderick, Administrative Director of the Courts, 417 S. King Street, Room 206, Honolulu, HI 96813, (808) 539–4900
Ms. Patricia Tobias, Administrative Director of the Courts, Idaho Supreme Court, 451 West State Street, Boise, ID 83720–0101, (208) 334–2246
Honorable Joseph A. Schillaci, Administrative Director of the Courts, 222 N. LaSalle Street, 13th Floor, Chicago, IL 60601, (312) 793–8191
Ms. Lilia G. Judson, Executive Director, Supreme Court of Indiana, 115 W. Washington, Suite 1080, Indianapolis, IN 46204–3417, (317) 232–2542
Mr. William J. O'Brien, State Court Administrator, Supreme Court of Iowa, State House, Des Moines, IA 50319, (515) 281–5241
Dr. Howard P. Schwartz, Judicial Administrator, Kansas Judicial Center, 301 West 10th Street, Topeka, KS 66612, (913) 296–4873
Mr. Paul F. Isaacs, Administrative Director, Administrative Office of the Courts, 100 Mill Creek Park, Frankfort, KY 40601–9230, (502) 573–2350
Dr. Hugh M. Collins, Judicial Administrator, Supreme Court of Louisiana, 301 Loyola Avenue, Room 109, New Orleans, LA 70112, (504) 568–5747
Mr. James T. Glessner, State Court Administrator, Administrative Office of the Courts, P.O. Box 4820, Downtown Station Portland, ME 04112–4820, (207) 822–0792
Mr. George B. Riggin, Jr., State Court Administrator, Administrative Office of the Courts, Courts of Appeal Bldg., 361 Rowe Boulevard, Annapolis, MD 21401, (410) 974–2141
Honorable John J. Irwin, Jr., Chief Justice for Administration and Management, The Trial Court, Administrative Office of the Trial Court, Two Center Plaza, Suite 540, Boston, MA 02108, (617) 742–8575
Mr. John D. Ferry, Jr., State Court Administrator, Michigan Supreme Court, 309 N. Washington Square, P.O. Box 30048, Lansing, MI 48909, (517) 373–0130
Ms. Sue K. Dosal, State Court Administrator, Supreme Court of Minnesota, 25 Constitution Avenue, St. Paul, MN 55155, (617) 296–2474
Mr. Richard Patt, Director, Administrative Office of the Courts, Supreme Court of Mississippi, P.O. Box 117, Jackson, MS 39205, (601) 354–7408
Mr. Ron Larkin, State Court Administrator, Supreme Court of Missouri, P.O. Box 104480, Jefferson City, MO 65110, (314) 751–3585
Mr. Patrick A. Chenovick, State Court Administrator, Montana Supreme Court, Justice Building, Room 315, 215 North Sanders, Helena, MT 59620–3001, (406) 444–2621
Mr. Joseph C. Steele, State Court Administrator, Supreme Court of Nebraska, State Capitol Building, Room 1220, Lincoln, NE 68509, (404) 471–3730
Ms. Georgia J. Rohrs, Court Administrator, Administrative Office of the Courts, Capitol Complex, Carson City, NV 89710, (702) 687–5076
Mr. Donald Goodnow, State Court Administrator, Supreme Court of New Hampshire, Frank Rowe Kenison Building, Concord, NH 03301, (603) 271–2521
Mr. James J. Ciancia, Administrative Director, Administrative Office of the Courts, CN–037, RJH Justice Complex, Trenton, NJ 08625, (609) 984–0275
Honorable Jonathan Lippman, Chief Administrative Judge, Office of Court Administration, 270 Broadway, New York, NY 10007, (212) 417–2007
Mr. John M. Greacen, State Court Administrator, Administrative Office of the Courts, Supreme Court of New Mexico, Supreme Court Building,, Room 25, Sante Fe, NM 87503, (505) 827–4800
Mr. Dallas A. Cameron, Jr., Administrative Director, Administrative Office of the Courts, P.O. Box 2448, Raleigh, NC 27602, (919) 733–7107
Mr. Keithe E. Nelson, State Court Administrator, Supreme Court of North Dakota, State Capitol Building, Bismarck, ND 58505, (701) 328–4216
Mr. Stephan W. Stover, Administrative Director of the Courts, Supreme Court of Ohio, State Office Tower, 30 East Broad Street, Columbus, OH 43266–0419, (614) 466–2653

Mr. Howard W. Conyers, Administrative Director, Administrative Office of the Courts, 1925 N. Stiles, Suite 305, Oklahoma City, OK 73105, (405) 521–2450

Ms. Kingsley Click, State Court Administrator, Supreme Court of Oregon, Supreme Court Building, Salem, OR 97310, (503) 986–5900

Ms. Nancy M. Sobolevitch, Court Administrator, Supreme Court of Pennsylvania, 1515 Market Street, Suite 1414, Philadelphia, PA 19102, (215) 560–6337

Dr. Robert C. Harrall, State Court Administrator, Supreme Court of Rhode Island, 250 Benefit Street, Providence, RI 02903, (401) 277–3263

Ms. Mary Schroeder, Interim Director, South Carolina Court, Administration, P.O. Box 50447, Columbia, SC 29250, (803) 734–1800

Mr. Michael L. Buenger, State Court Administrator, Unified Judicial System, 500 East Capitol Avenue, Pierre, SD 57501, (605) 773–3474

Mr. Charles E. Ferrell, Administrative Director of the Courts, Nashville City Center, Suite 600, 511 Union Street, Nashville, TN 37243–0607, (615) 741–2687

Mr. Jerry L. Benedict, Administrative Director, Office of Court Administration of the Texas Judicial System, 205 West 14th Street, Suite 600 Austin, TX 78701, (512) 463–1625

Mr. Daniel Becker, State Court Administrator, Administrative Office of the Courts, 230 South 500 East, Salt Lake City, UT 84102, (801) 578–3800

Mr. Lee Suskin, Court Administrator, Supreme Court of Vermont, 109 State Street, Montpelier, VT 05602, (802) 828–3278

Ms. Viola E. Smith, Clerk of the Court/ Administrator, Territorial Court of the Virgin Islands, P.O. Box 70, Charlotte Amalie, St. Thomas, Virgin Islands 00801, (809) 774–6680, ext. 248

Mr. Robert N. Baldwin, Executive Secretary, Supreme Court of Virginia, 100 North Ninth Street, 3rd Floor, Richmond, VA 23219, (804) 786–6455

Ms. Mary C. McQueen, Administrator for the Courts, Supreme Court of Washington, P.O. Box 41174, Olympia, WA 98504, (360) 357–2121

Mr. Ted J. Philyaw, Administrative Director of the Courts, E–400, State Capitol Bldg., 1900 Kanawha Blvd., East, Charleston, WV 25305, (304) 558–0145

Mr. J. Denis Moran, Director of State Courts, P.O. Box 1688, Madison, WI 53701–1688, (608) 266–6828

Ms. Nancy E. Rutledge, Court Administrator, Supreme Court of Wyoming, Supreme Court Building, Cheyenne, WY 82002, (307) 777–7480

Appendix II—SJI Libraries Designated Sites and Contacts

Alabama

Supreme Court Library

Mr. Timothy A. Lewis, State Law Librarian, Alabama Supreme Court Bldg., 300 Dexter Avenue, Montgomery, AL 36104, (334) 242–4347

Alaska

Anchorage Law Library

Ms. Cynthia S. Fellows, State Law Librarian, Alaska State Court Law Library, 820 W. Fourth Ave., Anchorage, AK 99501, (907) 264–0583

Arizona

State Law Library

Ms. Gladys Ann Wells, Collection Development, Research Division, Arizona Dept. of Library, Archives and Public Records, State Law Library, 1501 W. Washington, Phoenix, AZ 85007, (602) 542–4035

Arkansas

Administrative Office of the Courts

Mr. James D. Gingerich, Director, Supreme Court of Arkansas, Administrative Office of the Courts, Justice Building, 625 Marshall, Little Rock, AR 72201–1078, (501) 682–9400

California

Administrative Office of the Courts

Mr. William C. Vickrey, State Court Administrator, Administrative Office of the Courts, 303 Second Street, South Tower, San Francisco, CA 94107, (415) 396–9100

Colorado

Supreme Court Library

Ms. Lois Calvert, Supreme Court Law Librarian, Colorado State Judicial Building, 2 East 14th Avenue, Denver, CO 80203, (303) 837–3720

Connecticut

State Library

Ms. Denise D. Jernigan, Head, Law/ Legislative, Reference Unit, Connecticut State Library, Hartford, CT 06106, (860) 566–2516

Delaware

Administrative Office of the Courts

Mr. Michael E. McLaughlin, Deputy Director, Administrative Office of the Courts, Carvel State Office Building, 820 North French Street, 11th Floor, P.O. Box 8911, Wilmington, DE 19801, (302) 577–8481

District of Columbia

Executive Office, District of Columbia Courts

Mr. Ulysses Hammond, Executive Officer, District of Columbia Courts, 500 Indiana Avenue, N.W., Washington, D.C. 20001, (202) 879–1700

Florida

Administrative Office of the Courts

Mr. Kenneth Palmer, State Court Administrator, Florida State Courts System, Supreme Court Building, Tallahassee, FL 32399–1900, (904) 488–8621

Georgia

Administrative Office of the Courts

Mr. Hulett H. Askew, Interim Director, AOC, The Judicial Council of Georgia, 244 Washington St., S.W., Suite 550, Atlanta, GA 30334–5900, (404) 656–5171

Hawaii

Supreme Court Library

Ms. Ann Koto, State Law Librarian, The Supreme Court Law Library 417 South King St., Room 119, Honolulu, HI 96813, (808) 539–4965

Idaho

AOC Judicial Education Library /

State Law Library

Ms. Beth Peterson, State Law Librarian, Idaho State Law Library, Supreme Court Building, 451 West State St., Boise, ID 83720, (208) 334–3316

Illinois

Supreme Court Library

Ms. Brenda Larison, Supreme Court of Illinois Library, 200 East Capitol Avenue, Springfield, IL 62701–1791, (217) 782–2425

Indiana

Supreme Court Library

Dennis Lager, Supreme Court Librarian, Supreme Court Library, State House, Room 316, Indianapolis, IN 46204, (317) 232–2557

Iowa

Administrative Office of the Court

Dr. Jerry K. Beatty, Executive Director, Judicial, Education & Planning, Administrative Office of the Courts, State Capital Building, Des Moines, IA 50319, (515) 281–8279

Kansas

Supreme Court Library

Mr. Fred Knecht, Law Librarian, Kansas Supreme Court Library, 301 West 10th Street, Topeka, KS 66612, (913) 296–3257

Kentucky

State Law Library

Ms. Sallie Howard, State Law Librarian, State Law Library, State Capital, Room 200, Frankfort, KY 40601, (502) 564–4848

Louisiana

State Law Library

Ms. Carol Billings, Director, Louisiana Law Library, 301 Loyola Avenue, New Orleans, LA 70112, (504) 568–5705

Maine

State Law and Legislative Reference Library

Ms. Lynn E. Randall, State Law Librarian, 43 State House Station, Augusta, ME 04333, (207) 287–1600

Maryland

State Law Library

Mr. Michael S. Miller, Director, Maryland State Law Library, Court of Appeal Building, 361 Rowe Boulevard, Annapolis, MD 21401, (410) 260–1430

Massachusetts

Middlesex Law Library

Ms. Sandra Lindheimer, Librarian, Middlesex Law Library, Superior Court House, 40 Thorndike Street, Cambridge, MA 02141, (617) 494–4148

Michigan

Michigan Judicial Institute

Mr. Kevin Bowling, Director, Michigan Judicial Institute, 222 Washington Square North, P.O. Box 30205, Lansing, MI 48909, (517) 334–7804

Minnesota

State Law Library (Minnesota Judicial Center)

Mr. Marvin R. Anderson, State Law Librarian, Supreme Court of Minnesota, 25 Constitution Avenue, St. Paul, MN 55155, (612) 297–2084

Mississippi

Mississippi Judicial College

Mr. Leslie Johnson, Director, University of Mississippi, P.O. Box 8850, University, MS 38677, (601) 232–5955

Montana

State Law Library

Ms. Judith Meadows, State Law Librarian, State Law Library of Montana, 215 North Sanders, Helena, MT 59620, (406) 444–3660

Nebraska

Administrative Office of the Courts

Mr. Joseph C. Steele, State Court Administrator, Supreme Court of Nebraska, Administrative Office of the Courts, P.O. Box 98910, Lincoln, NE 68509–8910, (402) 471–3730

Nevada

National Judicial College

Honorable V. Robert Payant, President, National Judicial College, Judicial College Building, University of Nevada, Reno, NV 89550, (702) 784–6747

New Jersey

New Jersey State Library

Marjorie Garwig, Supervising Law Librarian, New Jersey State Law Library, 185 West State Street, P.O. Box 520, Trenton, NJ 08625–0250, (609) 292–6230

New Mexico

Supreme Court Library

Mr. Thaddeus Bejnar, Librarian, Supreme Court Library, Post Office Drawer L, Santa Fe, NM 87504, (505) 827–4850

New York

Supreme Court Library

Ms. Colleen Stella, Principal Law Librarian, New York State Supreme Court Law Library, Onondaga County Court House, 401 Montgomery Street, Syracuse, NY 13202, (315) 435–2063

North Carolina

Supreme Court Library

Ms. Louise Stafford, Librarian, North Carolina Supreme Court Library, P.O. Box 28006, 2 East Morgan Street, Raleigh, NC 27601, (919) 733–3425

North Dakota

Supreme Court Library

Ms. Marcella Kramer, Assistant Law Librarian, Supreme Court Law Library, 600 East Boulevard Avenue, Dept. 182, 2nd Floor, Judicial Wing, Bismarck, ND 58505–0540, (701) 328–2229

Northern Mariana Islands

Supreme Court of the Northern Mariana Islands

Honorable Marty W.K. Taylor, Chief Justice, Supreme Court of the Northern Mariana Islands, P.O. Box 2165, Saipan, MP 96950, (670) 234–5275

Ohio

Supreme Court Library

Mr. Paul S. Fu, Law Librarian, Supreme Court Law Library, Supreme Court of Ohio, 30 East Broad Street, Columbus, OH 43266–0419, (614) 466–2044

Oklahoma

Administrative Office of the Courts

Mr. Howard W. Conyers, Director, Administrative Office of the Courts, 1915 North Stiles, Suite 305, Oklahoma City, OK 73105, (405) 521–2450

Oregon

Administrative Office of the Courts

Ms. Kingsley Click, State Court Administrator, Supreme Court of Oregon, Supreme Court Building, 1163 State Street, Salem, OR 97310, (503) 378–6046

Pennsylvania

State Library of Pennsylvania

Ms. Sharon Anderson, Collection Management Section, State Library of Pennsylvania, P.O. Box 1601, G48 Forum Building, Harrisburg, PA 17105–1601, (717) 787–5718

Puerto Rico

Office of Court Administration

Alfredo Rivera-Mendoza, Esq., Director, Area of Planning and Management, Office of Court Administration, P.O. Box 917, Hato Rey, R 00919

Rhode Island

Roger Williams Law School Library

Mr. Kendall Svengalis, Law Librarian, Licht Judicial Complex, 250 Benefit Street, Providence, RI, (401) 254–4546

South Carolina

Coleman Karesh Law Library (University of South Carolina School of Law)

Mr. Bruce S. Johnson, Law Librarian, Associate Professor of Law, Coleman Karesh Law Library, U. S. C. Law Center, University of South Carolina, Columbia, SC 29208, (803) 777–5944

Tennessee

Tennessee State Law Library

Administrative Office of the Courts, State of Tennessee, 511 Union, Nashville, TN 37243–0607, (615) 741–2687

Texas

State Law Library

Ms. Kay Schleuter, Director, State Law Library, P.O. Box 12367, Austin, TX 78711, (512) 463–1722

U.S. Virgin Islands

Library of the Territorial Court of the Virgin Islands (St. Thomas)

Librarian, The Library, Territorial Court of the Virgin Islands, Post Office Box 70, Charlotte Amalie, St. Thomas, U.S. Virgin Islands 00804

Utah

Utah State Judicial Administration Library

Ms. Debbie Christiansen, Utah State Judicial Administration Library, AOC, 450 South State, P.O. Box 140241, Salt Lake City, UT 84114–0241, (801) 533–6371

Vermont

Supreme Court of Vermont

Mr. Lee Suskin, Court Administrator, Supreme Court of Vermont, 109 State Street, c/o Pavilion Office Building, Montpelier, VT 05609, (802) 828–3278

Virginia

Administrative Office of the Courts

Mr. Robert N. Baldwin, Executive Secretary, Supreme Court of Virginia, Administrative Offices, 100 North Ninth Street, 3rd Floor, Richmond, VA 23219, (804) 786–6455

Washington

Washington State Law Library

Ms. Deborah Norwood, State Law Librarian, Washington State Law Library, Temple of Justice, P.O. Box 40751, Olympia, WA 98504–0751, (206) 357–2136

West Virginia

Administrative Office of the Courts

Mr. Richard H. Rosswurm, Chief Deputy, West Virginia Supreme Court of Appeals, State Capitol, 1900 Kanawha, Charleston, WV 25305, (304) 348–0145

Wisconsin

State Law Library

Ms. Marcia Koslov, State Law Librarian, State Law Library, 310E State Capitol, P.O. Box 7881, Madison, WI 53707, (608) 266–1424

Wyoming

Wyoming State Law Library

Ms. Kathy Carlson, Law Librarian, Wyoming State Law Library, Supreme Court Building, 2301 Capitol Avenue, Cheyenne, WY 82002, (307) 777–7509

National

American Judicature Society

Ms. Clara Wells, Assistant for Information and Library, Services, 25 East Washington Street, Suite 1600, Chicago, IL 60602, (312) 558–6900

National Center for State Courts

Ms. Peggy Rogers, Acquisitions/Serials Librarian, 300 Newport Avenue, Williamsburg, VA 23187–8798, (804) 253–2000

JERITT

Ms. Jennae Rozeboom, Project Director, Judicial Education Reference, Information and Technical Transfer Project (JERITT), Michigan State University, 560 Baker Hall, East Lansing, MI 48824, (517) 353–8603

Appendix III—Illustrative List of Model Curricula

The following list includes examples of curricula that have been developed with support from SJI, that might be—or in some cases have been—successfully adapted for State-based education programs for judges and other court personnel. *Please refer to Section II.B.2.b.ii. for information on submitting a letter application for a Curriculum Adaptation Grant.* A list of all SJI-supported education projects is available from the Institute, and on the SJI website—www.clark.net/pub/sji. Please also check with the JERITT project (517/353–8603) and with your State SJI-designated library (see Appendix II) for information on other SJI-supported curricula that may be appropriate for your State's needs.

Alternative Dispute Resolution

Judicial Settlement Manual (National Judicial College: SJI–89–089)
Improving the Quality of Dispute Resolution (Ohio State University College of Law: SJI–93–277)
Comprehensive ADR Curriculum for Judges (American Bar Association: SJI–95–002)
Domestic Violence and Custody Mediation (American Bar Association: SJI–96–038)

Court Coordination

Adjudication of Farm Credit Issues (Rural Justice Center: SJI–87–059)
Bankruptcy Issues for State Trial Court Judges (American Bankruptcy Institute: SJI–91–027)
Intermediate Sanctions Handbook: Experiences and Tools for Policymakers (Center for Effective Public Policy: IAA–88–NIC–001)
Regional Conference Cookbook: A Practical Guide to Planning and Presenting a Regional Conference on State-Federal Judicial Relationships (U.S. Court of Appeals for the 9th Circuit: SJI–92–087)
Bankruptcy Issues and Domestic Relations Cases (American Bankruptcy Institute: SJI–96–175)

Court Management

Managing Trials Effectively: A Program for State Trial Judges (National Center for State Courts/National Judicial College: SJI–87–066/067, SJI–89–054/055, SJI–91–025/026)
Caseflow Management Principles and Practices (Institute for Court Management/National Center for State Courts: SJI–87–056)
Judicial Education Curriculum: Teaching Guides on Court Security, and Jury Management and Impanelment (Institute for Court Management/National Center for State Courts: SJI–88–053)
A Manual for Workshops on Processing Felony Dispositions in Limited Jurisdiction Courts (National Center for State Courts: SJI–90–052)
Managerial Budgeting in the Courts; Performance Appraisal in the Courts; Managing Change in the Courts; Court Automation Design; Case Management for Trial Judges; Trial Court Performance Standards (Institute for Court Management/National Center for State Courts: SJI–91–043)
Implementing the Court-Related Needs of Older Persons and Persons with Disabilities (National Judicial College: SJI–91–054)
Strengthening Rural Courts of Limited Jurisdiction and Team Training for Judges and Clerks (Rural Justice Center: SJI–90–014, SJI–91–082)
Interbranch Relations Workshop (Ohio Judicial Conference: SJI–92–079)
Integrating Trial Management and Caseflow Management (Justice Management Institute: SJI–93–214)
Leading Organizational Change (California Administrative Office of the Courts: SJI–94–068)

Privacy Issues in Computerized Court Record Keeping: An Instructional Guide for Judges and Judicial Educators (National Judicial College: SJI–94–015)
Managing Mass Tort Cases (National Judicial College: SJI–94–141)
Employment Responsibilities of State Court Judges (National Judicial College: SJI–95–025)
Dealing with the Common Law Courts: A Model Curriculum for Judges and Court Staff (Institute for Court Management/National Center for State Courts: SJI–96–159)

Courts and Communities

A National Program for Reporting on the Courts and the Law (American Judicature Society: SJI–88–014)
Victim Rights and the Judiciary: A Training and Implementation Project (National ''Organization for Victim Assistance: SJI–89–083)
National Guardianship Monitoring Project: Trainer and Trainee's Manual (American Association of Retired Persons: SJI–91–013)
Access to Justice: The Impartial Jury and the Justice System and When Implementing the Court-Related Needs of Older People and Persons with Disabilities: An Instructional Guide (National Judicial College: SJI–91–054)
You Are the Court System: A Focus on Customer Service (Alaska Court System: SJI–94–048)
Serving the Public: A Curriculum for Court Employees (American Judicature Society: SJI–96–040)
Courts and Their Communities: Local Planning and the Renewal of Public Trust and Confidence: A California Statewide Conference (California Administrative Office of the Courts: SJI–98–008)

Criminal Process

Search Warrants: A Curriculum Guide for Magistrates (American Bar Association Criminal Justice Section: SJI–88–035)

Diversity, Values, and Attitudes

Troubled Families, Troubled Judges (Brandeis University: SJI–89–071)
The Crucial Nature of Attitudes and Values in Judicial Education (National Council of Juvenile and Family Court Judges: SJI–90–058)
Enhancing Diversity in the Court and Community (Institute for Court Management/National Center for State Courts: SJI–91–043)
Cultural Diversity Awareness in Nebraska Courts from Native American Alternatives to Incarceration Project (Nebraska Urban Indian Health Coalition: SJI–93–028)
A Videotape Training Program in Ethics and Professional Conduct for Nonjudicial Court Personnel and The Ethics Fieldbook: Tool For Trainers (American Judicature Society: SJI–93–068)
Court Interpreter Training Course for Spanish Interpreters (International Institute of Buffalo: SJI–93–075)
Doing Justice: Improving Equality Before the Law Through Literature-Based Seminars for Judges and Court Personnel (Brandeis University: SJI–94–019)
Race Fairness and Cultural Awareness Faculty Development Workshop (National Judicial College: SJI–93–063)
Indian Welfare Act; Defendants, Victims, and Witnesses with Mental Retardation (National Judicial College: SJI–94–142)
Multi-Cultural Training for Judges and Court Personnel (St. Petersburg Junior College: SJI–95–006)
Ethical Standards for Judicial Settlement: Developing a Judicial Education Module (American Judicature Society: SJI–95–082)
Code of Ethics for the Court Employees of California (California Administrative Office of the Courts: SJI 95–245)
Workplace Sexual Harassment Awareness and Prevention (California Administrative Office of the Courts: SJI 96–089)
Just Us On Justice: A Dialogue on Diversity Issues Facing Virginia Courts (Virginia Supreme Court: SJI–96–150)
When Bias Compounds: Insuring Equal Treatment for Women of Color in the Courts (National Judicial Education Program: SJI 96–161)
When Judges Speak Up: Ethics, the Public, and the Media (American Judicature Society: SJI–96–152)

Family Violence and Gender-Related Violence Crime

National Judicial Response to Domestic Violence: Civil and Criminal Curricula (Family Violence Prevention Fund: SJI–87–061, SJI–89–070, SJI–91–055).
''Domestic Violence: A Curriculum for Rural Courts'' from A Project to Improve Access to Rural Courts for Victims of Domestic Violence (Rural Justice Center: SJI–88–081)
''Judicial Training Materials on Spousal Support''; ''Judicial Training Materials on Child Custody and Visitation'' from Enhancing Gender Fairness in the State Courts (Women Judges' Fund for Justice: SJI–89–062)
Judicial Response to Stranger and Nonstranger Rape and Sexual Assault (National Judicial Education Program to Promote Equality for Women and Men: SJI–92–003)
Domestic Violence & Children: Resolving Custody and Visitation Disputes (Family Violence Prevention Fund: SJI–93–255)
Adjudicating Allegations of Child Sexual Abuse When Custody Is In Dispute (National Judicial Education Program: SJI 95–019)
Handling Cases of Elder Abuse: Interdisciplinary Curricula for Judges and Court Staff (American Bar Association: SJI–93–274)

Health and Science

Medicine, Ethics, and the Law: Preconception to Birth (Women Judges Fund for Justice: SJI–89–062, SJI–91–019)
''Judicial Educator's Workshop Curriculum Guide: Implementing Medical Legal Training'' from Medical Legal Issues in Juvenile and Family Courts (National Council for Juvenile and Family Court Judges: SJI–91–091)
Environmental Law Resource Handbook (University of New Mexico Institute for Public Law: SJI–92–162)

Judicial Education For Appellate Court Judges

Career Writing Program for Appellate Judges (American Academy of Judicial Education: SJI–88–086–P92–1)
Civil and Criminal Procedural Innovations for Appellate Courts (National Center for State Courts: SJI–94–002)

Judicial Education Faculty, and Program Development

The Leadership Institute in Judicial Education and The Advanced Leadership Institute in Judicial Education (University of Memphis: SJI–91–021)
''Faculty Development Instructional Program'' from Curriculum Review (National Judicial College: SJI–91–039)
Resource Manual and Training for Judicial Education Mentors (National Association of State Judicial Educators: SJI–95–233)
Institute for Faculty Excellence in Judicial Education, (National Council of Juvenile and Family Court Judges: SJI–96–042)

Orientation and Mentoring of Judges and Court Personnel

Manual for Judicial Writing Workshop for Trial Judges (University of Georgia/Colorado Judicial Department: SJI–87–018/019)

Legal Institute for Special and Limited Jurisdiction Judges (National Judicial College: SJI–89–043, SJI–91–040)
Pre-Bench Training for New Judges (American Judicature Society: SJI–90–028)
A Unified Orientation and Mentoring Program for New Judges of All Arizona Trial Courts (Arizona Supreme Court: SJI–90–078)
Court Organization and Structure (Institute for Court Management/ National Center for State Courts: SJI–91–043)
Judicial Review of Administrative Agency Decisions (National Judicial College: SJI–91–080)
New Employee Orientation Facilitators Guide (Minnesota Supreme Court: SJI–92–155)
Magistrates Correspondence Course (Alaska Court System: SJI–92–156)
Computer-Assisted Instruction for Court Employees (Utah Administrative Office of the Courts: SJI–94–012)
Bench Trial Skills and Demeanor: An Interactive Manual (National Judicial College: SJI 94–058)
Ethical Issues in the Election of Judges (National Judicial College: SJI–94–142)

Juveniles and Families in Court

Innovative Juvenile and Family Court Training (Youth Law Center: SJI–87–060, SJI–89–039)
Fundamental Skills Training Curriculum for Juvenile Probation Officers (National Council of Juvenile and Family Court Judges: SJI–90–017)
Child Support Across State Lines: The Uniform Interstate Family Support Act from Uniform Interstate Family Support Act: Development and Delivery of a Judicial Training Curriculum (ABA Center on Children and the Law: SJI 94–321)

Strategic and Futures Planning

Minding the Courts into the Twentieth Century (Michigan Judicial Institute: SJI–89–029)
An Approach to Long-Range Strategic Planning in the Courts (Center for Public Policy Studies: SJI–91–045)

Substance Abuse

Effective Treatment for Drug-Involved Offenders: A Review & Synthesis for Judges and Court Personnel (Education Development Center, Inc.: SJI–90–051)
Good Times, Bad Times: Drugs, Youth, and the Judiciary (Professional Development and Training Center, Inc.: SJI–91–095)
Gaining Momentum: A Model Curriculum for Drug Courts (Florida Office of the State Courts Administrator: SJI–94–291)
Judicial Response to Substance Abuse: Children, Adolescents, and Families (National Council of Juvenile and Family Court Judges: SJI–95–030)

Appendix IV—Illustrative List of Replicable Projects

The following list includes examples of projects undertaken with support from SJI that might be—or in some cases have been—successfully adapted and replicated in other jurisdictions. *Please see Section II.C.1. for information on submitting a concept paper requesting a grant to replicate one of these or another SJI-supported project.* A list of all SJI-supported projects is available from the Institute and on the Institute's website—www.clark.net/pub/sji.

Alternative Dispute Resolution

Computerized Citizen Intake and Referral Service, Grantee: District of Columbia Courts, Contact: Charles Bethell, 500 Indiana Avenue, N.W., Washington, DC 20001, (202) 879–1479, Grant No: SJI–93–211

Application of Technology

File Transfer Technology Application in Use of Court Information, Grantee: South Carolina Bar, Contact: Yvonne Visser, 950 Taylor Street, P.O. Box 608, Columbia, SC 29202–0608, (803) 799–6653, Grant Nos: SJI–91–088; SJI–91–088–P93–1; SJI–91–088–P94–1
Managing Documents with Imaging Technology, Grantee: Alaska Judicial Council, Contact: William T. Cotton, 1029 W. Third Avenue, Suite 201, Anchorage, AK 99501–1917, (907) 279–2526, Grant No: SJI–92–083
Automated Teller Machines for Juror Payment, Grantee: District of Columbia Courts, Contact: Philip Braxton, 500 Indiana Avenue, N.W., Washington, DC 20001, (202) 879–1700, Grant No: SJI–92–139
Analytical Judicial Desktop, Grantee: Fund for the City of New York, Contact: Michele Sviridoff, Mid-Town Community Court, 314 W. 54th Street, New York, New York 10019, (212) 484–2721, Grant No: SJI–94–323

Children and Families in Court

A Day in Court: A Child's Perspective, Grantee: Massachusetts Trial Court, Contact: Hon. John Irwin, 2 Center Plaza, Boston, MA 02108, (617) 742–8575, Grant No: SJI–91–079
Parent Education and Custody Effectiveness (PEACE) Program, Grantee: Hofstra University, Contact: Andrew Shephard, 1000 Fulton Avenue, Hampstead, NY 11550–1090, (516) 463–5890, Grant No: SJI–93–265
A Judge's Guide to Culturally Competent Responses to Latino Family Violence, Grantee: Center for Public Policy Studies, Contacts: Stephen Weller, John Martin, 999 18th Street, Suite 900, Denver, Colorado 80202, Grant No: SJI–96–230

Court Management, Coordination and Planning

Tribal Court-State Court Forums: A How To-Do-It Guide to Prevent and Resolve Jurisdictional Disputes and Improve Cooperation Between Tribal and State Courts, Grantee: National Center for State Courts, Contact: Frederick Miller, 1331 17th Street, Suite 402, Denver, Colorado 80202–1554, (303) 293–3063, Grant No: SJI–91–011
Measurement of Trial Court Performance, Grantee: Washington Administrative Office for the Courts, Contact: Yvonne Pettus, 1206 S. Quince Street, Olympia, WA 98504, (360) 357–2121, Grant No: SJI–91–017; SJI–91–017–P92–1
Measurement of Trial Court Performance, Grantee: New Jersey Administrative Office of the Courts, Contact: Theodore J. Fetter, CN–037, RJH Justice Complex, Trenton, NJ 08625, (609) 984–0275, Grant No: SJI–91–023; SJI–91–023–P93–1
Measurement of Trial Court Performance, Grantee: Ohio Supreme Court, Contact: Stephan W. Stover, State Office Tower, 30 East Broad Street, Columbus, OH 43266–0419, (614) 466–2653, Grant No: SJI–91–024; SJI–91–024–P93–1
Measurement of Trial Court Performance, Grantee: Supreme Court of Virginia, Contact: Beatrice Monahan, 100 North Ninth Street, Third Floor, Richmond, VA 23219, (804) 786–6455, Grant No: SJI–91–042; SJI–91–042–P93–1
Probate Caseflow Management Project, Grantee: Ohio Supreme Court/ Trumball County Probate Court, Contact: Susan Lightbody, 160 High Street, N.W., Warren, OH 44481, (216) 675–2566, Grant No: SJI–92–081; SJI–92–081–P94–1; SJI–92–081–P95–1
Implementing Quality Methods in Court Operations, Grantee: Oregon Supreme Court, Contact: Scott Crampton, Supreme Court Building, Salem, OR 97310, (503) 378–5845, Grant No: SJI–92–170
Applying TQM Concepts to Systemwide Problems of the Maine Judicial Branch, Grantee: Maine Supreme Judicial Court, Contact: James T. Glessner, P.O. Box 4820, Portland, Maine 04101, (207) 822–0792, Grant No: SJI–93–072
Arizona-Sonora Judicial Relations Project, Grantee: Arizona Supreme Court, Contact: Dennis Metrick, 1501 W. Washington Street, Phoenix,

Arizona 85007–3327, (602) 542–4532, Grant No: SJI–93–202

Implementing Strategic Planning in the Trial Courts, Grantee: Center for Public Policy Studies, Contact: David Price, 999 18th Street, Suite 900, Denver, CO 80202, (303) 863–0900, Grant No: SJI–94–021

Interstate Compacts and Cooperation in Guardianship Cases, Grantee: National College of Probate Judges, Contact: Paula Hannaford, P.O. Box 8978, Williamsburg, Virginia 23187–8798, (757) 253–2000, Grant No: SJI–97–241

Courts and Communities

AARP Volunteers: A Resource for Strengthening Guardianship Services, Grantee: American Association of Retired Persons, Contact: Wayne Moore, 601 E Street, N.W., Washington, DC 20049, (202) 434–2165, Grant Nos: SJI–88–033/SJI–91–013

Establishing a Consumer Research and Service Development Process Within the Judicial System, Grantee: Supreme Court of Virginia, Contact: Beatrice Monahan, Administrative Offices, Third Floor, 100 North Ninth Street, Richmond, VA 23219, (804) 786–6455, Grant No: SJI–89–068

Housing Court Video Project, Grantee: Association of the Bar of the City of New York, Contact: Marilyn Kneeland, 42 West 44th Street, New York, NY 10036–6690, (212) 382–6620, Grant No: SJI–90–041

Tele-Court: A Michigan Judicial System Public Information Program, Grantee: Michigan Supreme Court, Contact: Judy Bartell, State Court Administrative Office, 611 West Ottawa Street, P.O. Box 30048, Lansing, MI 48909, (517) 373–0130, Grant No: SJI–91–015

Arizona Pro Per Information System (QuickCourt), Grantee: Arizona Supreme Court, Contact: Jeannie Lynch, Administrative Office of the Court, 1501 West Washington Street, Suite 411, Phoenix, AZ 85007–3330, (602) 542–9554, Grant No: SJI–91–084

Automated Public Information System, Grantee: California Administrative Office of the Courts, Contact: Mark Greenia, Sacramento Superior and Municipal Court, 303 Second Street, South Tower, San Francisco, CA 94107, (916) 440–7590, Grant No: SJI–91–093

Using Judges and Court Personnel to Facilitate Access to Courts by Limited English Speakers, Grantee: Washington Office of the Administrator for the Courts, Contact: Joanne Moore, 1206 South Quince Street, P.O. Box 41170, Olympia, WA 98504–1170, (206) 753–3365, Grant No: SJI–92–147

Pro se Forms and Instructions Packets, Grantee: Michigan Supreme Court, Contact: Pamela Creighton, 611 W. Ottawa Street, Lansing, MI 48909, Grant No: SJI–94–003

Understanding the Judicial Process: A Curriculum and Community Service Program, Grantee: Drake University, Contact: Timothy Buzzell, Opperman Hall, Des Moines, IA 50311, (515) 271–3205, Grant No: SJI–94–022

Court Self-Service Center, Grantee: Maricopa County Superior Court, Contact: Bob James, 201 W. Jefferson, 4th Floor, Phoenix, AZ 85003, (602) 506–6314, Grant No: SJI–94–324

Computer-Based Interpreter Test Delivery System, Grantee: Maryland Administrative Office of the Courts, Contact: Elizabeth Veronis, 361 Rowe Boulevard, Annapolis, Maryland 21401, (410) 974–2141, Grant No: SJI–96–164

Public Opinion and the Courts, Grantee: New Mexico Administrative Office of the Courts, Contact: John M. Greacen, 237 Don Gaspar, Room 25, Santa Fe, New Mexico 87501–2178, (505) 827–4800, Grant No: SJI–97–026

Sentencing

Court Probation Enhancement Through Community Involvement, Grantee: Volunteers in Prevention, Probation and Prisons, Inc., Contact: Gerald Dash, 163 Madison, Suite 120, Detroit, MI 48226, (313) 964–1110, Grant No: SJI–91–073

Facilitating the Appropriate Use of Intermediate Sanctions, Grantee: Center for Effective Public Policy, Contact: Peggy McGarry, 8403 Colesville Road, Suite 720, (301) 589–9383, Grant No: SJI–95–078

Substance Abuse

Alabama Alcohol and Drug Abuse Court Referral Officer Program, Grantee: Alabama Administrative Office of the Courts, Contact: Angelo Trimble, 817 South Court Street, Montgomery, AL 36130–0101, (334) 834–7990, Grant Nos: SJI–88–030/SJI–89–080/SJI–90–005

Substance Abuse Assessment and Intervention to Reduce Driving Under the Influence of Alcohol Recidivism, Grantee: California Administrative Office of the Courts c/o El Cajon Municipal Court, Contact: Fred Lear, 250 E. Main Street, El Cajon, CA 92020, (619) 441–4336, Grant No: SJI–88–029/SJI–90–008

Court Referral Officer Program, Grantee: New Hampshire Supreme Court, Contact: Jim Kelley, Supreme Court Building, Concord, NH 03301, (603) 271–2521, Grant No: SJI–92–142

Appendix V— State Justice Institute

(Form S1)

SCHOLARSHIP APPLICATION

This application does not serve as a registration for the course. Please contact the education provider.

Applicant Information

1. Applicant Name:

_____

(Last) (First) (M)

2. Position: _____

3. Name of Court: _____

4. Address: Street/P.O. Box

_____

City State Zip Code

5. Telephone No. _____

6. Congressional District: _____

Program Information

7. Course Name: _____

8. Course Dates: _____

9. Course Provider: _____

10. Location Offered: _____

ESTIMATED EXPENSES: (Please note, scholarships are limited to tuition and transportation expenses to and from the site of the course up to a maximum of $1,500.)

Tuition: $ _____

Transportation: $ _____

(Airfare, train fare, or if you plan to drive)

Amount Requested: $ _____

Are you seeking/have you received a scholarship for this course from another source?

__ Yes __ No. If so, please specify the source(s) and amounts(s) _____.

ADDITIONAL INFORMATION: Please attach a current resume or professional summary, and provide the information requested below. (You may attach additional pages if necessary.)

1. Please describe your need to acquire the skills and knowledge taught in this course.

2. Please describe how will taking this course benefit you, your court, and the State's courts generally.

3. Is there an educational program currently available through your State on this topic?

4. Are State or local funds available to support your attendance at the proposed course?

If so, what amount(s) will be provided?

5. How long have you served as a judge or court manager?

6. How long do you anticipate serving as a judge or court manager, assuming reelection or reappointment?

☐ 0–1 year ☐ 2–4 years ☐ 5–7 years
☐ 8–10 years ☐ 11+ years

7. What continuing professional education programs have you attended in the past year? Please indicate which were mandatory (M) and which were non-mandatory (V).

Statement of Applicant's Commitment

If a scholarship is awarded, I will share the skills and knowledge I have gained with my

court colleagues locally, and if possible, Statewide, and I will submit an evaluation of the educational program to the State Justice Institute and to the Chief Justice of my State.

_____
Signature

_____
Date

Please return this form and Form S–2 to: Scholarship Coordinator, State Justice Institute, 1650 King Street, Suite 600, Alexandria Virginia 22314

(Form S2)

STATE JUSTICE INSTITUTE

SCHOLARSHIP APPLICATION

CONCURRENCE

I, _____
Name of Chief Justice (or Chief Justice's Designee)

have reviewed the application for a scholarship to attend the program entitled _____,

prepared by _____
Name of Applicant

and concur in its submission to the State Justice Institute. The applicant's participation in the program would benefit the State; the applicant's absence to attend the program would not present an undue hardship to the court; public funds are not available to enable the applicant to attend this course; and receipt of a scholarship would not diminish the amount of funds made available by the State for judicial branch education.

_____
Signature

_____
Name

_____
Title

_____
Date

APPENDIX VI.—LINE-ITEM BUDGET FORM

[For Concept Papers, Curriculum Adaptation & Technical Assistance Grant Requests]

Category	SJI funds	Cash match	In-kind match
Personnel	$_____	$_____	$_____
Fringe Benefits	$_____	$_____	$_____
Consultant/Contractual	$_____	$_____	$_____
Travel	$_____	$_____	$_____
Equipment	$_____	$_____	$_____
Supplies	$_____	$_____	$_____
Telephone	$_____	$_____	$_____
Postage	$_____	$_____	$_____
Printing/Photocopying	$_____	$_____	$_____
Audit	$_____	$_____	$_____
Other	$_____	$_____	$_____
Indirect Costs (%)	$_____	$_____	$_____
Total	$_____	$_____	$_____
Project Total		$_____	

Financial assistance has been or will be sought for this project from the following other sources:

_____

_____

*Concept papers requesting an acccelerated award, Curriculum Adaptation grant requests, and Technical Assistance grant requests should be accompanied by a budget narrative explaining the basis for each line-item listed in the proposed budget.

Form B (Instructions on Reverse Side)

Appendix VII—State Justice Institute

Certificate of State Approval

The _____ (Name of State Supreme Court or Designated Agency or Council) has reviewed the application entitled _____ prepared by _____ (Name of Applicant), approves its submission to the State Justice Institute, and _____

[ ] agrees to receive and administer and be accountable for all funds awarded by the Institute pursuant to the application.

[ ] designates _____ (Name of Trial or Appellate Court or Agency) as the entity to receive, administer, and be accountable for all funds awarded by the Institute pursuant to the application.

_____
Signature

Name

_____
Title

_____
Date

[FR Doc. 98–23092 Filed 8–28–98; 8:45 am]

BILLING CODE 6820–SC–P

Federal Register

Monday
August 31, 1998

Part III

Department of Education

List of Correspondence, Office of Special Education and Rehabilitative Services: Notice

DEPARTMENT OF EDUCATION

List of Correspondence—Office of Special Education and Rehabilitative Services

AGENCY: Department of Education.

ACTION: List of correspondence from October 1, 1997 through December 31, 1997.

SUMMARY: The Secretary is publishing the following list pursuant to section 607(d) of the Individuals with Disabilities Education Act (IDEA). Under section 607(d) of IDEA, the Secretary is required, on a quarterly basis, to publish in the **Federal Register** ''a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of this Act or the regulations implemented pursuant to this Act.''

FOR FURTHER INFORMATION CONTACT: JoLeta Reynolds or Rhonda Weiss. Telephone: (202) 205–5507. Individuals who use a telecommunications device for the deaf (TDD) may call (202) 205–5465 or the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern time, Monday through Friday, except Federal holidays.

Individuals with disabilities may obtain a copy of this notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to Katie Mincey, Director of the Alternate Formats Center. Telephone: (202) 205–8113.

SUPPLEMENTARY INFORMATION: The following list identifies correspondence from the Department issued between October 1, 1997 and December 31, 1997.

Included on the list are those letters that contain interpretations of the requirements of IDEA and its implementing regulations, as well as letters that the Department believes will assist the public in understanding the requirements of the law and its regulations. The date and topic addressed by a letter are identified, and summary information is also provided, as appropriate. To protect the privacy interests of the individual or individuals involved, personally identifiable information has been deleted, as appropriate.

Part B—Assistance for Education of all Children with Disabilities Section 612 State Eligibility

Topic Addressed: Free Appropriate Public Education

- Letter dated October 3, 1997 to an individual, (personally identifiable information redacted), regarding possible eligibility for special education and related services under Part B of IDEA for children ineligible for Supplemental Security Income benefits.
- Letter dated October 7, 1997 to Ms. Joann Biondi, Berkeley Unified School District, Berkeley, California, regarding which school district is responsible for educating a child with a disability whose parents are divorced.

Topic Addressed: Free Appropriate Public Education for Eligible Youth With Disabilities Incarcerated in Adult Prisons

- Letters dated November 6, 1997 to Mr. Russell Shaddix, Eureka City Schools, Eureka, California; Mr. Richard D. Teagarden and Mr. Dan Halcomb, Yuba County Office of Education, Marysville, California; and Mr. George Galaza, Warden, California State Prison, Corcoran, California, regarding flexibility afforded to States in meeting their obligations to provide a free appropriate public education to this population of disabled students.

Topic Addressed: Least Restrictive Environment

- Letter dated October 3, 1997 to Sister Mary Ramona, Felician School for Exceptional Children, Inc., Lodi, New Jersey, regarding the continuum of alternative placements.
- Letter dated October 22, 1997 to Mr. Donald C. Buell, Hinsdale Township High School District No. 86, Oak Brook, Illinois, regarding absence of Part B definitions of terms ''regular classes'' and ''inclusion.''
- Letter dated December 31, 1997 to Mr. Mark Hall, Neighborhood Schools Now!, Chantilly, Virginia, regarding the relationship of the individualized education program and least restrictive environment requirements of the IDEA Amendments Act of 1997.

Topic Addressed: General Supervision

- Letter dated November 6, 1997 to Mrs. Leslie M. Averna, Associate Commissioner, Division of Educational Programs and Services, Connecticut Department of Education, regarding intervals for a State's monitoring cycle.
- Letter dated November 18, 1997 to Honorable Sandy Garrett, Oklahoma State Superintendent of Public Instruction, regarding the scope of a State educational agency's general supervisory responsibility, including its primary responsibility for resolution of complaints alleging violations of Part B.

Topic Addressed: Confidentiality

- Letter dated December 23, 1997 to individual, (personally identifiable information redacted), regarding obligations of States to disclose individual student data in a non-personally identifiable manner.

Section 614—Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements

Topic Addressed: Evaluations

- Letter dated November 14, 1997 to an individual (personally identifiable information redated), regarding absence of time periods in Part B within which a school district must respond to a parent's request for evaluation.

Topic Addressed: Individualized Education Programs

- Letter dated October 29, 1997 to an individual, (personally identifiable information redated), regarding regular education teacher's participation on the IEP team.
- Letter dated November 21, 1997 to Mr. Edward J. Sarzynski, Esq. of Binghamton, New York, regarding IEPs for children receiving home schooling.
- Letter dated November 6, 1997 to an individual, (personally identifiable information redacted), regarding consideration of a child's need for assistive technology.

Section 615—Procedural Safeguards

Topic Addressed: Surrogate Parents

- Letter dated December 3, 1997 to Mr. John Copenhaver, Mountain Plains Regional Resource Center, regarding attorney's fees for a surrogate parent and limitations on removal of surrogate parents.

Topic Addressed: Due Process Hearings

- Letter dated October 22, 1997 to Dr. Juanita S. Pawlisch, Wisconsin Department of Public Instruction, regarding the applicability of a State statute of limitations to a parent's right to request a due process hearing under Part B.

Topic Addressed: Pendency Placement

- Letter dated November 26, 1997 to Dr. Paul Chassy, Esq. of Kensington, Maryland, regarding determination of child's pendency placement if parties are unable to agree.

Topic Addressed: Discipline Procedures

- OSEP Memorandum 97–7 dated September 19, 1997 entitled ''Initial Disciplinary Guidance related to Removal of Children with Disabilities from Their Current Educational Placements for Ten School Days or Less.''

- Letter dated October 9, 1997 to U.S. Congressman Zach Wamp, regarding suspensions of up to ten school days.
- Letter dated October 3, 1997 to an individual, (personally identifiable information redacted), regarding when a hearing officer may order the change in the placement of a child with a disability to an appropriate interim alternative educational setting for up to 45 days.
- Letter dated December 3, 1997 to Mr. Richard Bachman, Principal, Midwest City High School, Midwest City, Oklahoma, regarding when a student with a disability can be excluded from school for more than 45 days.
- Letter dated November 6, 1997 to U.S. Congressman Ike Skelton, letter dated December 17, 1997 to Mr. Paul E. Miller, Principal, Laquey R–V High School, Laquey, Missouri, and letter dated December 18, 1997 to individual, (personally identifiable information redacted), regarding options available to school authorities in disciplining disabled students.
- Letter dated December 8, 1997 to Dr. James V. Parker, Jr., Wilkes County Board of Education, Washington, Georgia, regarding resources for providing alternative programming for disabled students disciplined under the Act.
- Letter dated December 17, 1997 to U.S. Congressman John Tanner, regarding applicability of Gun-Free Schools Act to student with disabilities.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pfd) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office at (202) 512–1530 or, toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins, and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Dated: August 21, 1998.

Curtis L. Richards,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

(Catalog of Federal Domestic Assistance Number 84.027, Assistance to States for Education of Children with Disabilities)

[FR Doc. 98–22965 Filed 8–28–98; 8:45 am]

BILLING CODE 4000–01–M

federal register

Monday
August 31, 1998

Part IV

Environmental Protection Agency

40 CFR Part 268 Hazardous Waste Recycling; Land Disposal Restrictions; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[FRL–6153–2]

RIN 2050–AE05

Hazardous Waste Recycling; Land Disposal Restrictions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is issuing an amendment to the final rule, published on May 26, 1998 (63 FR 28556), which, in part, amended the Land Disposal Restriction (LDR) treatment standards for metal-bearing hazardous wastes which exhibit the characteristic of toxicity. EPA is amending the rule only insofar as it applies to zinc micronutrient fertilizers which are produced from these toxicity characteristic wastes. The Agency is taking this action because it appears that the new treatment standards are not well suited for zinc micronutrient fertilizers, and also could result in greater use of zinc fertilizers that contain relatively higher concentrations of hazardous constituents. The Agency expects to develop a more consistent and comprehensive approach to regulating hazardous waste-derived fertilizers, and currently intends to leave this amendment in place until those new regulations are adopted. In the interim, the fertilizers affected by this amendment would remain subject to the previous treatment standards for toxic metals.

EFFECTIVE DATE: August 21, 1998.

ADDRESSES: The public docket for this rule is available for public inspection at EPA's RCRA Information Center, located at Crystal Gateway, First Floor, 1235 Jefferson Davis Highway, Arlington, Virginia. The regulatory docket for this rule contains a number of background materials. To obtain a list of these items, contact the RCRA Docket at 703 603–9230 and request the list of references in EPA Docket #F–98–PH4S–FFFFF.

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 David M. Fagan (5301W), Office of Solid Waste, 401 M Street, SW, Washington DC 20460, (703) 308–0603.

SUPPLEMENTARY INFORMATION:

Availability of Rule on Internet

This notice is available on the internet, at: www: http://www.epa.gov/oswer/hazwaste/ldrmetal/facts.htm

Table of Contents

I. Background

Under RCRA, hazardous wastes are prohibited from land disposal unless they meet treatment standards established by EPA. (The major exception, not relevant here, is if the wastes are disposed in a unit from which there will be no migration of hazardous constituents for as long as the wastes remain hazardous.) See RCRA sections 3004(g)(5) and (m); 63 FR 28557–28558. The land disposal restriction treatment standards also apply to certain products that are made from hazardous wastes, and that are placed on the land. See 40 CFR 266.20(b). This ''use constituting disposal'' provision in the RCRA regulations, which was promulgated on August 17, 1988, was intended to provide an additional degree of environmental protection for hazardous waste-derived products that are used in this manner (i.e., that are introduced directly into the environment by being placed on the land).

One particular category of hazardous waste-derived products that have been subject to these regulatory provisions are zinc micronutrient fertilizers that are produced from or which otherwise contain hazardous wastes. See 40 CFR 261.2(c)(1)(B) (defining hazardous secondary materials used in this manner as solid wastes for purposes of RCRA subtitle C). This type of fertilizer can be manufactured from several types of hazardous wastes that have high zinc content, such as dusts collected in emission control devices (''baghouse dust'') from electric arc steel making furnaces and brass foundries, ash from combustion of used tires, and other sources. These fertilizers can also be made from waste materials that are not classified as hazardous wastes, as well as from virgin raw materials such as refined zinc ores.

Prior to promulgation of the May 26, 1998 rule (commonly referred to as the ''Phase IV'' LDR rule), zinc micronutrient fertilizers made from hazardous waste secondary materials were subject (with one specific exemption, described below) to the treatment standards promulgated by EPA in the ''Third Third'' LDR rules (see 55 FR 22688, June 1, 1990, establishing prohibitions for wastes which exhibit the toxicity characteristic for metals). Those regulations essentially required that the fertilizer products be treated such that they no longer exhibited a hazardous waste characteristic before they could be applied to the land. However, the Phase IV regulations (which revised the standards in § 268.40 that apply to toxicity characteristic metal wastes) now require treatment below the hazardous waste characteristic levels. Such treatment standards are consistent with the D.C. Circuit's ruling in *Chemical Waste Management* v. *EPA*, 976 F. 2d 2, 13–14 (D.C. Cir. 1992), that hazardous wastes must be treated so that threats posed by land disposal of their hazardous constituents are minimized (within the meaning of RCRA section 3004(m)), and treating to the hazardous waste characteristic level does not always guarantee that the requisite minimization has occurred. (See also RCRA Docket document #F93TTCFS0008, stating that this principle applies to hazardous wastes used in a manner constituting disposal.)

Since zinc micronutrient fertilizers often contain measurable levels of lead and cadmium (which are hazardous constituents and are not agriculturally beneficial), the new Phase IV treatment standards for these metals are particularly relevant with regard to fertilizers that are made from characteristic hazardous wastes. Under the Phase IV rules, such fertilizer products would have to meet the treatment standards of .75 ppm for lead and .11 ppm for cadmium, both as measured by the toxicity characteristic leaching procedure (TCLP). These treatment standards would supersede the existing standards of 5ppm for lead, and 1ppm for cadmium (also measured in leachate).

As mentioned above, fertilizers made from one particular type of hazardous waste—electric arc furnace dust (RCRA hazardous waste code K061)—are not currently subject to the LDR treatment standards. See 40 CFR 266.20(b), final sentence. EPA decided to provide this exemption in 1988, since based on the data available at the time it did not appear that fertilizers using K061 as an ingredient were significantly different, with respect to concentrations of hazardous constituents, than other zinc

micronutrient fertilizers. 53 FR 31164 (August 17, 1988).

II. Today's Action

EPA is today amending § 268.40 by adding a new paragraph (I), which will in effect stay the Phase IV rule insofar as it applies treatment standards for hazardous constituent metals in zinc-containing fertilizers that are produced from hazardous wastes which exhibit the toxicity characteristic. The Agency is persuaded that this particular stay of the Phase IV rule is appropriate, for several reasons. For one thing, in retrospect the Agency is not certain that these treatment standards are well suited for micronutrient fertilizers. Compliance with the new LDR standards could require that the hazardous metal constituents be immobilized or stabilized such that they do not leach above the prescribed regulatory levels. However, such treatment would likely also immobilize the zinc component of the fertilizer, which would render it unsuitable for plant food use. Cf. 50 FR 628–629 (Jan. 4, 1985) (imposition of normal subtitle C standards on uses constituting disposal means in most cases that the activity will not occur).

EPA is also concerned that applying the Phase IV standards to zinc fertilizers could have the effect of eliminating from the market certain fertilizer products that contain relatively low levels of hazardous constituents (e.g., lead and cadmium), while other fertilizer products that contain higher levels of contaminants, including some produced from hazardous wastes, would be unaffected. It is likely that some zinc fertilizers that are made from hazardous wastes (and that have been in compliance with the existing RCRA treatment standards) will be unable to meet the new Phase IV standards. (See letter from Chris S. Leason, July 6, 1998.) However, some zinc fertilizers that are manufactured from non-waste materials can contain considerably higher concentrations of non-beneficial metals than the fertilizers that would be affected by the Phase IV standards. Thus, by eliminating from the market the regulated waste-derived products, the Phase IV rules could actually have the effect of increasing consumption of fertilizers with higher contaminant levels.

Similarly, the Phase IV rules could encourage the use of zinc fertilizers made from K061, which is exempt from regulation (and thus does not have to meet RCRA treatment standards) when used to manufacture fertilizer. Although not apparent in 1988 when EPA promulgated this exemption, further study makes clear that these fertilizers typically contain higher concentrations of hazardous constituents (e.g., lead and cadmium) than zinc-containing fertilizers produced from characteristic hazardous wastes. (Letter from Chris Leason, August 17, 1998.) Thus, the Phase IV rule, by foreclosing the use of these less contaminated waste-derived fertilizers, could actually result in greater use of K061-derived fertilizers, which generally contain higher levels of contaminants.

The Agency recognizes that the Phase IV rulemaking has highlighted the anomalous and inconsistent nature of the current RCRA regulations that apply to use of hazardous wastes in fertilizer manufacture. Consequently, the Agency is now planning to develop a more consistent and comprehensive set of regulations for controlling such practices, and expects to publish a Notice of Proposed Rulemaking in 1999. Issues that we expect to examine in the context of this rulemaking process include the appropriateness of the exemption for recycling of K061 in fertilizers, whether or not the current treatment standards should be replaced with a set of standards more specifically tailored to fertilizers, and the need to clarify the applicability of current regulatory provisions on ''use constituting disposal'' in subpart C of 40 CFR part 266.

Until this regulatory proceeding is completed, the Agency believes that it is inappropriate to apply the Phase IV treatment standards to hazardous waste-derived zinc micronutrient fertilizers. Accordingly, EPA is staying that portion of the Phase IV regulation. As a result, the zinc micronutrient fertilizers affected by this administrative stay will continue to be subject to the regulations in effect prior to the Phase IV regulations.

III. Legal Authority

EPA is issuing this administrative stay pursuant to 5 U.S.C. 705, authorizing administrative agencies to stay administrative action pending judicial review when ''justice so requires.'' See also Rule 18 of the Federal Rules of Appellate Procedure authorizing issuance of administrative stays pending review. (A petition for review has been filed regarding applicability of the Phase IV standards to zinc micronutrient fertilizers produced from characteristic hazardous wastes.) EPA believes that issuance of a stay for these zinc micronutrient fertilizers is needed because the promulgated regulation could result in discontinuance of use of the material and encourage use of a hazardous waste-derived zinc micronutrient fertilizers which are more contaminated. The administrative stay is needed to prevent this anomalous result. These same reasons provide good cause (pursuant to 5 U.S.C. 553 (b)) to issue this administrative stay immediately, to the extent good cause is needed to justify issuing this immediately effective rule.

IV. Analysis Under Executive Order 12866, Executive Order 12875, the Paperwork Reduction Act, National Technology Transfer and Advancement Act of 1995, Executive Order 13045, and Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

This action stays treatment standards established in the recently promulgated LDR Phase IV Rule for zinc micronutrient fertilizers (63 FR 28556). Today's action has been deemed by the Agency as being a ''significant regulatory action'' for the purposes of Executive Order 12866, and is, therefore, subject to review by the Office of Management and Budget. Today's rule does not, however, impose obligations on State, local or tribal governments for the purposes of Executive Order 12875. Furthermore, this action is not subject to the Regulatory Flexibility Act (RFA) since this rule is exempt from notice and comment rulemaking requirements for good cause which is explained in section III. The Administrator is, therefore, not required to certify under the RFA. Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. No. 104–113, section 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. There are no voluntary consensus technical standards directly applicable to metal contaminants in zinc micronutrient fertilizers. Therefore, EPA did not consider the use of any voluntary standards in this rulemaking. Today's 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 is not expected to create any environmental health risks or safety risks that may disproportionately affect children. Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, EPA must consider the paperwork burden imposed by any information collection request in a proposed or final rule. This rule will not impose any new information collection requirements. Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action stays treatment standards established in the recently promulgated LDR Phase IV Rule for zinc micro-nutrient fertilizers (63 FR 28556). Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

V. Submission to Congress and the General Accounting Office

The Congressional Review Directory 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 thus is promulgating this administrative stay as a final rule. 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 in 40 CFR Part 268

Environmental protection, Hazardous waste, Land disposal restrictions.

Dated: August 21, 1998.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, Title 40 chapter I of the Code of Federal Regulations is amended as follows:

PART 268—[AMENDED]

Subpart D—Treatment Standards

1. Section 268.40 is amended by adding paragraph (i), to read as follows:

§ 268.40 Applicability of treatment standards

* * * * *

(i) Zinc-containing fertilizers that are produced for the general public's use and that are produced from or contain recycled characteristic hazardous wastes (D004–D011) are subject to the applicable treatment standards in § 268.41 contained in the 40 CFR, parts 260 to 299, edition revised as of July 1, 1990.

[FR Doc. 98–23084 Filed 8–28–98; 8:45 am]

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Part V

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Early Seasons and Bag and Possession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AE93

Migratory Bird Hunting; Early Seasons and Bag and Possession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the hunting seasons, hours, areas, and daily bag and possession limits of mourning, white-winged, and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; woodcock; common snipe; sandhill cranes; sea ducks; early (September) waterfowl seasons; migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; and some extended falconry seasons. Taking of migratory birds is prohibited unless specifically provided for by annual regulations. This rule permits taking of designated species during the 1998–99 season.

DATES: This rule is effective on September 1, 1998.

FOR FURTHER INFORMATION CONTACT: Paul R. Schmidt, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634–ARLSQ, 1849 C Street, NW., Washington, DC 20240, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 1998

On March 20, 1998, the Service published in the **Federal Register** (63 FR 13748) a proposal to amend 50 CFR part 20. The proposal dealt with the establishment of seasons, limits, and other regulations for migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. On May 29, 1998, the Service published in the **Federal Register** (63 FR 29518) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations frameworks and the proposed regulatory alternatives for the 1998–99 duck hunting season. The May 29 supplement also provided detailed information on the 1998–99 regulatory schedule and announced the Service Migratory Bird Regulations Committee and Flyway Council meetings.

On June 25, 1998, the Service held a public hearing in Washington, DC, as announced in the March 20 and May 29 **Federal Register**s to review the status of migratory shore and upland game birds. The Service discussed hunting regulations for these species and for other early seasons. On July 17, 1998, the Service published in the **Federal Register** (63 FR 38700) a third document specifically dealing with proposed early-season frameworks for the 1998–99 season. The July 17 supplement also established the final regulatory alternatives for the 1998–99 duck hunting season for all States except Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee. On August 5, 1998, the Service published in the **Federal Register** (63 FR 41926) a fourth document dealing specifically with the final regulatory alternatives for the 1998–99 duck hunting season for the States of Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee.

On August 6, 1998, the Service held a public hearing in Washington, DC, as announced in the March 20, May 29, and July 17 **Federal Register**s, to review the status of waterfowl. Proposed hunting regulations were discussed for late seasons. On August 28, 1998, the Service published a fifth document on migratory bird hunting. The document contained final frameworks for early migratory bird hunting seasons from which wildlife conservation agency officials from the States, Puerto Rico, and the Virgin Islands selected early-season hunting dates, hours, areas, and limits. On August 25, 1998, the Service published a sixth document (63 FR 45350) on migratory bird hunting. The sixth document dealt specifically with proposed frameworks for the 1998–99 late-season migratory bird hunting regulations. The final rule described here is the seventh in the series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with amending subpart K of 50 CFR 20. It sets hunting seasons, hours, areas, and limits for mourning, white-winged, and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; woodcock; common snipe; sandhill cranes; sea ducks; early (September) waterfowl seasons; mourning doves in Hawaii; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; youth waterfowl hunting day; and some extended falconry seasons.

NEPA Consideration

NEPA considerations are covered by the programmatic document, ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with EPA on June 9, 1988. The Service published a Notice of Availability in the June 16, 1988, **Federal Register** (53 FR 22582). The Service published its Record of Decision on August 18, 1988 (53 FR 31341). Copies of these documents are available from the Service at the address indicated under the caption **ADDRESSES**.

Endangered Species Act Considerations

As in the past, the Service designs hunting regulations to remove or alleviate chances of conflict between migratory game bird hunting seasons and the protection and conservation of endangered and threatened species. Consultations were conducted to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion and may have caused modification of some regulatory measures previously proposed. The final frameworks reflect any modifications. The Service's biological opinions resulting from its Section 7 consultation are public documents available for public inspection in the Service's Division of Endangered Species and MBMO, at the address indicated under the caption **ADDRESSES**.

Regulatory Flexibility Act

In the March 20, 1998, **Federal Register**, the Service reported measures it took to comply with requirements of the Regulatory Flexibility Act. One measure was to update the 1996 Small Entity Flexibility Analysis (Analysis) documenting the significant beneficial economic effect on a substantial number of small entities. The 1996 Analysis estimated that migratory bird hunters would spend between $254 and $592 million at small businesses. The Service has updated the 1996 Analysis with information from the 1996 National Hunting and Fishing Survey. Nationwide, the Service now estimates that migratory bird hunters will spend between $429 and $1,084 million at small businesses in 1998. Copies of the 1998 Analysis are available upon request from the Office of Migratory Bird Management.

Executive Order (E.O.) 12866

This rule is economically significant and was reviewed by the Office of Management and Budget (OMB) under E.O. 12866. E.O. 12866 requires each agency to write regulations that are easy

to understand. The Service invites comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? What else could the Service do to make the rule easier to understand?

Send a copy of any comments that concern how this rule could be made easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, N.W., Washington, D.C. 20240. Comments may also be e-mailed to: Exsec@ios.doi.gov.

Congressional Review

In accordance with Section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 8), this rule has been submitted to Congress and has been declared major. Because this rule establishes hunting seasons, this rule qualifies for an exemption under 5 U.S.C. 808(1); therefore, the Department determines that this rule shall take effect immediately.

Paperwork Reduction Act

The Service examined these regulations under the Paperwork Reduction Act of 1995. The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR Part 20, Subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, the information collection requirements of the Migratory Bird Harvest Information Program have been approved by OMB and assigned clearance number 1018–0015 (expires 08/31/1998). The renewal clearance packet was submitted to OMB July 22, 1998. This information is used to provide a sampling frame for voluntary national surveys to improve Service harvest estimates for all migratory game birds in order to better manage these populations. The information collection requirements of the Sandhill Crane Harvest Questionnaire have been approved by OMB and assigned clearance number 1018–0023 (expires 09/30/2000). The information from this survey is used to estimate the magnitude, the geographical and temporal distribution of harvest, and the portion it constitutes of the total population. The Service 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.

Unfunded Mandates Reform Act

The Service has determined and certifies in compliance with the requirements of the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, these rules, authorized by the Migratory Bird Treaty Act, do not have significant takings implications and do not affect any constitutionally protected property rights. These rules will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise privileges that would be otherwise unavailable; and, therefore, reduce restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal government has been given responsibility over these species by the Migratory Bird Treaty Act. The Service annually prescribes frameworks from which the States make selections and employs guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulation. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 12612, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American tribal Governments'' (59 FR 22951) and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, the Service intends that the public be given the greatest possible opportunity to comment on the regulations. Thus, when the proposed rulemaking was published, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that when the comment period closed time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the States and Territories would have insufficient time to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these regulations will, therefore, take effect immediately upon publication. Accordingly, with each conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State or Territory on those species of migratory birds for which open seasons are now prescribed, and consideration having been given to all other relevant matters presented, certain sections of title 50, chapter I, subchapter B, part 20, subpart K, are hereby amended as set forth below.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Dated: August 25, 1998.

Donald Barry,

Assistant Secretary for Fish and Wildlife and Parks.

PART 20—[AMENDED]

For the reasons set out in the preamble, title 50, chapter I, subchapter B, Part 20, subpart K of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 20 continues to read as follows:

Authority: 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

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Note - The following annual hunting regulations provided for by §§20.101 through 20.106 and 20.109 of 50 CFR 20 will not appear in the Code of Federal Regulations because of their seasonal nature.

2. Section 20.101 is revised to read as follows:

§20.101 Seasons, limits, and shooting hours for Puerto Rico and the Virgin Islands

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset.

CHECK COMMONWEALTH REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

(a) Puerto Rico

	Season Dates	Limits Bag	Limits Possession
Doves and Pigeons			
Zenaida, white-winged, and mourning doves	Sept. 5-Nov. 2	10	10
Scaly-naped pigeons	Sept. 5-Nov. 2	5	5
Ducks	Nov. 14-Dec. 21 & Jan. 9-Jan. 25	6 6	12 12
Common Moorhens	Nov. 14-Dec. 21 & Jan. 9-Jan. 25	6 6	12 12
Common Snipe	Nov. 14-Dec. 21 & Jan. 9-Jan. 25	8 8	16 16

Restrictions: In Puerto Rico, the season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, masked duck, purple gallinule, American coot, and Caribbean coot, white-crowned pigeon and plain pigeon.

Closed Areas: Closed areas are described in the August 28, 1998, Federal Register.

(b) Virgin Islands

	Season Dates	Limits Bag	Limits Possession
Zenaida doves	Sept. 1-Sept. 30	10	10
Ducks	CLOSED		

Restrictions: In the Virgin Islands, the seasons are closed for ground or quail doves, pigeons, ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, masked duck, and purple gallinule.

Closed Areas: Ruth Cay, just south of St. Croix, is closed to the hunting of migratory game birds.

3. Section 20.102 is revised to read as follows:

§20.102 Seasons, limits, and shooting hours for Alaska.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset. Area descriptions were published in the August 28, 1998, Federal Register.

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Area Seasons	Dates
North Zone	Sept. 1-Dec. 16
Gulf Coast Zone	Sept. 1-Dec. 16
Southeast Zone	Sept. 1-Dec. 16
Pribilof & Aleutian Islands Zone	Oct. 8-Jan. 22
Kodiak Zone	Oct. 8-Jan. 22

Daily Bag and Possession Limits

Area	Ducks(1)	Dark Geese(2)(3)	Light Geese (2)	Brant	Common Snipe	Sandhill Cranes(4)
North Zone	10-30	4-8	3-6	2-4	8-16	3-6
Gulf Coast Zone	8-24	4-8	3-6	2-4	8-16	2-4
Southeast Zone	7-21	4-8	3-6	2-4	8-16	2-4
Pribilof and Aleutian Islands Zone	7-21	4-8	3-6	2-4	8-16	2-4
Kodiak Zone	7-21	4-8	3-6	2-4	8-16	2-4

(1) In State Game Management Units (Units) 1-26 (Statewide), the basic bag limits may include not more than 1 canvasback daily, 3 in possession. In addition to the basic daily bag and possession limits, a daily bag limit of 15 and a possession limit of 30 is permitted singly or in the aggregate of the following species: scoter, king and common eider, oldsquaw, harlequin ducks, and common and red-breasted mergansers. The season is closed for Steller's and spectacled eiders.

(2) Dark geese include Canada and white-fronted geese. Light geese include snow geese and Ross' geese. Separate limits apply to brant and emperor geese. The season for emperor geese is closed Statewide.

(3) In Units 9(E) and 18, dark goose limits may include no more than 3 Canada geese daily, 6 in possession. In Units 5 and 6, the taking of Canada geese is only permitted from September 28 through December 16. In Unit 10 (except Unimak Island), the taking of Canada geese is prohibited. In Units 1-26 (Statewide), the taking of Aleutian Canada geese and emperor geese is prohibited. In Unit 9(d) and the Unimak Island portion of Unit 10, the limits for dark geese are 6 daily and 12 in possession. In the Middleton Island portion of Unit 6, the taking of Canada geese is by special permit only, with a daily bag and possession limit of 1.

(4) In Unit 17, the daily bag limit for sandhill cranes is 2 and the possession limit is 4.

Falconry: The total combined bag and possession limit for migratory game birds taken with the use of a falcon under a falconry permit is 3 per day, 6 in possession, and may not exceed a more restrictive limit for any species listed in this subsection.

Special Tundra Swan Season: In Unit 22, there will be a tundra swan season from September 1 through October 31 with a season limit of 1 tundra swan per hunter. This season is by registration permit only. Up to 300 permits may be issued. In Unit 18, there will be a tundra swan season from September 1 through October 31 with a season limit of 3 tundra swans per hunter. This season is by registration permit only; hunters may be issued up to 3 successive permits, one at a time, upon filing a harvest report. Up to 500 permits may be issued. In Unit 23, there will be an experimental tundra swan season from September 1 through October 31, with a season limit of 3 tundra swans per hunter. This season is by registration permit only; hunters may be issued up to 3 successive permits, one at a time, upon filing a harvest report. Up to 300 permits may be issued. Season evaluation to adhere to guidelines for experimental seasons as described in the Pacific Flyway Management Plan for the Western Population of (Tundra) swans.

4. Section 20.103 is revised to read as follows:

§20.103 Seasons, limits, and shooting hours for doves and pigeons.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted. Area descriptions were published in the August 28, 1998, Federal Register.

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

(a) Doves

Note: Unless otherwise specified, the seasons listed below are for mourning doves only.

	Season Dates	Limits: Bag	Limits: Possession
EASTERN MANAGEMENT UNIT			
Alabama			
North Zone			
12 noon to sunset	Sept. 12 only &	15	15
	Dec. 26-Jan. 10	15	15
1/2 hour before sunrise to sunset	Sept. 13-Oct. 25	15	15
South Zone			
12 noon to sunset	Oct. 3-Nov. 20 &	12	12
	Dec. 26-Jan. 15	12	12
Delaware			
12 noon to sunset	Sept. 1-Sept. 26	12	24
1/2 hour before sunrise to sunset	Oct. 19-Oct. 31 &	12	24
	Dec. 7-Jan. 9	12	24
Florida (1)			
12 noon to sunset	Oct. 3-Oct. 26	12	24
1/2 hour before sunrise to sunset	Nov. 14-Nov. 29 &	12	24
	Dec. 12-Jan. 10	12	24

	Season Dates	Limits Bag	Possession
Georgia			
Zone 1			
12 noon to sunset	Sept. 5 only	12	24
1/2 hour before sunrise to sunset	Sept. 6-Oct. 4 &	12	24
	Nov. 26-Nov. 28 &	12	24
	Dec. 10-Jan. 15	12	24
Zone 2			
12 noon to sunset	Sept. 26 only	12	24
1/2 hour before sunrise to sunset	Sept. 27-Oct. 25 &	12	24
	Nov. 26-Nov. 28 &	12	24
	Dec. 10-Jan. 15	12	24
Illinois			
sunrise to sunset	Sept. 1-Oct. 14 &	15	30
	Nov. 7-Nov. 22	15	30
Indiana	Sept. 1-Oct. 16 &	15	30
	Nov. 6-Nov. 15 &	15	30
	Nov. 26-Nov. 29	15	30
Kentucky			
11 a.m. to sunset	Sept. 1-Sept. 30 &	15	30
	Oct. 3-Oct. 26	15	30
1/2 hour before sunrise to sunset	Nov. 26-Dec. 1	15	30
Louisiana			
12 noon to sunset	Sept. 5-Sept. 6 &	15	30
	Oct. 17-Oct. 18 &	15	30
	Dec. 12-Dec. 13	15	30
1/2 hour before sunrise to sunset	Sept. 7-Sept. 13 &	15	30
	Oct. 19-Nov. 6 &	15	30
	Dec. 14-Jan. 10	15	30
Maryland			
12 noon to sunset	Sept. 1-Oct. 21	12	24
1/2 hour before sunrise to sunset	Nov. 16-Nov. 21 &	12	24
	Dec. 21-Jan. 2	12	24

	Season Dates	Limits Bag	Possession
Mississippi			
North Zone	Sept. 5-Sept. 26 &	15	30
	Oct. 10-Nov. 8 &	15	30
	Dec. 26-Jan. 2	15	30
South Zone	Sept. 26-Oct. 17 &	15	30
	Nov. 14-Nov. 29 &	15	30
	Dec. 19-Jan. 9	15	30
North Carolina			
12 noon to sunset	Sept. 5-Sept. 11	12	24
1/2 hour before sunrise to sunset	Sept. 12-Oct. 10 &	12	24
	Nov. 23-Nov. 28 &		
	Dec. 19-Jan. 14	12	24
Ohio	Sept. 15-Oct. 14 &	15	30
	Oct. 30-Nov. 28	15	30
Pennsylvania			
12 noon to sunset	Sept. 1-Nov. 9	12	24
Rhode Island			
12 noon to sunset	Sept. 12-Oct. 4	12	24
1/2 hour before sunrise to sunset	Oct. 17-Dec. 2	12	24
South Carolina			
12 noon to sunset	Sept. 5-Sept. 7	12	24
1/2 hour before sunrise to sunset	Sept. 8-Oct. 10 &	12	24
	Nov. 21-Nov. 28 &	12	24
	Dec. 19-Jan. 13	12	24
Tennessee			
12 noon to sunset	Sept. 1 only	15	30
1/2 hour before sunrise to sunset	Sept. 2-Sept. 27 &	15	30
	Oct. 10-Oct. 24 &	15	30
	Dec. 19-Jan. 5	15	30
Virginia			
12 noon to sunset	Sept. 5-Sept. 26	12	24
1/2 hour before sunrise to sunset	Oct. 3-Nov. 3 &	12	24
	Dec. 25-Jan. 9	12	24

	Season Dates	Limits Bag	Limits Possession
West Virginia			
12 noon to sunset	Sept. 1 only	12	24
1/2 hour before sunrise to sunset	Sept. 2-Oct. 3 &	12	24
	Oct. 26-Nov. 7 &	12	24
	Dec. 17-Jan. 9	12	24
CENTRAL MANAGEMENT UNIT			
Arkansas	Sept. 5-Sept. 27 &	15	30
	Oct. 10-Oct. 25 &	15	30
	Dec. 19-Jan. 8	15	30
Colorado	Sept. 1-Oct. 30	15	30
Kansas	Sept. 1-Oct. 30	15	30
Missouri	Sept. 1-Oct. 30	15	30
Montana	Sept. 1-Oct. 30	15	30
Nebraska	Sept. 1-Oct. 30	15	30
New Mexico (2)			
North Zone	Sept. 1-Oct. 30	15	30
South Zone	Sept. 1-Sept. 30 &	15	30
	Dec. 1-Dec. 30	15	30
North Dakota	Sept. 1-Oct. 30	15	30
Oklahoma	Sept. 1-Oct. 30	15	30
South Dakota (3)	Sept. 1-Oct. 16	15	30
Texas (4)			
North Zone	Sept. 1-Oct. 30	15	30
Central Zone	Sept. 1-Oct. 18 &	15	30
	Dec. 26-Jan. 6	15	30
South Zone			
Special Area	Sept. 25-Nov. 8 &	15	30
	Dec. 26-Jan. 5	15	30
(Special Season)			
12 noon to sunset	Sept. 5-Sept. 6 &	10	20
	Sept. 12-Sept. 13	10	20
Texas (cont)			
Remainder of the South Zone	Sept. 25-Nov. 8 &	15	30
	Dec. 26-Jan. 9	15	30
Wyoming	Sept. 1-Oct. 30	15	30
WESTERN MANAGEMENT UNIT			
Arizona (5)	Sept. 1-Sept. 15 &	10	20
	Nov. 20-Jan. 3	10	20
California (6)	Sept. 1-Sept. 15 &	10	20
	Nov. 14-Dec. 28	10	20
Idaho	Sept. 1-Sept. 30	10	20
Nevada (6)	Sept. 1-Sept. 30	10	20
Oregon	Sept. 1-Sept. 30	10	20
Utah	Sept. 1-Sept. 30	10	20
Washington	Sept. 1-Sept. 15	10	20
OTHER POPULATIONS			
Hawaii (7)	Nov. 7-Nov. 29 &	10	10
	Dec. 5-Dec. 27 &	10	10
	Jan. 1-Jan. 18	10	10

(1) In Florida, the daily bag limit is 12 mourning and white-winged doves in the aggregate, of which not more than 4 may be white-winged doves. The possession limit is twice the daily bag limit.

(2) In New Mexico, the daily bag limit is 15 and the possession limit is 30 mourning and white-winged doves in the aggregate.

(3) In South Dakota, shooting hours are from sunrise to sunset.

(4) In Texas, the daily bag limit is 15 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 2 may be white-tipped doves. Possession limits are twice the daily bag limit. During the special season in the Special White-winged Dove Area of the South Zone, the daily bag limit is 10 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 5 may be mourning doves and 2 may be white-tipped doves. Possession limits are twice the daily bag limit.

(5) In Arizona, during September 1 through 10, the daily bag limit is 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves. During November 20 through January 3, the daily bag limit is 10 mourning doves. The possession limit is twice the daily bag limit. See State regulations for restrictive shooting hours in certain areas.

(6) In the areas of California and Nevada open to white-winged dove hunting, the daily bag limit is 10 and the possession limit is 20 mourning and white-winged doves in the aggregate.

(7) In Hawaii, the season is only open on the island of Hawaii. The daily bag and possession limits are 10 mourning and lace-necked doves in the aggregate. Shooting hours are from one-half hour before sunrise through one-half hour after sunset. Hunting is only permitted on weekends and State holidays.

(b) Band-tailed Pigeons

	Season Dates	Limits	
		Bag	Possession
Arizona	Oct. 2-Oct. 9	5	10
California			
North Zone	Sept. 19-Sept. 27	2	2
South Zone	Dec. 19-Dec. 27	2	2
Colorado	Sept. 1-Sept. 30	5	10
New Mexico			
North Zone	Sept. 1-Sept. 20	5	10
South Zone	Oct. 1-Oct. 20	5	10
Oregon	Sept. 15-Sept. 23	2	2
Utah	Sept. 1-Sept. 30	5	10

5. Section 20.104 is revised to read as follows:

§20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted. Area descriptions were published in the August 28, 1998, Federal Register.

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Note: States with deferred seasons may select those seasons at the same time they select waterfowl seasons in August. Consult late-season regulations for further information.

	Sora and Virginia Rails	Clapper and King Rails	Woodcock	Common Snipe
Daily bag limit	25 (1)	15 (2)	3	8
Possession limit	25 (1)	30 (2)	6	16
ATLANTIC FLYWAY				
Connecticut (3)	Sept. 1-Nov. 7	Sept. 1-Nov. 7	Oct. 17-Nov. 14	Oct. 17-Nov. 14
Delaware	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Oct. 19-Oct. 31 & Nov. 23-Dec. 9	Nov. 23-Jan. 31
Florida	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Dec. 19-Jan. 17	Nov. 1-Feb. 15
Georgia	Sept. 19-Nov. 27	Sept. 19-Nov. 27	Dec. 19-Jan. 17	Nov. 15-Feb. 28
Maine	Sept. 1-Nov. 9	Closed	Oct. 6-Nov. 4	Sept. 1-Dec. 16
Maryland	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Oct. 26-Nov. 14 & Jan. 4-Jan. 13	Sept. 16-Nov. 27 & Dec. 14-Jan. 16
Massachusetts (4)	Sept. 1-Nov. 9	Closed	Deferred	Sept. 1-Dec. 16
New Hampshire	Closed	Closed	Oct. 6-Nov. 4	Sept. 15-Nov. 4
New Jersey (5)				
North Zone	Sept. 1-Nov. 7	Sept. 1-Nov. 7	Oct. 14-Nov. 6	Sept. 25-Jan. 9
South Zone	Sept. 1-Nov. 7	Sept. 1-Nov. 7	Nov. 7-Nov. 21 & Dec. 18-Dec. 26	Sept. 25-Jan. 9
New York (6)	Sept. 1-Nov. 9	Closed	Oct. 6-Nov. 4	Sept. 1-Dec. 16
North Carolina	Sept. 5-Nov. 13	Sept. 5-Nov. 13	Dec. 18-Jan. 16	Nov. 14-Feb. 28
Pennsylvania	Sept. 1-Nov. 9	Closed	Oct. 24-Nov. 7	Oct. 24-Nov. 28
Rhode Island (7)	Sept. 12-Nov. 20	Sept. 12-Nov. 20	Nov. 6-Dec. 4	Sept. 12-Dec. 4
South Carolina	Sept. 7-Oct. 11 & Nov. 2-Dec. 6	Sept. 7-Oct. 11 & Nov. 2-Dec. 6	Jan. 2-Jan. 31	Nov. 14-Feb. 28
Vermont	Deferred	Deferred	Deferred	Deferred
Virginia	Sept. 9-Oct. 24 & Nov. 2-Nov. 25	Sept. 9-Oct. 24 & Nov. 2-Nov. 25	Oct. 31-Nov. 14 & Dec. 19-Jan. 2	Oct. 7-Oct. 10 & Oct. 20-Jan. 30

	Sora and Virginia Rails	Clapper and King Rails	Woodcock	Common Snipe
West Virginia	Sept. 1-Nov. 9	Closed	Oct. 19-Nov. 17	Sept. 1-Dec. 16
MISSISSIPPI FLYWAY				
Alabama (8)	Sept. 5-Sept. 20 & Nov. 25-Jan. 17	Sept. 5-Sept. 20 & Nov. 25-Jan. 17	Dec. 18-Jan. 31	Nov. 14-Feb. 28
Arkansas	Sept. 1-Nov. 9	Closed	Nov. 14-Dec. 13 & Jan. 2-Jan. 16	Nov. 7-Feb. 21
Illinois (9)	Sept. 5-Nov. 13	Closed	Oct. 17-Nov. 30	Sept. 5-Dec. 20
Indiana (10)	Sept. 1-Nov. 9	Closed	Oct. 9-Nov. 22	Sept. 1-Dec. 16
Iowa (11)	Sept. 5-Nov. 13	Closed	Oct. 3-Nov. 16	Sept. 5-Nov. 30
Kentucky	Sept. 1-Nov. 9	Closed	Oct. 17-Nov. 30	Sept. 16-Nov. 1 & Nov. 26-Jan. 24
Louisiana	Sept. 12-Sept. 27 & Nov. 7-Dec. 30	Sept. 12-Sept. 27 & Nov. 7-Dec. 30	Dec. 18-Jan. 31	Nov. 7-Feb. 21
Michigan (12)	Sept. 15-Nov. 14	Closed	Sept. 19-Nov. 2	Sept. 15-Nov. 14
Minnesota	Sept. 1-Nov. 4	Closed	Sept. 19-Nov. 2	Sept. 1-Nov. 4
Mississippi	Oct. 12-Dec. 20	Oct. 12-Dec. 20	Dec. 18-Jan. 31	Nov. 14-Feb. 28
Missouri	Sept. 1-Nov. 9	Closed	Oct. 15-Nov. 28	Sept. 1-Dec. 16
Ohio	Sept. 1-Nov. 9	Closed	Oct. 15-Nov. 28	Sept. 1-Nov. 28 & Dec. 9-Dec. 26
Tennessee	Deferred	Closed	Oct. 31-Dec. 14	Nov. 14-Feb. 28
Wisconsin	Deferred	Closed	Sept. 19-Nov. 2	Deferred
CENTRAL FLYWAY				
Colorado	Sept. 1-Nov. 9	Closed	Closed	Sept. 1-Dec. 16
Kansas	Sept. 1-Nov. 9	Closed	Oct. 16-Nov. 29	Sept. 1-Dec. 16
Montana	Closed	Closed	Closed	Sept. 1-Dec. 16
Nebraska (13)	Sept. 1-Nov. 9	Closed	Sept. 19-Nov. 2	Sept. 1-Dec. 16
New Mexico	Oct. 10-Dec. 18	Closed	Closed	Oct. 10-Jan. 17
North Dakota	Closed	Closed	Sept. 19-Nov. 1	Sept. 19-Nov. 29
Oklahoma	Sept. 1-Nov. 9	Closed	Nov. 14-Dec. 28	Oct. 1-Jan. 15
South Dakota (14)	Closed	Closed	Closed	Sept. 1-Oct. 31
Texas	Sept. 12-Sept. 27 & Oct. 24-Dec. 16	Sept. 12-Sept. 27 & Oct. 24-Dec. 16	Dec. 18-Jan. 31	Oct. 17-Jan. 31
Wyoming	Sept. 12-Nov. 15	Closed	Closed	Sept. 12-Dec. 13
PACIFIC FLYWAY				
Colorado	Sept. 1-Nov. 9	Closed	Closed	Sept. 1-Dec. 16
Idaho	Closed	Closed	Closed	Oct. 3-Jan. 16
Montana	Closed	Closed	Closed	Sept. 1-Dec. 16
New Mexico	Oct. 13-Jan. 17	Closed	Closed	Oct. 13-Jan. 17
Wyoming	Sept. 12-Nov. 15	Closed	Closed	Sept. 12-Dec. 13

NOTE: For all other States in the Pacific Flyway, snipe seasons have been deferred and no seasons are prescribed for woodcock and rails.

(1) The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these species.

(2) All bag and possession limits for clapper and king rails apply singly or in the aggregate of the two species and, unless otherwise specified, the limits are in addition to the limits on sora and Virginia rails in all States. In Connecticut, Delaware, Maryland, and New Jersey, the limits for clapper and king rails are 10 daily and 20 in possession.

(3) In Connecticut, the daily bag and possession limits may not contain more than 1 king rail.

(4) In Massachusetts, the sora bag limit is 5 daily and 10 in possession; the Virginia rail bag limit is 10 daily and 20 in possession.

(5) In New Jersey, the season for king rails is closed by State regulation.

(6) In New York, seasons for sora and Virginia rails and common snipe are closed on Long Island.

(7) In Rhode Island, the sora and Virginia rails bag limit is 5 daily and 10 in possession, singly or in the aggregate; the clapper and king rail bag limit is 5 daily and 10 in possession, singly or in the aggregate; the common snipe bag limit is 5 daily and 10 in possession.

(8) In Alabama, the rail limits are 15 daily and 15 in possession, singly or in the aggregate.

(9) In Illinois, shooting hours are from sunrise to sunset.

(10) In Indiana, the sora rail limits are 15 daily and 15 in possession. The season on Virginia rails is closed.

(11) In Iowa, the limits for sora and Virginia rails are 12 daily and 24 in possession.

(12) In Michigan, the season opens concurrently with the duck season in certain areas.

(13) In Nebraska, the rail limits are 10 daily and 20 in possession.

(14) In South Dakota, the snipe limits are 5 daily and 15 in possession.

6. Section 20.105 is amended by revising paragraphs (a) through (f) to read as follows:

§20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise noted. Area descriptions were published in the August 28, 1998, Federal Register.

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Note: States with deferred seasons may select those seasons at the same time they select waterfowl seasons in August. Consult late-seasons regulations for further information.

(a) Common Moorhens and Purple Gallinules

	Season Dates	Limits	
		Bag	Possession
ATLANTIC FLYWAY			
Delaware	Sept. 1-Nov. 9	15	30
Florida (1)	Sept. 1-Nov.9	15	30
Georgia	Nov. 21-Jan. 19	15	30
Maine	Sept. 1-Nov. 9	15	30
New Jersey	Sept. 1-Nov. 7	10	20
New York			
Long Island	Closed	--	--
Remainder of State	Sept. 1-Nov. 9	15	30
North Carolina	Sept. 5-Nov. 13	15	30
Pennsylvania	Sept. 1-Nov. 9	15	30
South Carolina	Sept. 7-Oct. 11 &	15	30
	Nov. 2-Dec. 6	15	30
Virginia	Deferred	--	--
West Virginia	Deferred	--	--
MISSISSIPPI FLYWAY			
Alabama	Sept. 5-Sept. 20 &	15	15
	Nov. 25-Jan. 17	15	15
Arkansas	Sept. 1-Nov. 9	15	30
Indiana	Sept. 1-Nov. 9	15	30
Kentucky	Sept. 1-Nov. 9	15	30
Louisiana	Sept. 12-Sept. 27 &	15	30
	Nov. 7-Dec. 30	15	30
Michigan	Deferred	--	--
Minnesota	Deferred	--	--
Mississippi	Oct. 12-Dec. 20	15	30
Ohio	Sept. 1-Nov. 9	15	30
Tennessee	Deferred	--	--
Wisconsin	Deferred	--	--

	Season Dates	Limits Bag	Possession
CENTRAL FLYWAY			
New Mexico			
Zone 1	Oct. 10-Oct. 25 &	1	2
	Oct. 29-Jan. 17	1	2
Zone 2	Oct. 13-Jan. 17	1	2
Oklahoma	Sept. 1-Nov. 9	15	30
Texas	Sept. 12-Sept. 27 &	15	30
	Oct. 24-Dec. 16	15	30
Wyoming	Deferred	--	--
PACIFIC FLYWAY			
All States	Deferred	--	--

(1) The season applies to common moorhens only.

(b) Sea Ducks (scoter, eider, and oldsquaw ducks in Atlantic Flyway).

Within the special sea duck areas, the daily bag limit is 7 scoter, eider, and oldsquaw ducks, singly or in the aggregate, of which no more than 4 may be scoters. Possession limits are twice the daily bag limit. These limits may be in addition to regular duck bag limits only during the regular duck season in the special sea duck hunting areas.

	Season Dates	Limits Bag	Possession
Connecticut	Deferred	--	--
Delaware	Sept. 18-Jan. 20	7	14
Georgia	Nov. 21-Jan.19	7	14
Maine	Deferred	--	--
Maryland	Deferred	--	--
Massachusetts	Deferred	--	--
New Hampshire	Sept. 15-Dec. 30	7	14
New Jersey	Sept. 18-Jan. 20	7	14
New York	Oct. 6-Jan. 20	7	14
North Carolina	Deferred	--	--
Rhode Island	Oct. 9-Jan. 20	7	14
South Carolina	Deferred	--	--
Virginia	Deferred	--	--

NOTE: Notwithstanding the provisions of this Part 20, the shooting of crippled waterfowl from a motorboat under power will be permitted in Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Delaware, Virginia and Maryland in those areas described, delineated, and designated in their respective hunting regulations as special sea duck hunting areas.

(c) Early (September) Duck Seasons.

Note: Unless otherwise specified, the seasons listed below are for teal only.

	Season Dates	Limits Bag	Possession
ATLANTIC FLYWAY			
Delaware (1)(2)	Sept. 10-Sept. 19	4	8
Florida (3)	Sept. 20-Sept. 24	4	8
Georgia	Sept. 19-Sept. 27	4	8
Maryland (1)	Sept. 12-Sept. 22	4	8
North Carolina (1)	Sept. 10-Sept. 19	4	8
South Carolina (5)	Sept. 18-Sept. 26	4	8
Virginia (1)		Sept. 10- Sept. 19	4 8
MISSISSIPPI FLYWAY			
Alabama	Sept. 5-Sept. 20	4	8

	Season Dates	Limits Bag	Possession
Arkansas (4)	Sept. 12-Sept. 27	4	8
Illinois (4)	Sept. 5-Sept. 20	4	8
Indiana (4)	Sept. 1-Sept. 16	4	8
Iowa (6)			
North Zone	Sept. 19-Sept. 23	--	--
South Zone	Sept. 19-Sept. 23	--	--
Kentucky (7)	Sept. 16-Sept. 20	4	8
Louisiana	Sept. 12-Sept. 27	4	8
Mississippi	Sept. 12-Sept. 27	4	8
Missouri (4)	Sept. 5-Sept. 20	4	8
Ohio (4)	Sept. 1-Sept. 16	4	8
Tennessee (7)	Sept. 12-Sept. 16	4	8
CENTRAL FLYWAY			
Colorado	Sept. 5-Sept. 13	4	8
Kansas			
Low Plains	Sept. 12-Sept. 27	4	8
High Plains	Sept. 12-Sept. 20	4	8
New Mexico	Sept. 19-Sept. 27	4	8
Oklahoma			
Low Plains	Sept. 12-Sept. 27	4	8
High Plains	Sept. 12-Sept. 20	4	8
Texas	Sept. 12-Sept. 27	4	8

(1) Area restrictions. See State regulations.

(2) In Delaware, the shooting hours are from ½ hour before sunrise to 10:00 a.m.

(3) In Florida, the daily bag limit is 4 wood ducks and teal in the aggregate. The possession limit is twice the daily bag limit.

(4) Shooting hours are from sunrise to sunset.

(5) In South Carolina, shooting hours are from sunrise to noon.

(6) In Iowa, the September season is part of the regular season, and limits will conform to those set for the regular season.

(7) In Kentucky and Tennessee, the daily bag limit is 4 wood ducks and teal in the aggregate, of which no more than 2 may be wood ducks. The possession limit is twice the daily bag limit.

(d) Special Early Canada Goose Seasons.

	Season Dates	Limits Bag	Possession
ATLANTIC FLYWAY			
Connecticut			
North Zone	Sept. 1- Sept. 4 &	5	10
	Sept. 8-Sept. 25	5	10
Delaware	Sept. 1-Sept. 15	5	10
Maine	Sept. 8-Sept. 25	3	6
Maryland			
Eastern Unit	Sept. 1-Sept. 15	5	10
Western Unit	Sept. 1-Sept. 25	5	10
Massachusetts (1)			
Central Zone	Sept. 8-Sept. 25	5	10
Coastal Zone	Sept. 8-Sept. 25	5	10
Western Zone	Sept. 8-Sept. 25	3	6
New Hampshire	Sept. 8-Sept. 25	3	6
New Jersey	Sept. 1-Sept. 30	5	10
New York			
Lake Champlain Zone	Sept. 8-Sept. 15	2	4
Northeastern Zone	Sept. 1-Sept. 25	5	10
Western Zone	Sept. 1-Sept. 25	5	10
Montezuma Zone	Sept. 1-Sept. 15	5	10
Southeastern Zone	Sept. 1-Sept. 25	5	10
Long Island Zone (2)	Sept. 1-Sept. 30	5	10
North Carolina (3)			
Northeast Hunt Unit	Sept. 1-Sept. 20	3	6
Rest of State	Sept. 8-Sept. 30	3	6

	Season Dates	Limits Bag	Limits Possession
Pennsylvania			
Southeast Hunt Area	Sept. 1-Sept. 25	5	10
Rest of State	Sept. 1-Sept. 25	3	6
Rhode Island	Sept. 11-Sept. 25	5	10
South Carolina			
Early-Season Hunt Unit	Sept. 12-Sept. 26	4	8
Vermont			
Lake Champlain Zone	Sept. 8-Sept. 15	2	4
Interior Vermont Zone:			
Bennington, Rutland, & Windham Counties	Sept. 8-Sept. 15	5	10
Rest of Zone	Sept. 8-Sept. 15	2	4
Virginia	Sept. 1-Sept. 4	5	10
	Sept. 8-Sept. 25	5	10
West Virginia	Sept. 1-Sept. 12	3	6
MISSISSIPPI FLYWAY			
Alabama	Sept. 5-Sept. 15	5	10
Illinois			
Northeast Zone	Sept. 1-Sept. 15	5	10
North Zone	Sept. 1-Sept. 15	2	10
Central Zone	Sept. 1-Sept. 15	2	10
South Zone	Sept. 1-Sept. 15	2	10
Indiana	Sept. 1-Sept. 15	5	10
Iowa			
North Zone	Sept. 12-Sept. 13	2	4
Michigan			
Upper Peninsula	Sept. 1-Sept. 10	5	10
Lower Peninsula (4)	Sept. 1-Sept. 15	5	10
Minnesota			
Twin Cities Metro Zone	Sept. 5-Sept. 15	5	10
Two Goose Zone	Sept. 5-Sept. 15	2	4
Five Goose Zone	Sept. 5-Sept. 15	5	10
Mississippi (5)	Sept. 1-Sept. 15	5	10
Ohio (6)	Sept. 1-Sept. 15	4	8
Tennessee			
Middle Tennessee Zone	Sept. 5-Sept. 9	2	4
East Tennessee Zone	Sept. 1-Sept. 15	5	10
Wisconsin			
Early-Season Subzone A	Sept. 1-Sept. 15	5	10
Early-Season Subzone B	Sept. 1-Sept. 15	3	6
CENTRAL FLYWAY			
South Dakota (2)	Sept. 5-Sept. 15	4	8
PACIFIC FLYWAY			
California			
Humboldt County	Sept. 5-Sept. 13	2	2
Idaho			
East Canada Goose Zone (1)(2)	Sept. 1-Sept. 15	2	4
Nez Perce County	Sept. 5-Sept. 11	4	8
Oregon			
Northwest Zone	Sept. 5-Sept. 18	5	10
Southwest Zone	Sept. 5-Sept. 11	3	6
East Zone	Sept. 5-Sept. 11	3	6
Washington			
Statewide	Sept. 8-Sept. 14	3	6
Wyoming (1)	Sept. 1-Sept. 7	2	4 per season

(1) State permit required.

(2) See State regulations for additional information.

(3) In North Carolina, the season is closed in Currituck and Dare Counties.

(4) In Michigan, the season is closed in Huron, Saginaw, and Tuscola Counties.

(5) In Mississippi, the season is closed on Roebuck Lake in Leflore County.

(6) Additional restrictions apply in some areas. See State regulations.

(e) Regular Goose Seasons.

Note: Bag and possession limits will conform to those set for the regular season.

	Season Dates
MISSISSIPPI FLYWAY	
Michigan (1)	Sept. 19-Oct. 4
Wisconsin	
Horicon Zone	Sept. 19-Sept. 30
Collins Zone	Sept. 19-Sept. 30

(1) In Michigan, season dates for the Muskegon Wastewater, Saginaw County, Allegan County, Tuscola/Huron Goose Management Units in the South Zone will be established in the late-season regulatory process.

(f) Youth Waterfowl Hunting Day

The following seasons are open only to youth hunters. Youth Hunters must be accompanied into the field by an adult at least 18 years of age. This adult can not duck hunt but may participate in other open seasons.

Definitions

Youth Hunters: Includes youths 15 years of age or younger.

The Atlantic Flyway: Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

The Mississippi Flyway: Includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

The Central Flyway: Includes Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

The Pacific Flyway: Includes the States of Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington, and Wyoming (west of the Continental Divide including the Great Divide Basin).

Note: Bag and possession limits will conform to those set for the regular season.

	Season Dates
ATLANTIC FLYWAY	
Connecticut	Deferred
Delaware	
Ducks, geese, mergansers, coots, moorhens and gallinules	Oct. 24
Florida	Deferred
Georgia	
Ducks, geese, mergansers, coots, moorhens and gallinules	Nov. 14
Maine	
Ducks, mergansers, and coots	
Statewide	Sept. 19
Maryland (1)	
Ducks, snow geese, mergansers and coots	Oct. 3
Massachusetts	Deferred
New Hampshire	Deferred
New Jersey	
Ducks, geese, brant, mergansers, coots, moorhens and gallinules	
Statewide	Sept. 26
New York	
Ducks, mergansers and coots	
Long Island Zone	Oct. 25
Lake Champlain Zone	Sept. 27
Northeastern Zone	Sept. 27
Southeastern Zone	Sept. 27
Western Zone	Sept. 27
North Carolina	Deferred
Pennsylvania	
Ducks, mergansers, coots and moorhens	
Statewide	Sept. 26
Rhode Island	
Ducks, mergansers and coots	Nov. 7
South Carolina	
Ducks, mergansers and coots	Jan. 23

	Season Dates
Vermont	
Ducks, mergansers and coots	
Statewide	Sept. 27
Virginia	Deferred
West Virginia	
Ducks, geese, mergansers, coots, moorhens, and gallinules	
Statewide	Sept. 19
MISSISSIPPI FLYWAY	
Alabama	
Ducks, mergansers, coots, moorhens and gallinules	
Statewide	Jan. 23
Arkansas	Deferred
Illinois	Deferred
Indiana	
Ducks, geese, mergansers, coots, moorhens and gallinules	
North Zone	Oct. 10
South Zone	Nov. 7
Ohio River Zone	Nov. 7
Iowa	
Ducks, Canada geese, mergansers and coots	
Statewide	Sept. 26
Kentucky	Deferred
Louisiana	Deferred
Michigan	
Ducks, geese, mergansers, coots, moorhens and gallinules	
Statewide	Sept. 19
Minnesota (2)	
Ducks, geese, mergansers, coots, moorhens and gallinules	Sept. 19
Mississippi	Deferred
Missouri	Deferred
Ohio	Deferred
Tennessee	Deferred
Wisconsin	
Ducks, geese, mergansers, coots, moorhens and gallinules	
Statewide	Sept. 19
CENTRAL FLYWAY	
Colorado	
Ducks, dark geese, mergansers and coots	Sept. 26
Kansas (3)	
Ducks, dark geese, mergansers and coots	
High Plains	Sept. 26
Low Plains	
Early Zone	Oct. 3
Late Zone	Oct. 17
Montana	
Ducks, geese, mergansers and coots	Sept. 26
Nebraska (4)	Deferred
New Mexico	
Ducks, mergansers, coots, and moorhens	
North Zone	Oct. 3
South Zone	Oct. 10
North Dakota	
Ducks, geese, mergansers and coots	
Statewide	Sept. 26
Oklahoma	Deferred
South Dakota (5)	
Ducks, Canada geese, mergansers and coots	
Statewide	Sept. 26
Texas	Deferred
Wyoming	
Ducks, dark geese, mergansers and coots	
Statewide	Sept. 26
PACIFIC FLYWAY (6)	
Arizona	Deferred

	Season Dates
California	
Ducks	
Colorado River Zone	Jan. 23
Southern Zone	Jan. 23
Southern San Joaquin Valley Zone	Jan. 23
Balance-of-State Zone	Jan. 23
Colorado	
Ducks, dark geese and coots	Sept. 26
Idaho (5)	
Ducks, Canada geese, and coots	
Statewide	Sept. 26
Montana	
Ducks, geese, and coots	Sept. 26
Nevada	
Ducks, geese, coots, moorhens, and gallinules	
Clark and Lincoln Counties	Jan. 23
Rest of State	Sept. 26
Oregon	
Ducks, geese, and coots	
Statewide	Sept. 26
Utah	
Ducks, geese, and coots	
Statewide	Sept. 26
Washington (7)	
Ducks, Canada geese, and coots	
Statewide	Sept. 26
Wyoming	
Ducks, dark geese, and coots	Sept. 26

(1) In Maryland, the accompanying adult must be at least 21 years of age and possess a valid Maryland hunting license (or be exempt from the license requirement). This accompanying adult may not shoot or possess a firearm.

(2) In Minnesota, the goose limit is 1 goose.

(3) In Kansas, the adult accompanying the youth must possess any licenses and/or stamps required by law for that individual to hunt waterfowl.

(4) In Nebraska, see State regulations for additional information on the daily bag limit.

(5) In South Dakota and Idaho, the limit for Canada geese is 1.

(6) In the Pacific Flyway, the daily bag limit for ducks includes mergansers.

(7) In Washington, the bag limit for Canada geese is 4.

7. Section 20.106 is revised to read as follows:

§20.106 Seasons, limits, and shooting hours for sandhill cranes.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows:

Shooting and Hawking hours are one-half hour before sunrise until sunset, except as otherwise noted. Area descriptions were published in the August 28, 1998, Federal Register.

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Note: States with deferred seasons may select those seasons at the same time they select waterfowl seasons in August. Consult late-season regulations for further information.

	Season Dates	Limits	
		Bag	Possession
CENTRAL FLYWAY			
Colorado (1)	Oct. 3-Nov. 29	3	6
Kansas (1)(2)	Deferred	--	--
Montana			
Regular Season Area (1)	Oct. 3-Nov. 29	3	6
Special Season Area (3)	Sept. 12-Sept. 20	1 per season	
New Mexico			
Regular Season Area (1)	Oct. 31-Jan. 31	3	6
Middle Rio Grande Valley Area (3)(4)(5)	Oct. 24-Oct. 25 &	2	2
	Dec. 12-Dec. 13 &	2	2
	Jan. 2-Jan. 3	2	2
Southwest Area (3)(4)(5)	Dec. 19-Dec. 20	2	4
North Dakota (1)	Sept. 5-Nov. 1	3	6
Oklahoma (1)	Deferred	--	--
South Dakota (1)	Sept. 26-Nov. 22	3	6

	Season Dates	Limits Bag	Limits Possession
Texas (1)			
Zone A	Nov. 7-Feb. 7	3	6
Zone B	Nov. 28-Feb. 7	3	6
Zone C	Jan. 2-Feb. 7	3	6
Wyoming			
Regular Season Area (1)	Sept. 12-Nov. 8	3	6
Riverton-Boysen Unit (3)	Sept. 19-Sept. 30	1 per season	
Big Horn and Park Counties (3)	Sept. 19-Sept. 30	1 per season	
PACIFIC FLYWAY			
Arizona (3)	Oct. 29-Oct. 31 &	2 per season	
	Nov. 2-Nov. 4 &	2 per season	
	Nov. 6-Nov. 8 &	2 per season	
	Nov. 10-Nov. 12 &	2 per season	
	Nov. 14-Nov. 16	2 per season	
Idaho (3)	Sept. 1-Sept. 15	1 per season	
Montana			
Special Season Area (3)	Sept. 12-Sept. 13 &	1 per season	
	Sept. 19-Sept. 20	1 per season	
Utah (3)	Sept. 5-Sept. 13	1 per season	
Wyoming			
Bear River Area (3)	Sept. 1-Sept. 7	1 per season	
Salt River Area (3)	Sept. 1-Sept. 7	1 per season	
Eden-Farson Area (3)	Sept. 1-Sept. 7	1 per season	

(1) Each hunter participating in a regular sandhill crane hunting season must obtain and carry in his possession while hunting sandhill cranes a valid Federal sandhill crane hunting permit available without cost from conservation agencies in the States where crane hunting seasons are allowed. The permit must be displayed to any authorized law enforcement official upon request.

(2) Shooting hours are sunrise to 2:00 p.m.

(3) Hunting is by State permit only.

(4) The seasonal bag limit is 2 in the Middle Rio Grande Valley Area and 4 in the Southwest Area.

(5) Shooting hours are sunrise to sunset.

8. Section 20.109 is revised to read as follows:

§20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Hawking hours are one-half hour before sunrise until sunset except as otherwise noted. Area descriptions were published in the August 28, 1998, Federal Register. For those extended seasons for Ducks, Mergansers, and Coots, area descriptions were published in the September 27, 1997, Federal Register (62 FR 50738) and will be published again in a September 1998 Federal Register.

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Daily bag limit . . . . . 3 migratory birds, singly or in the aggregate.

Possession limit . . . . . 6 migratory birds, singly or in the aggregate.

These limits apply to falconry during both regular hunting seasons and extended falconry seasons -- unless further restricted by State regulations. The falconry bag and possession limits are not in addition to regular season limits. Unless otherwise specified, extended falconry for ducks does not include sea ducks within the special sea duck areas. Only extended falconry seasons are shown below. Many States permit falconry during the gun seasons. Please consult State regulations for details.

For ducks, mergansers, coots, geese, and some moorhen seasons; additional season days occurring after September 30 will be published with the late-season selections. Some States have deferred selections. Consult late-season regulations for further information.

	Extended Falconry Dates
ATLANTIC FLYWAY	
Florida	
Mourning and white-winged doves	Oct. 27-Nov. 13 & Nov. 30-Dec. 11 & Jan. 11-Jan. 17
Rails	Nov. 10-Dec. 16
Woodcock	Nov. 24-Dec. 18 & Jan. 18-Mar. 10
Common moorhens	Nov. 10-Dec. 15

	Extended Falconry Dates
Maryland	
Mourning doves	Oct. 22-Nov. 15 & Dec. 13-Dec. 20 & Jan. 3-Jan. 6
Rails	Nov. 10-Dec. 16
Woodcock	Oct. 1-Oct. 25 & Nov. 15-Nov. 27 & Dec. 13-Jan. 3
Pennsylvania	
Mourning doves	Nov. 10-Dec. 16
Virginia	
Doves	Sept. 27-Oct. 2 & Dec. 9-Dec. 24 & Jan. 10-Jan. 24
Rails	Oct. 25-Nov. 1 & Dec. 23-Jan. 20
Woodcock	Nov. 15-Dec. 18 & Jan. 3-Jan. 31
Canada geese	Sept. 5-Sept. 7
MISSISSIPPI FLYWAY	
Illinois	
Mourning doves	Oct. 15-Nov. 6 & Nov. 23-Dec. 16
Rails	Nov. 14-Dec. 20
Woodcock	Sept. 1-Oct. 16 & Dec. 1-Dec. 16
Indiana	
Mourning doves	Oct. 17-Nov. 5 & Jan. 1-Jan. 27
Woodcock	Sept. 19-Oct. 8 & Nov. 23-Jan. 3
Ducks, mergansers, and coots (1) North Zone	Sept. 23-Sept. 30
Michigan	
Rails and snipe	Sept. 7-Sept. 14 & Nov. 15-Dec. 12 & Mar. 1-Mar. 10
Ducks, mergansers, coots, and moorhens (1)	Sept. 7-Sept. 30
Woodcock	Sept. 7-Sept. 18 & Nov. 3-Dec. 12 & Mar. 1-Mar. 10
Minnesota	
Woodcock	Sept. 1-Sept. 18 & Nov. 5-Dec. 16
Rails and snipe	Nov. 5-Dec. 16
Missouri	
Mourning doves	Oct. 31-Dec. 16
Ducks, mergansers, and coots	Sept. 5-Sept. 20
Tennessee	
Mourning doves	Sept. 28-Oct. 9 & Oct. 26-Nov. 28
Ducks (1)	Sept. 17-Sept. 30

	Extended Falconry Dates
Wisconsin	
Rails, snipe, moorhens, and gallinules (1)	Sept. 1-Sept. 30
Woodcock	Sept. 1-Sept. 18
Ducks, mergansers, and coots (1)	Sept. 12-Sept. 30
CENTRAL FLYWAY	
Montana (2)	
Ducks, mergansers, and coots (1)	Sept. 23-Sept. 30
New Mexico (2)	
Doves	
North Zone	Oct. 31-Nov. 5 & Nov. 28-Jan. 7
South Zone	Oct. 1-Nov. 5 & Nov. 28-Nov. 30 & Dec. 31-Jan. 7
Band-tailed pigeons	
North Zone	Sept. 21-Dec. 16
South Zone	Oct. 21-Jan. 15
Sandhill cranes	
Regular Season Area	Oct. 17-Oct. 30
North Dakota	
Ducks, mergansers, and coots	Sept. 21-Oct. 2
Snipe	Sept. 1-Sept. 18
South Dakota	
Ducks, mergansers, and coots (1)	
High Plains	Sept. 4-Sept. 12
Low Plains	
North & Middle Zones	Sept. 4-Sept. 25 & Sept. 27-Sept. 30
South Zone	Sept. 7-Sept. 25 & Sept. 27-Sept. 30
Texas	
Mourning and white-winged doves	Nov. 9-Dec. 25
Rails and gallinules	Dec. 17-Jan. 22
Woodcock	Feb. 1-Mar. 10
Wyoming	
Rails and snipe	Sept. 1-Sept. 11
Ducks, mergansers, and coots (1)	Sept. 18-Sept. 27
PACIFIC FLYWAY	
Arizona	
Doves	Sept. 16-Nov. 1
Idaho	
Mourning doves	Nov. 1-Jan. 16
New Mexico	
Doves	Oct. 1-Nov. 5 & Nov. 28-Nov. 30 & Dec. 31-Jan. 7
Band-tailed pigeons	
North Zone	Sept. 21-Dec. 16
South Zone	Oct. 21-Jan. 15

	Extended Falconry Dates
Oregon (3)	
Mourning doves	Oct. 1-Dec. 16
Band-tailed pigeons	Sept. 1-Sept. 14 & Sept. 24-Dec. 16
Utah	
Mourning doves and band-tailed pigeons	Oct. 1-Dec. 16
Washington	
Mourning doves	Oct. 1-Dec. 31
Wyoming	
Rails and snipe	Sept. 1-Sept. 11

(1) Additional days occurring after September 30 will be published with the late-season selections.

(2) In Montana and New Mexico, the bag limit is 2 and the possession limit is 6.

(3) In Oregon, no more than 1 pigeon daily in bag or possession.

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Federal Register

Monday
August 31, 1998

Part VI

Department of Education

34 CFR Parts 662, 663 and 664
Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program, Fulbright-Hays Faculty Research Abroad Fellowship Program, and Fulbright-Hays Group Projects Abroad Program; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 662, 663, and 664

RIN 1840–AC53

Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program, Fulbright-Hays Faculty Research Abroad Fellowship Program, and Fulbright-Hays Group Projects Abroad Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Higher Education Programs in Modern Foreign Language Training and Area Studies—Doctoral Dissertation Research Abroad Fellowship Program, Faculty Research Abroad Fellowship Program, and Group Projects Abroad Program. These amendments are needed as a result of changes in terminology applicable to these programs and changes in the selection criteria. The final regulations change the names of these programs, remove obsolete references, modify the selection criteria, and make other technical changes.

EFFECTIVE DATES: These regulations take effect September 30, 1998.

FOR FURTHER INFORMATION CONTACT: Karla Ver Bryck Block, U.S. Department of Education, 600 Independence Avenue, SW., Suite 600C Portals Building, Washington, DC 20202–5331. Telephone: (202) 401–9774. 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.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Background

On March 4, 1995 the President announced a Regulatory Reinvention Initiative to reform the Federal regulatory system. In response to the President's initiative, on August 23, 1996 the Secretary issued an Advance Notice of Proposed Rulemaking (ANPRM) to request public comment on the changes being considered in the Department's programs to simplify regulations and reduce regulatory burden (Regulatory Reinvention, 61 FR 43639, August 23, 1996). Regulations for the International Education Programs in 34 CFR Parts 662 (Higher Education Programs in Modern Foreign Language Training and Area Studies—Doctoral Dissertation Research Abroad Fellowship Program), 663 (Faculty Research Abroad Fellowship Program), and 664 (Group Projects Abroad program) were included in the ANPRM. The Secretary received no comments on changes proposed in the ANPRM for the International Education Programs.

Notice of Proposed Rulemaking

On June 19, 1998, the Secretary published a notice of proposed rulemaking (NPRM) for 34 CFR parts 662, 663, and 664 in the **Federal Register** (63 FR 33765–33776). These final regulations contain one significant change from the NPRM. This change pertains to ''health and accident insurance'' and is fully explained in the ''Analysis of Comments and Changes'' elsewhere in this preamble.

Regulatory Changes

As part of the President's Regulatory Reinvention Initiative, the Department is revising the regulations governing the Higher Education Programs in Modern Foreign Language Training and Area Studies—Doctoral Dissertation Research Abroad Fellowship Program, Faculty Research Abroad Fellowship Program, and Group Projects Abroad Program. These amendments are needed to improve the application review process and to update the regulations in light of developments in the field of foreign language, area, and international studies, including political developments abroad, modifications in the policies and practices of the J. William Fulbright Foreign Scholarship Board, and interpretations of regulations. In the spirit of reinventing government, the goal of the changes is to markedly reduce burden associated with the regulations.

These final regulations change the names of these programs to align them with how they are popularly referred to in the field. Additionally, the final regulations make changes in the terminology applicable to these programs, remove obsolete references, and make changes in the selection criteria. The final regulations also reorganize the sections, change the names of several section titles, correct errors in the numbering of the sections, and make other technical changes to improve the regulations.

The substantive changes in the final regulations are discussed with respect to each part. A number of the substantive changes affect each of the parts being amended (34 CFR Parts 662, 663, and 664). Therefore, in the discussion of the changes under Part 662, it is noted whether the change is duplicated in a corresponding section of Parts 663 or 664.

Part 662

The name of Part 662 is changed to Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program. Throughout Parts 662, 663, and 664 the ''Board of Foreign Scholarships'' is changed to ''J. William Fulbright Foreign Scholarship Board'' to reflect the change in the name of the board.

Section 662.3 deletes current paragraph (a)(3) to eliminate persons ''in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident'' as eligible applicants. The change reflects the Secretary's decision that to receive a federally funded fellowship, a person should demonstrate commitment to the United States, either by being a citizen or permanent resident. The change furthers the goal of the program to train people who will then serve in the United States educational field. The change also applies to §§ 663.3 and 664.3.

Section 662.3 also deletes current paragraph (a)(4) which states that a resident of the Trust Territory of the Pacific Islands is eligible for a fellowship, since these islands are no longer a trust territory. The change also applies to §§ 663.3 and 664.3.

Section 662.6 revises the list of regulations that apply to the Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program, to reflect accurately which parts of EDGAR currently apply to the program.

Section 662.7 revises the list of terms used in this part that are defined in 34 CFR Part 77. Terms that are not used in this part are deleted.

Section 662.7(c) changes the definition of ''dependent''. These final regulations add the requirement that the individual being claimed as a dependent must accompany the recipient to his or her training site for the entire fellowship period. Also, these final regulations narrow the definition of ''dependent'' to exclude parents of a participant or parents of the participant's spouse. Both changes in the definition are grounded in the need to conserve limited program funds. By requiring that in order to receive a dependent's allowance the dependent be at the training site for the entire fellowship period, the Secretary will preclude the use of program funds for short term visits. The changes in the dependent's definition with regard to parents bring the program's policy

toward dependents more in line with similar fellowship programs. Additionally, only once in more than 30 years of program administration has a dependent's allowance been requested for a parent.

Section 662.7(c) eliminates the definition for ''foreign currencies'' since all foreign currency accounts previously available to the Secretary for operation of this program have been exhausted.

All of the changes to § 662.7(c) also apply to § 663.7(c).

Section 662.10 incorporates the language found in current § 662.21. Paragraph (c) of current § 662.21 which addresses requirements for an applicant who plans to conduct research in the former USSR and Eastern European countries are deleted, since changes in the research climate in those countries have eliminated the need to require an applicant to apply to the International Research and Exchange Board. The change also applies to § 663.10.

Section 662.20(d) preserves and clarifies the current position of the Department relating to veteran's preference. These regulations add language to clarify that if two scores are tied and one of the applicants is a veteran, the applicant who is a veteran will receive a preference. The change also applies to § 663.20(d).

Section 662.21 revises the selection criteria. The revised criteria reflect a greater consistency with criteria used in comparable fellowship programs. This would facilitate writing fellowship applications for individuals since the applications would be similar.

There would also be a greater emphasis on foreign language training. Since these programs were originally intended to enhance the foreign language competence of individuals trained in American schools, the criteria are modified to give greater emphasis to having acquired a foreign language. Paragraph (c)(3) adds the requirement that the applicant be proficient in one or more of the languages of the country or countries of research, excluding English and the applicant's native language. The language most likely would result in a decrease in the number of applications from individuals wishing to conduct research in English and would encourage non-native born United States citizens or resident aliens to acquire an additional foreign language. The Department has experienced a substantial increase in the number of applications for conducting research in English.

The points assigned are changed to allow the readers greater ability to differentiate among the applications. The changes in points assigned are reflected in § 662.21(a), (b), and (c). Due to the extremely high caliber of applications, there is frequently a clustering of high scores. The point structure allows readers a broader range in which to assign points. Under current § 662.21 points are assigned in a narrow range and a multiplication factor is applied, which results in significant clustering of like applications.

The Department has consulted with various experts in language and area studies as well as administrators of fellowship programs in developing the revisions to the selection criteria. Their comments and feedback have been incorporated into these changes.

The changes to § 662.21 also apply to § 663.21.

Section 662.22 incorporates the language from current § 662.33 and adds a new paragraph (b) to prevent an applicant from receiving more than one fellowship under the Fulbright-Hays Act in a given fiscal year. The provision prevents an applicant from receiving a fellowship from the Department and the United States Information Agency (USIA) within the same fiscal year. The change ensures that limited funds appropriated to the agencies have a broader impact and are not used duplicatively. The change reflects the current policy statements of the Foreign Scholarship Board.

Similar to § 662.10, § 662.22 eliminates language from current § 662.33(a)(2) that addresses requirements for an applicant who plans to conduct research in the USSR and Eastern European countries. Changes in the research climate in those countries have eliminated the need to require an applicant to apply to the International Research and Exchange Board. The change also applies to § 663.22.

Part 663

The name of Part 663 is changed to Fulbright-Hays Faculty Research Abroad Fellowship Program.

Section 663.3 outlines who is eligible to receive a fellowship under this program. Current § 663.3(d)(1) and (2) are deleted from the final regulations because they are part of the selection criteria and should not be considered under eligibility.

Section 663.6 revises the list of regulations that apply to the Fulbright-Hays Faculty Research Abroad Fellowship Program, to reflect accurately which parts of EDGAR currently apply to the program.

Part 664

The name of Part 664 is changed to Fulbright-Hays Group Projects Abroad Program.

Section 664.4 revises the list of regulations that apply to the Fulbright-Hays Group Projects Abroad Program, to reflect accurately which parts of EDGAR currently apply to the program.

Section 664.5 revises the list of terms used in this part that are defined in EDGAR, 34 CFR Part 77. Terms that are not used in this part are deleted.

Sections 664.11, 664.12, and 664.13 revise the length of the projects. Section 664.11 changes the length of a short-term project from six weeks under current regulations, to from four to six weeks. Section 664.12 changes the length of a curriculum development project from six to eight weeks under current regulations, to from four to eight weeks. The current provisions encouraged longer periods in the field, even when they were not necessary for the successful accomplishment of the project goals. The revised, shorter project periods will allow applicants greater flexibility in carrying out their projects. Section 664.13 changes the length of a group research project from two to twelve months under current regulations, to three to twelve months. This change is designed to encourage applicants to develop more in depth research and study projects. In order to be consistent with Parts 662 and 663, § 664.30 adds a new paragraph (d), which establishes that the Secretary will consider for funding only projects that an applicant proposes to carry out in a country in which the United States has diplomatic representation.

Section 664.31(a)(2)(v) and (b)(4), which addresses the inclusion of underrepresented groups in the selection criteria for applications, is revised to be consistent with the Education Department General Administrative Regulations (EDGAR) (§ 75.210(c)(5) and (d)(1)(iv)). The language requires the applicant to ensure that participants in the Fulbright-Hays Group Projects and its personnel selected for employment are selected without regard to race, color, national origin, gender, age, or handicapping condition.

Section 664.33(b)(1) allows for greater flexibility in establishing annual per diem rates, consistent with the cost-of-living in overseas areas. Current regulations require a maintenance stipend to be based on 50 percent of the amount established in the U.S. Department of State publication ''Maximum Travel Per Diem Allowances for Foreign Areas''. Section 664.33(b)(1) eliminates the 50 percent limitation, which would permit an upward or a downward adjustment based on the cost of living in the host country.

Section 664.33 is further revised by adding a new paragraph (c), to permit program funds to be used for emergency medical expenses not covered by a participant's health and accident insurance and for repatriation of remains. Under current regulations, sections 662.4(b) and 663.4(b) already provided the Secretary with the discretion to use program funds for emergency medical expenses or repatriation of remains.

Analysis of Comments and Changes

In response to the Secretary's invitation to comment in the NPRM, two parties submitted comments on the proposed regulations. An analysis of the comments and of any changes in the regulations since publication of the NPRM follows.

Major issues are grouped according to subject, with appropriate sections of the regulations referenced in parentheses. Other substantive issues are discussed under the section of the regulations to which they pertain. Technical and minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—generally are not addressed.

Health and Accident Insurance (§§ 662.4, 663.4, 664.33)

Comments: One commenter suggested that health and accident insurance, including emergency medical evacuation and repatriation of remains, be required for Fulbright-Hays participants and that program funds be made routinely available for this purpose.

Discussion: Program practice under all three programs ensures that health and accident insurance is in place before the research or projects may be undertaken. Current Part 662 provides for the use of program funds for health and accident insurance and permits support for emergency medical expenses and repatriation of remains. Current Part 663 does not provide funds for insurance, because the Department believes that it is appropriate for faculty members to continue their health and accident insurance policies in force while they are overseas. Like Part 662, current Part 663 permits funds to be used for emergency medical expenses and repatriation of remains. Current Part 664 does not explicitly provide for the use of program funds for insurance, emergency medical expenses, or repatriation of remains.

The Department believes that the approach in current regulations concerning the use of program funds for insurance, emergency medical expenses, and repatriation of remains is essentially sound. However, the Department is persuaded that the regulations for the Group Projects Abroad program should expressly permit (but not require) the use of program funds for emergency medical expenses or repatriation of remains. This change is consistent with the long-standing cost-sharing policy of the Group Projects Abroad program.

Changes: Section 664.33 is revised to permit program funds to be used for emergency medical expenses not covered by a participant's health and accident insurance and for repatriation of remains.

Dependent (§ 662.7(c))

Comments: One commenter expressed concern that the changes to the definition of ''dependent'' would so narrow eligible visits as to provide a disincentive for participation in the program, and that the new eligibility requirements would provide a significant barrier to providing access to these programs for the full range of qualified applicants. The commenter further stated that it did not appear appropriate to bar support because a school-age child could visit only during the three summer months of the fellow's overseas work, or because the fellow's employed spouse might be able to be abroad for only a semester, or six months.

Discussion: The Department believes strongly that the changes in the definition of ''dependent'' are necessary to conserve limited program funds. Further, the Department believes that if a child is spending the school year with a working parent here, and plans to go abroad for only the summer, it is unlikely that the fellow would be eligible for a dependent's allowance even under the current regulations, since eligibility is contingent upon the fellow's providing at least 50 percent of the dependent's support for the entire fellowship period, not just the time the dependent is in the field.

With respect to a spouse who is working here and can travel abroad for only a semester or six months, the Department again believes that if a spouse is working here, it is unlikely that the fellow would be providing at least 50 percent of the support for the entire fellowship period. Therefore, even under the current regulations, the fellow would not likely qualify for the dependent's allowance.

The Department does not believe that the proposed change in the definition of ''dependent'' will provide a barrier to participation in the program, and believes that this change is necessary in order to conserve limited funds.

Changes: None.

Diplomatic Representation (§§ 662.20(b), 663.20(b), 664.30(d))

Comments: One commenter suggested that the Department eliminate any requirement that projects be conducted in countries in which the United States has diplomatic representation.

Discussion: The Department does not agree that the requirement should be eliminated. The review process for the Fulbright-Hays programs has long involved sending the applications to United States diplomatic officials overseas for their comments on budget, feasibility, and political sensitivity. The Department believes that these comments are of immense value in ensuring the success of the projects.

Changes: None.

Acquired Foreign Language (§ 662.21(c)(3))

Comments: One commenter was troubled by the Department's proposed emphasis in the selection criteria on the use of an acquired (*i.e.*, non-native) foreign language. It was the commenter's view that the purpose of the program is to provide support for the development of high-end expertise in languages other than English regardless of the method of acquisition.

Discussion: The purpose of the Doctoral Dissertation Research Abroad Fellowship Program (DDRA) is primarily to support students conducting research overseas in non-native languages other than English. The Department believes that a student conducting research in his or her native language should not enjoy the advantage in the competition that the current regulations provide. Additionally the Department wishes to preserve the program as a vehicle for overseas research by students who have completed the non-native language training under the Department's Title VI Foreign Language and Area Studies (FLAS) Fellowship program.

Changes: None.

Duration of Group Projects (§§ 664.11, 664.12, and 664.13)

Comments: One commenter supported the Department's change for group research projects at § 664.13, raising the minimum project time from two to three months. The commenter, however, expressed concern at the Department's proposals to allow for shorter project periods in §§ 664.11 and 664.12. The commenter generally supported the Department's efforts to permit flexibility in setting project timeframes for applicants to carry out their projects but felt that the proposed minimum project length might be too short.

Discussion: The Department's experience in administering short-term and curriculum development projects and working with the academic community suggests that the greater flexibility proposed in the NPRM would not adversely affect the quality or substance of these projects, and is a desirable change.

Changes: None.

Advanced Overseas Intensive Language Training Project (§ 664.14(a)(1))

Comment: One commenter recommended amending § 664.14(a)(1) to permit the support of intermediate as well as advanced intensive language programs under the Group Projects Abroad program.

Discussion: The purpose of overseas language training under this program is to increase a student's competency within the project period to a level that permits the student to use the language in research and other professional activities. The Department believes that, as a general rule, a minimum of two years study of a language is needed prior to this training. However, the Department also recognizes the availability of two years of training in certain languages in this country is very limited or non-existent. For this reason, § 664.14(a)(3) of the notice of proposed rulemaking included the word ''generally'' to give the Department the flexibility to fund projects for students with fewer than two years of language coursework. The Department plans to consider these projects on a case-by-case basis.

Changes: None.

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control numbers assigned to the collection of information in these final regulations is displayed at the end of the affected sections of these regulations.

Assessment of Educational Impact

In the NPRM the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the NPRM and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

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Note: The official version of this document is the document published in the **Federal Register**.

List of Subjects

34 CFR Parts 662 and 663

Colleges and universities, Education, Educational research, Educational study programs, Fellowships, Reporting and recordkeeping requirements.

34 CFR Part 664

Colleges and universities, Education, Educational study programs, Reporting and recordkeeping requirements, Teachers.

(Catalog of Federal Domestic Assistance Numbers: 84.022 Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program; 84.019 Fulbright-Hays Faculty Research Abroad Fellowship Program; and 84.021 Fulbright-Hays Group Projects Abroad Program)

Dated: August 25, 1998.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

The Secretary amends Chapter VI of Title 34 of the Code of Federal Regulations by revising Parts 662, 663, and 664 to read as follows:

PART 662—FULBRIGHT-HAYS DOCTORAL DISSERTATION RESEARCH ABROAD FELLOWSHIP PROGRAM

Subpart A—General

Subpart B—Applications

Subpart C—Selection of Fellows

Subpart D—Post-award Requirements for Institutions

Subpart E—Post-award Requirements for Fellows

Authority: Section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 (Fulbright-Hays Act), 22 U.S.C. 2452(b)(6), unless otherwise noted.

Subpart A—General

§ 662.1 What is the Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program?

(a) The Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program is designed to contribute to the development and improvement of the study of modern foreign languages and area studies in the United States by providing opportunities for scholars to conduct research abroad.

(b) Under the program, the Secretary awards fellowships, through institutions of higher education, to doctoral candidates who propose to conduct dissertation research abroad in modern foreign languages and area studies.

(Authority: 22 U.S.C. 2452(b)(6))

§ 662.2 Who is eligible to receive an institutional grant under this program?

An institution of higher education is eligible to receive an institutional grant.

(Authority: 22 U.S.C. 2452(b)(6), 2454(e)(1))

§ 662.3 Who is eligible to receive a fellowship under this program?

An individual is eligible to receive a fellowship if the individual—

(a)(1) Is a citizen or national of the United States; or

(2) Is a permanent resident of the United States;

(b)(1) Is a graduate student in good standing at an institution of higher education; and

(2) When the fellowship period begins, is admitted to candidacy in a doctoral degree program in modern foreign languages and area studies at that institution;

(c) Is planning a teaching career in the United States upon completion of his or her doctoral program; and

(d) Possesses sufficient foreign language skills to carry out the dissertation research project.

(Authority: 22 U.S.C. 2452(b)(6), 2454(e)(1))

§ 662.4 What is the amount of a fellowship?

(a) The Secretary pays—

(1) Travel expenses to and from the residence of the fellow and the country or countries of research;

(2) A maintenance stipend for the fellow and his or her dependents related to cost of living in the host country or countries;

(3) An allowance for research-related expenses overseas, such as books, copying, tuition and affiliation fees, local travel, and other incidental expenses; and

(4) Health and accident insurance premiums.

(b) In addition, the Secretary may pay—

(1) Emergency medical expenses not covered by health and accident insurance; and

(2) The costs of preparing and transporting the remains of a fellow or dependent who dies during the term of the fellowship to his or her former home.

(c) The Secretary announces the amount of benefits expected to be available in an application notice published in the **Federal Register**.

(Authority: 22 U.S.C. 2452(b)(6), 2454(e) (1) and (2))

§ 662.5 What is the duration of a fellowship?

(a) A fellowship is for a period of not fewer than six nor more than twelve months.

(b) A fellowship may not be renewed.

(Authority: 22 U.S.C. 2452(b)(6))

§ 662.6 What regulations apply to this program?

The following regulations apply to this program:

(a) The regulations in this part 662; and

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR parts 74, 75, 77, 81, 82, 85, and 86).

(Authority: 22 U.S.C. 2452(b)(6))

§ 662.7 What definitions apply to this program?

(a) Definitions of the following terms as used in this part are contained in 34 CFR part 77:

Applicant
Application
Award
EDGAR
Fiscal year
Grant
Secretary

(b) The definition of *institution of higher education* as used in this part is contained in 34 CFR 600.4.

(c) The following definitions of other terms used in this part apply to this program:

Area studies means a program of comprehensive study of the aspects of a society or societies, including the study of their geography, history, culture, economy, politics, international relations, and languages.

Binational commission means an educational and cultural commission established, through an agreement between the United States and either a foreign government or an international organization, to carry out functions in connection with the program covered by this part.

Dependent means any of the following individuals who accompany the recipient of a fellowship under this program to his or her training site for the entire fellowship period if the individual receives more than 50 percent of his or her support from the recipient during the fellowship period:

(1) The recipient's spouse.

(2) The recipient's or spouse's children who are unmarried and under age 21.

J. William Fulbright Foreign Scholarship Board means the presidentially-appointed board that is responsible for supervision of the program covered by this part.

(Authority: 22 U.S.C. 2452(b)(6), 2456)

Subpart B—Applications

§ 662.10 How does an individual apply for a fellowship?

(a) An individual applies for a fellowship by submitting an application to the Secretary through the institution of higher education in which the individual is enrolled.

(b) The applicant shall provide sufficient information concerning his or her personal and academic background and proposed research project to enable the Secretary to determine whether the applicant—

(1) Is eligible to receive a fellowship under § 662.3; and

(2) Should be selected to receive a fellowship under subparts C and D of this part.

(Authority: 22 U.S.C. 2452(b)(6))

§ 662.11 What is the role of the institution in the application process?

An institution of higher education that participates in this program is responsible for—

(a) Making fellowship application materials available to its students;

(b) Accepting and screening applications in accordance with its own technical and academic criteria; and

(c) Forwarding screened applications to the Secretary and requesting an institutional grant.

(Authority: 22 U.S.C. 2452(b)(6), 2454(e)(1))

Subpart C—Selection of Fellows

§ 662.20 How is a Fulbright-Hays Doctoral Dissertation Research Abroad Fellow selected?

(a) The Secretary considers applications for fellowships under this program that have been screened and submitted by eligible institutions. The Secretary evaluates these applications on the basis of the criteria in § 662.21.

(b) The Secretary does not consider applications to carry out research in a country in which the United States has no diplomatic representation.

(c) In evaluating applications, the Secretary obtains the advice of panels of United States academic specialists in modern foreign languages and area studies.

(d) The Secretary gives preference to applicants who have served in the armed services of the United States if their applications are equivalent to those of other applicants on the basis of the criteria in § 662.21.

(e) The Secretary considers information on budget, political sensitivity, and feasibility from binational commissions or United States diplomatic missions, or both, in the

proposed country or countries of research.

(f) The Secretary presents recommendations for recipients of fellowships to the J. William Fulbright Foreign Scholarship Board, which reviews the recommendations and approves recipients.

(Authority: 22 U.S.C. 2452(b)(6), 2456)

§ 662.21 What criteria does the Secretary use to evaluate an application for a fellowship?

(a) *General.* (1) The Secretary uses the criteria in this section to evaluate an application for a fellowship.

(2) The maximum score for all of the criteria is 100 points. However, if priority criteria described in paragraph (c) of this section are used, the maximum score is 110 points.

(3) The maximum score for each criterion is shown in parentheses with the criterion.

(b) *Quality of proposed project.* (60 points) The Secretary reviews each application to determine the quality of the research project proposed by the applicant. The Secretary considers—

(1) The statement of the major hypotheses to be tested or questions to be examined, and the description and justification of the research methods to be used;

(2) The relationship of the research to the literature on the topic and to major theoretical issues in the field, and the project's originality and importance in terms of the concerns of the discipline;

(3) The preliminary research already completed in the United States and overseas or plans for such research prior to going overseas, and the kinds, quality and availability of data for the research in the host country or countries;

(4) The justification for overseas field research and preparations to establish appropriate and sufficient research contacts and affiliations abroad;

(5) The applicant's plans to share the results of the research in progress and a copy of the dissertation with scholars and officials of the host country or countries; and

(6) The guidance and supervision of the dissertation advisor or committee at all stages of the project, including guidance in developing the project, understanding research conditions abroad, and acquainting the applicant with research in the field.

(c) *Qualifications of the applicant.* (40 points) The Secretary reviews each application to determine the qualifications of the applicant. The Secretary considers—

(1) The overall strength of the applicant's graduate academic record; (10)

(2) The extent to which the applicant's academic record demonstrates a strength in area studies relevant to the proposed project; (10)

(3) The applicant's proficiency in one or more of the languages (other than English and the applicant's native language) of the country or countries of research, and the specific measures to be taken to overcome any anticipated language barriers; (15) and

(4) The applicant's ability to conduct research in a foreign cultural context, as evidenced by the applicant's references or previous overseas experience, or both. (5)

(d) *Priorities.* (10 points) (1) The Secretary determines the extent to which the application responds to any priority that the Secretary establishes for the selection of fellows in any fiscal year. The Secretary announces any priorities in an application notice published in the **Federal Register**.

(2) Priorities may relate to certain world areas, countries, academic disciplines, languages, topics, or combinations of any of these categories. For example, the Secretary may establish a priority for—

(i) A specific geographic area or country, such as the Caribbean or Poland;

(ii) An academic discipline, such as economics or political science;

(iii) A language, such as Tajik or Indonesian; or

(iv) A topic, such as public health issues or the environment.

(Approved by the Office of Management and Budget under control number 1840–0005)

(Authority: 22 U.S.C. 2452(b)(6), 2456(a)(2))

§ 662.22 How does the J. William Fulbright Foreign Scholarship Board select fellows?

(a) The J. William Fulbright Foreign Scholarship Board selects fellows on the basis of the Secretary's recommendations and the information described in § 662.20(e) from binational commissions or United States diplomatic missions.

(b) No applicant for a fellowship may be awarded more than one graduate fellowship under the Fulbright-Hays Act from appropriations for a given fiscal year.

(Authority: 22 U.S.C. 2452(b)(6), 2456(a)(1))

Subpart D—Post-award Requirements for Institutions

§ 662.30 What are an institution's responsibilities after the award of a grant?

(a) An institution to which the Secretary awards a grant under this part is responsible for administering the grant in accordance with the regulations described in § 662.6.

(b) The institution is responsible for processing individual applications for fellowships in accordance with procedures described in § 662.11.

(c) The institution is responsible for disbursing funds in accordance with procedures described in § 662.4.

(d) The Secretary awards the institution an administrative allowance of $100 for each fellowship listed in the grant award document.

(Authority: 22 U.S.C. 2452(b)(6), 2454(e)(1))

Subpart E—Post-award Requirements for Fellows

§ 662.41 What are a fellow's responsibilities after the award of a fellowship?

As a condition of retaining a fellowship, a fellow shall—

(a) Maintain satisfactory progress in the conduct of his or her research;

(b) Devote full time to research on the approved topic;

(c) Not engage in unauthorized income-producing activities during the period of the fellowship; and

(d) Remain a student in good standing with the grantee institution during the period of the fellowship.

(Authority: 22 U.S.C. 2452(b)(6))

§ 662.42 How may a fellowship be revoked?

(a) The fellowship may be revoked only by the J. William Fulbright Foreign Scholarship Board upon the recommendation of the Secretary.

(b) The Secretary may recommend a revocation of a fellowship on the basis of—

(1) The fellow's failure to meet any of the conditions in § 662.41; or

(2) Any violation of the standards of conduct adopted by the J. William Fulbright Foreign Scholarship Board.

(Authority: 22 U.S.C. 2452(b)(6), 2456, and Policy Statements of the J. William Fulbright Foreign Scholarship Board, 1990)

PART 663—FULBRIGHT-HAYS FACULTY RESEARCH ABROAD FELLOWSHIP PROGRAM

Subpart A—General

Sec.

Authority: Sec. 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 (Fulbright-Hays Act), 22 U.S.C. 2452(b)(6), unless otherwise noted.

Subpart A—General

§ 663.1 What is the Fulbright-Hays Faculty Research Abroad Fellowship Program?

(a) The Fulbright-Hays Faculty Research Abroad Program is designed to contribute to the development and improvement of modern foreign language and area studies in the United States by providing opportunities for scholars to conduct research abroad.

(b) Under the program, the Secretary awards fellowships, through institutions of higher education, to faculty members who propose to conduct research abroad in modern foreign languages and area studies to improve their skill in languages and knowledge of the culture of the people of these countries.

(Authority: 22 U.S.C. 2452(b)(6))

§ 663.2 Who is eligible to receive an institutional grant under this program?

An institution of higher education is eligible to receive an institutional grant.

(Authority: 22 U.S.C. 2452(b)(6), 2454(e)(1))

§ 663.3 Who is eligible to receive a fellowship under this program?

An individual is eligible to receive a fellowship if the individual—

(a)(1) Is a citizen or national of the United States; or

(2) Is a permanent resident of the United States;

(b) Is employed by an institution of higher education;

(c) Has been engaged in teaching relevant to his or her foreign language or area studies specialization for the two years immediately preceding the date of the award;

(d) Proposes research relevant to his or her modern foreign language or area specialization which is not dissertation research for a doctoral degree; and

(e) Possesses sufficient foreign language skills to carry out the research project.

(Authority: 22 U.S.C. 2452(b)(6), 2454(e)(1))

§ 663.4 What is the amount of a fellowship?

(a) The Secretary pays—

(1) Travel expenses to and from the residence of the fellow and the country or countries of research;

(2) A maintenance stipend for the fellow related to his or her academic year salary; and

(3) An allowance for research-related expenses overseas, such as books, copying, tuition and affiliation fees, local travel, and other incidental expenses.

(b) The Secretary may pay—

(1) Emergency medical expenses not covered by the faculty member's health and accident insurance; and

(2) The costs of preparing and transporting the remains of a fellow or dependent who dies during the term of the fellowship to his or her former home.

(c) The Secretary announces the amount of benefits expected to be available in an application notice published in the **Federal Register**.

(Authority: 22 U.S.C. 2452(b)(6), 2454(e) (1) and (2))

§ 663.5 What is the duration of a fellowship?

(a) A fellowship is for a period of not fewer than three nor more than twelve months.

(b) A fellowship may not be renewed.

(Authority: 22 U.S.C. 2452(b)(6))

§ 663.6 What regulations apply to this program?

The following regulations apply to this program:

(a) The regulations in this part 663; and

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR parts 74, 75, 77, 81, 82, 85, and 86).

(Authority: 22 U.S.C. 2452(b)(6))

§ 663.7 What definitions apply to this program?

(a) Definitions of the following terms as used in this part are contained in 34 CFR part 77:

Applicant
Application
Award
EDGAR
Fiscal year
Grant
Secretary

(b) The definition of *institution of higher education* as used in this part is contained in 34 CFR 600.4.

(c) The following definitions of other terms used in this part apply to this program:

Area studies means a program of comprehensive study of the aspects of a society or societies, including the study of their geography, history, culture, economy, politics, international relations, and languages.

Binational commission means an educational and cultural commission established, through an agreement between the United States and either a foreign government or an international organization, to carry out functions in connection with the program covered by this part.

Dependent means any of the following individuals who accompany the recipient of a fellowship under this program to his or her training site for the entire fellowship period if the individual receives more than 50 percent of his or her support from the recipient during the fellowship period:

(1) The recipient's spouse.

(2) The recipient's or spouse's children who are unmarried and under age 21.

J. William Fulbright Foreign Scholarship Board means the presidentially-appointed board that is responsible for supervision of the program covered by this part.

(Authority: 22 U.S.C. 2452(b)(6), 2456)

Subpart B—Applications

§ 663.10 How does an individual apply for a fellowship?

(a) An individual applies for a fellowship by submitting an application to the Secretary through the institution of higher education at which the individual is employed.

(b) The applicant shall provide sufficient information concerning his or her personal and academic background and proposed research project to enable the Secretary to determine whether the applicant—

(1) Is eligible to receive a fellowship under § 663.3; and

(2) Should be selected to receive a fellowship under subparts C and D of this part.

(Authority: 22 U.S.C. 2452(b)(6))

§ 663.11 What is the role of the institution in the application process?

An institution of higher education that participates in this program is responsible for—

(a) Making fellowship application materials available to its faculty;

(b) Accepting and screening applications in accordance with its own technical and academic criteria; and

(c) Forwarding screened applications to the Secretary through a request for an institutional grant.

(Authority: 22 U.S.C. 2452(b)(6), 2454(e)(1))

Subpart C—Selection of Fellows

§ 663.20 How is a Fulbright-Hays Faculty Research Abroad Fellow selected?

(a) The Secretary considers applications for fellowships under this program that have been screened and submitted by eligible institutions. The Secretary evaluates these applications on the basis of the criteria in § 663.21.

(b) The Secretary does not consider applications to carry out research in a country in which the United States has no diplomatic representation.

(c) In evaluating applications, the Secretary obtains the advice of panels of United States academic specialists in modern foreign languages and area studies.

(d) The Secretary gives preference to applicants who have served in the armed services of the United States if their applications are equivalent to those of other applicants on the basis of the criteria in § 663.21.

(e) The Secretary considers information on budget, political sensitivity, and feasibility from binational commissions or United States diplomatic missions, or both, in the proposed country or countries of research.

(f) The Secretary presents recommendations for recipients of fellowships to the J. William Fulbright Foreign Scholarship Board, which reviews the recommendations and approves recipients.

(Authority: 22 U.S.C. 2452(b)(6), 2456)

§ 663.21 What criteria does the Secretary use to evaluate an application for a fellowship?

(a) *General.* (1) The Secretary uses the criteria in this section to evaluate an application for a fellowship.

(2) The maximum score for all of the criteria is 100 points. However, if priority criteria described in paragraph (c) of this section are used, the maximum score is 110 points.

(3) The maximum score for each criterion is shown in parentheses with the criterion.

(b) *Quality of proposed project.* (60 points) The Secretary reviews each application to determine the quality of the research project proposed by the applicant. The Secretary considers—

(1) The statement of the major hypotheses to be tested or questions to be examined, and the description and justification of the research methods to be used;

(2) The relationship of the research to the literature on the topic and to major theoretical issues in the field, and the project's importance in terms of the concerns of the discipline;

(3) The preliminary research already completed or plans for research prior to going overseas, and the kinds, quality and availability of data for the research in the host country or countries;

(4) The justification for overseas field research, and preparations to establish appropriate and sufficient research contacts and affiliations abroad;

(5) The applicant's plans to share the results of the research in progress with scholars and officials of the host country or countries and the American scholarly community; and

(6) The objectives of the project regarding the sponsoring institution's plans for developing or strengthening, or both, curricula in modern foreign languages and area studies.

(c) *Qualifications of the applicant.* (40 points) The Secretary reviews each application to determine the qualifications of the applicant. The Secretary considers—

(1) The overall strength of applicant's academic record (teaching, research, contributions, professional association activities); (10)

(2) The applicant's excellence as a teacher or researcher, or both, in his or her area or areas of specialization; (10)

(3) The applicant's proficiency in one or more of the languages (other than English and the applicant's native language), of the country or countries of research, and the specific measures to be taken to overcome any anticipated language barriers; (15) and

(4) The applicant's ability to conduct research in a foreign cultural context, as evidenced by the applicant's previous overseas experience, or documentation provided by the sponsoring institution, or both. (5)

(d) *Priorities.* (10 points) (1) The Secretary determines the extent to which the application responds to any priority that the Secretary establishes for the selection of fellows in any fiscal year. The Secretary announces any priorities in an application notice published in the **Federal Register**.

(2) Priorities may relate to certain world areas, countries, academic disciplines, languages, topics, or combinations of any of these categories. For example, the Secretary may establish a priority for—

(i) A specific geographic area or country, such as East Asia or Latvia;

(ii) An academic discipline, such as history or political science;

(iii) A language, such as Hausa or Telegu; or

(iv) A topic, such as religious fundamentalism or migration.

(Approved by the Office of Management and Budget under control number 1840–0005)

(Authority: 22 U.S.C. 2452(b)(6), 2456(a)(2))

§ 663.22 How does the J. William Fulbright Foreign Scholarship Board select fellows?

The J. William Fulbright Foreign Scholarship Board selects fellows on the basis of the Secretary's recommendations and the information described in § 663.20(e) from binational commissions or United States diplomatic missions.

(Authority: 22 U.S.C. 2452(b)(6), 2456(a)(1))

Subpart D—Post-award Requirements for Institutions

§ 663.30 What are an institution's responsibilities after the award of a grant?

(a) An institution to which the Secretary awards a grant under this part is responsible for administering the grant in accordance with the regulations described in § 663.6.

(b) The institution is responsible for processing individual applications for fellowships in accordance with procedures described in § 663.11.

(c) The institution is responsible for disbursing funds in accordance with procedures described in § 663.4.

(d) The Secretary awards the institution an administrative allowance of $100 for each fellowship listed in the grant award document.

(Authority: 22 U.S.C. 2452(b)(6), 2454(e)(1))

Subpart E—Post-award Requirements for Fellows

§ 663.41 What are a fellow's responsibilities after the award of a fellowship?

As a condition of retaining a fellowship, a fellow shall—

(a) Maintain satisfactory progress in the conduct of his or her research;

(b) Devote full time to research on the approved topic;

(c) Not engage in unauthorized income-producing activities during the period of the fellowship; and

(d) Remain employed by the grantee institution during the period of the fellowship.

(Authority: 22 U.S.C. 2452(b)(6))

§ 663.42 How may a fellowship be revoked?

(a) The fellowship may be revoked only by the J. William Fulbright Foreign

Scholarship Board upon the recommendation of the Secretary.

(b) The Secretary may recommend a revocation of a fellowship on the basis of—

(1) The fellow's failure to meet any of the conditions in § 663.41; or

(2) Any violation of the standards of conduct adopted by the J. William Fulbright Foreign Scholarship Board.

(Authority: 22 U.S.C. 2452(b)(6), 2456, and Policy Statements of the J. William Fulbright Foreign Scholarship Board, 1990)

PART 664—FULBRIGHT-HAYS GROUP PROJECTS ABROAD PROGRAM

Subpart A—General

Sec.

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

Subpart C—How Does the Secretary Make a Grant?

Subpart D—What Conditions Must Be Met by a Grantee?

Authority: 22 U.S.C. 2452(b)(6), unless otherwise noted.

Subpart A—General

§ 664.1 What is the Fulbright-Hays Group Projects Abroad Program?

(a) The Fulbright-Hays Group Projects Abroad Program is designed to contribute to the development and improvement of the study of modern foreign languages and area studies in the United States by providing opportunities for teachers, students, and faculty to study in foreign countries.

(b) Under the program, the Secretary awards grants to eligible institutions, departments, and organizations to conduct overseas group projects in research, training, and curriculum development.

(Authority: 22 U.S.C. 2452(b)(6))

§ 664.2 Who is eligible to apply for assistance under the Fulbright-Hays Group Projects Abroad Program?

The following are eligible to apply for assistance under this part:

(a) Institutions of higher education;

(b) State departments of education;

(c) Private non-profit educational organizations; and

(d) Consortia of institutions, departments, and organizations described in paragraphs (a), (b), or (c) of this section.

(Authority: 22 U.S.C. 2452(b)(6))

§ 664.3 Who is eligible to participate in projects funded under the Fulbright-Hays Group Projects Abroad Program?

An individual is eligible to participate in a Fulbright-Hays Group Projects Abroad, if the individual— (a)(1) Is a citizen or national of the United States; or

(2) Is a permanent resident of the United States; and

(b)(1) Is a faculty member who teaches modern foreign languages or area studies in an institution of higher education;

(2) Is a teacher in an elementary or secondary school;

(3) Is an experienced education administrator responsible for planning, conducting, or supervising programs in modern foreign languages or area studies at the elementary, secondary, or postsecondary level; or

(4) Is a graduate student, or a junior or senior in an institution of higher education, who plans a teaching career in modern foreign languages or area studies.

(Authority: 22 U.S.C. 2452(b)(6))

§ 664.4 What regulations apply to the Fulbright-Hays Group Projects Abroad Program?

The following regulations apply to this program:

(a) The regulations in this part 664; and

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86).

(Authority: 22 U.S.C. 2452(b)(6), 2454(e)(1), 2456(a)(2))

§ 664.5 What definitions apply to the Fulbright-Hays Group Projects Abroad Program?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR part 77:

Applicant
Application
Award
EDGAR
Equipment
Facilities
Grant
Grantee
Nonprofit
Project
Private
Public
Secretary
State
State educational agency
Supplies

(Authority: 22 U.S.C. 2452(b)(6))

(b) *Definitions that apply to this program:* The following definitions apply to the Fulbright-Hays Group Projects Abroad Program:

Area studies means a program of comprehensive study of the aspects of a society or societies, including the study of their geography, history, culture, economy, politics, international relations, and languages.

Binational commission means an educational and cultural commission established, through an agreement between the United States and either a foreign government or an international organization, to carry out functions in connection with the program covered by this part.

Institution of higher education means an educational institution in any State that—

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association.

J. William Fulbright Foreign Scholarship Board means the presidentially appointed board that is responsible for supervision of the program covered by this part.

(Authority: 22 U.S.C. 2452(b)(6), 2456)

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

§ 664.10 What kinds of projects does the Secretary assist?

The Secretary assists projects designed to develop or improve programs in modern foreign language or area studies at the elementary, secondary, or postsecondary level by supporting overseas projects in research, training, and curriculum development by groups of individuals engaged in a common endeavor. Projects may include, as described in §§ 664.11 through 664.14, short-term seminars, curriculum development teams, group research or study, and advanced intensive language programs.

(Authority: 22 U.S.C. 2452(b)(6))

§ 664.11 What is a short-term seminar project?

A short-term seminar project is—

(a) Designed to help integrate international studies into an institution's or school system's general curriculum; and

(b) Normally four to six weeks in length and focuses on a particular aspect of area study, such as, for example, the culture of the area or a portion of the culture.

(Authority: 22 U.S.C. 2452(b)(6))

§ 664.12 What is a curriculum development project?

(a) A curriculum development project—

(1) Is designed to permit faculty and administrators in institutions of higher education and elementary and secondary schools, and administrators in State departments of education the opportunity to spend generally from four to eight weeks in a foreign country acquiring resource materials for curriculum development in modern foreign language and area studies; and

(2) Must provide for the systematic use and dissemination in the United States of the acquired materials.

(b) For the purpose of this section, resource materials include artifacts, books, documents, educational films, museum reproductions, recordings, and other instructional material.

(Authority: 22 U.S.C. 2452(b)(6))

§ 664.13 What is a group research or study project?

(a)(1) A group research or study project is designed to permit a group of faculty of an institution of higher education and graduate and undergraduate students to undertake research or study in a foreign country.

(2) The period of research or study in a foreign country is generally from three to twelve months.

(b) As a prerequisite to participating in a research or training project, participants—

(1) Must possess the requisite language proficiency to conduct the research or study, and disciplinary competence in their area of research; and

(2) In a project of a semester or longer, shall have completed, at a minimum, one semester of intensive language training and one course in area studies relevant to the projects.

(Authority: 22 U.S.C. 2452(b)(6))

§ 664.14 What is an advanced overseas intensive language training project?

(a)(1) An advanced overseas intensive language project is designed to take advantage of the opportunities present in the foreign country that are not present in the United States when providing intensive advanced foreign language training.

(2) Project activities may be carried out during a full year, an academic year, a semester, a trimester, a quarter, or a summer.

(3) Generally, language training must be given at the advanced level, i.e., at the level equivalent to that provided to students who have successfully completed two academic years of language training.

(4) The language to be studied must be indigenous to the host country and maximum use must be made of local institutions and personnel.

(b) Generally, participants in projects under this program must have successfully completed at least two academic years of training in the language to be studied.

(Authority: 22 U.S.C. 2452(b)(6))

Subpart C—How Does the Secretary Make a Grant?

§ 664.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application for a Group Project Abroad under the criteria in § 664.31.

(b) In general, the Secretary awards up to 95 possible points for these criteria. However, if priority criteria are used, the Secretary awards up to 110 possible points. The maximum possible points for each criterion are shown in parentheses.

(c) All selections by the Secretary are subject to review and final approval by the J. William Fulbright Foreign Scholarship Board.

(d) The Secretary does not recommend a project to the J. William Fulbright Foreign Scholarship Board if the applicant proposes to carry it out in a country in which the United States does not have diplomatic representation.

(Authority: 22 U.S.C. 2452(b)(6), 2456)

§ 664.31 What selection criteria does the Secretary use?

The Secretary uses the criteria in this section to evaluate applications for the purpose of recommending to the J. William Fulbright Foreign Scholarship Board projects for funding under this part. The criteria are weighted and may total 105 points:

(a) *Plan of operation.* (Maximum 25 points).

(1) The Secretary reviews each application for information to determine the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition.

(b) *Quality of key personnel.* (Maximum 15 points).

(1) The Secretary reviews each application for information to determine the quality of key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training in fields related to the objectives of the

project as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (Maximum 10 points).

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (Maximum 10 points).

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(2) The Secretary looks for information that shows that the methods of evaluation are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (Maximum 5 points).

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows that the facilities, equipment, and supplies that the applicant plans to use are adequate.

(f) *Specific program criteria.* (Maximum 30 points).

(1) In addition to the general selection criteria contained in this section, the Secretary reviews each application for information that shows that the project meets the specific program criteria.

(2) The Secretary looks for information that shows—

(i) The potential impact of the project on the development of the study of modern foreign languages and area studies in American education. (Maximum 15 points).

(ii) The project's relevance to the applicant's educational goals and its relationship to its program development in modern foreign languages and area studies. (Maximum 5 points).

(iii) The extent to which direct experience abroad is necessary to achieve the project's objectives and the effectiveness with which relevant host country resources will be utilized. (Maximum 10 points).

(g) *Priorities.* (Maximum 15 points) The Secretary looks for information that shows the extent to which the project addresses program priorities in the field of modern foreign languages and area studies for that year. (Approved by the Office of Management and Budget under control number 1840–0068)

(Authority: 22 U.S.C. 2452(b)(6), 2456(a)(2))

§ 664.32 What priorities may the Secretary establish?

(a) The Secretary may establish for each funding competition one or more of the following priorities:

(1) Categories of projects described in § 664.10.

(2) Specific languages, topics, countries or geographic regions of the world; for example, Chinese and Arabic, Curriculum Development in Multicultural Education and Transitions from Planned Economies to Market Economies, Brazil and Nigeria, Middle East and South Asia.

(3) Levels of education; for example, elementary and secondary, postsecondary, or postgraduate.

(b) The Secretary announces any priorities in the application notice published in the **Federal Register**.

(Authority: 22 U.S.C. 2452(b)(6), 2456(a)(2))

§ 664.33 What costs does the Secretary pay?

(a) The Secretary pays only part of the cost of a project funded under this part. Other than travel costs, the Secretary does not pay any of the costs for project-related expenses within the United States.

(b) The Secretary pays the cost of the following—

(1) A maintenance stipend related to the cost of living in the host country or countries;

(2) Round-trip international travel;

(3) A local travel allowance for necessary project-related transportation within the country of study, exclusive of the purchase of transportation equipment;

(4) Purchase of project-related artifacts, books, and other teaching materials in the country of study;

(5) Rent for instructional facilities in the country of study;

(6) Clerical and professional services performed by resident instructional personnel in the country of study; and

(7) Other expenses in the country of study, if necessary for the project's success and approved in advance by the Secretary.

(c) The Secretary may pay—

(1) Emergency medical expenses not covered by a participant's health and accident insurance; and

(2) The costs of preparing and transporting the remains of a participant who dies during the term of a project to his or her former home.

(Authority: 22 U.S.C. 2452(b)(6), 2454(e)(1))

Subpart D—What Conditions Must Be Met by a Grantee?

§ 664.40 Can participation in a Fulbright-Hays Group Projects Abroad be terminated?

(a) Participation may be terminated only by the J. William Fulbright Foreign Scholarship Board upon the recommendation of the Secretary.

(b) The Secretary may recommend a termination of participation on the basis of failure by the grantee to ensure that participants adhere to the standards of conduct adopted by the J. William Fulbright Foreign Scholarship Board.

(Authority: 22 U.S.C. 2452(b)(6), 2456, and Policy Statements of the J. William Fulbright Foreign Scholarship Board, 1990)

[FR Doc. 98–23262 Filed 8–28–98; 8:45 am]

BILLING CODE 4000–01–P

federal register

Monday
August 31, 1998

Part VII

Department of Education

Fulbright-Hays Faculty Research Abroad Fellowship Program, et al., Inviting Applications for New Awards for Fiscal Year 1999; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.019A, 84.021A, 84.022A]

Fulbright-Hays Faculty Research Abroad Fellowship Program, Fulbright-Hays Group Projects Abroad Program, and Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999

SUMMARY: The Assistant Secretary invites applications for new awards for FY 1999 and announces closing dates for the transmittal of applications under the Fulbright-Hays Faculty Research Abroad Fellowship Program (Faculty Research Abroad Fellowship Program), Fulbright-Hays Group Projects Abroad Program (Group Projects Abroad Program), and Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program (Doctoral Dissertation Research Abroad Fellowship Program).

Purpose of Programs

(a) The *Faculty Research Abroad Fellowship Program* offers opportunities to faculty members of higher education for research and study in modern foreign languages and area studies.

(b) The *Doctoral Dissertation Research Abroad Fellowship Program* provides opportunities for graduate students to engage in full-time dissertation research abroad in modern foreign languages and area studies.

(c) The *Group Projects Abroad Program* provides grants to support overseas projects in training, research, and curriculum development in modern foreign languages and area studies by teachers, students, and faculty engaged in a common endeavor. Projects may include short-term seminars, curriculum development, group research or study, or advanced intensive language projects.

Eligible Applicants: (a) Institutions of higher education are eligible to participate in the Faculty Research Abroad and Doctoral Dissertation Research Abroad Fellowship Programs.

(b) Institutions of higher education, State departments of education, nonprofit private educational organizations, and consortia of these types of institutions, departments, and organizations are eligible to participate in the Group Projects Abroad Program.

Dates: The date of availability of applications and the deadline for the transmittal of applications under each of these competitions are indicated in the chart in this notice.

Available Funds: The Congress has not yet enacted a FY 1999 appropriation for the Department of Education. However, the Department is publishing this notice in order to give potential applicants adequate time to prepare applications. The estimated amount of funds available for new awards under these competitions, as shown in the chart in this notice, is based on the President's 1999 budget.

Note: The Department is not bound by any estimates in this notice.

FISCAL INFORMATION

CFDA number and name of program	Applications available	Deadline for transmittal of applications	Estimated range of awards	Estimated average size of awards	Estimated number of awards	Project period
84.019A Fulbright-Hays Faculty Research Abroad Fellowship Program.	9/8/1998	11/6/1998	$18,000–$70,000	$43,000	21	3–12 Months
84.021A Fulbright-Hays Group Projects Abroad Program.	9/4/1998	10/26/1998	$30,000–$120,000	$65,000	36	4–6 Weeks (Short-term seminars and curriculum development projects). 2–12 Months (Group research or study projects). Up to 36 Months (Advanced overseas intensive language training projects).
84.022A Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program.	9/8/1998	11/6/1998	$12,000–$60,000	$24,000	87	6–12 Months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80 (this applies to part 664 only), 81, 82, 85, and 86; and (b) the regulations for each of these programs as follows: Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program, 34 CFR part 662; Fulbright-Hays Faculty Research Abroad Fellowship Program, 34 CFR part 663; and Fulbright-Hays Group Projects Abroad Program, 34 CFR part 664.

Priorities

Faculty Research Abroad Fellowship Program and Doctoral Dissertation Research Abroad Fellowship Program

Absolute Priority. The Secretary gives an absolute preference to applications that meet the priority in the next paragraph. The Secretary funds only applications that meet this absolute priority (34 CFR 75.105(c)(3); and either 34 CFR 662.21(d) or 663.21(d), as applicable).

Research projects that focus on one or more of the following: Africa, Central and Eastern Europe, East Asia, Eurasia, the Near East, South Asia, Southeast Asia and the Pacific, and the Western Hemisphere (Canada, the Caribbean, Central and South America, and Mexico).

Note: Applications that propose projects focused on Western Europe will not be funded.

Group Projects Abroad Program

Absolute Priority. The Secretary gives an absolute preference to applications that meet the priority in the next paragraph. The Secretary funds only applications that meet this absolute priority (34 CFR 75.105(c)(3) and 34 CFR 664.32).

Group projects that focus on one or more of the following: Africa, Central and Eastern Europe, East Asia, Eurasia, the Near East, South Asia, Southeast Asia and the Pacific, and the Western

Hemisphere (Central and South America, the Caribbean, and Mexico).

Note: Applications that propose projects focused on Australia, Canada, and Western Europe will not be funded.

Competitive Priority. Within the absolute priority specified for the Group Projects Abroad Program, the Secretary gives preference to applications that meet the competitive priority in the next paragraph. The Secretary awards up to five points to an application that meets this competitive priority in a particularly effective way. These points are in addition to any points the application earns under the selection criteria for the program (34 CFR 75.105(c)(2)(i) and 34 CFR 664.30(b)).

Short-term seminars that develop and improve foreign language and area studies at elementary and secondary schools.

For Applications or Information Contact

For Faculty Research Abroad Fellowship Program: Eliza Washington, U.S. Department of Education, International Education and Graduate Programs Service, 600 Independence Avenue, SW, Suite 600, Portals Building, Washington, D.C. 20202–5331. Telephone: (202) 401–9777.

For Doctoral Dissertation Research Abroad Fellowship Program: Karla Ver Bryck Block, U.S. Department of Education, International Education and Graduate Programs Service, 600 Independence Avenue, SW, Suite 600, Portals Building, Washington, D.C. 20202–5331. Telephone: (202) 401–9774.

For Group Projects Abroad Program: Dr. Lungching Chiao, U.S. Department of Education, International Education and Graduate Programs Service, 600 Independence Avenue, SW, Suite 600, Portals Building, Washington, D.C. 20202–5332. Telephone: (202) 401–9772.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph. Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Electronic Access to this Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm

http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have any questions about using the pdf, call the U.S. Government Printing Office at (202) 512–1530 or, toll free, at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins, and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Program Authority: 22 U.S.C. 2452(b)(6).

Dated: August 25, 1998.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 98–23263 Filed 8–28–98; 8:45 am]

BILLING CODE 4000–01–P

federal register

Monday
August 31, 1998

Part VIII

Environmental Protection Agency

Certain Chemicals; Premanufacture Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51909; FRL–6022–6]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from May 11, to May 18, 1998.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51909]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: oppt.ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPPTS–51909]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under ''SUPPLEMENTARY INFORMATION'' of this document.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–531, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number ''[OPPTS–51909]'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:
oppt.ncic@epamail.epa.gov

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

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

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; and (II) Notices of Commencement to manufacture/import.

I. 15 Premanufacture Notices Received From: 05/11/98 to 05/18/98

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–0798	05/11/98	08/09/98	CBI	(S) Site-intermediate	(G) Alkylpolyoxyalkyl propionitrile
P–98–0799	05/11/98	08/09/98	Olin Corporation	(S) Film- forming polymer	(G) Polyamic acid, ethyl ester, acrylate ester
P–98–0800	05/11/98	08/09/98	CBI	(S) Adhesive component in primer for automotive and industrial applications	(G) Complex organosilane ester
P–98–0801	05/11/98	08/09/98	H. B. Fuller Company	(S) Wood adhesive	(G) Isocyanate-fuctionalized polyurethane polymer*
P–98–0802	05/11/98	08/09/98	H.B. Fuller Company	(S) Wood adhesive	(G) Isocyanate-fuctionalized polyurethane polymer*
P–98–0803	05/12/98	08/10/98	CBI	(G) Open, non-dispersive; product of emulsifier for binder used in construction and maintenance of roads	(G) Amines, n-tallow alkylpoly-, e-ethylhexanoates
P–98–0804	05/12/98	08/10/98	CBI	(S) Function as a dispersive resinous material in a product utilized as a soil stabilizer and dust controller in road construction	(S) Tall oil pitch, ammonium salt*
P–98–0805	05/12/98	08/10/98	CBI	(S) Function as a dispersive resinous material in a product utilized as a soil stabilizer and dust controller in road construction	(S) Tall oil pitch, potassium salt*
P–98–0806	05/13/98	08/11/98	H. B. Fuller Company	(S) Fabric adhesive	(G) Isocyanate-functionalized polyurethane polymer
P–98–0807	05/14/98	08/12/98	CBI	(S) Formulation component for uv curable photopolymer; formulation component for uv curable coationgs; chemical intermediate	(G) Alkoxylated acrylate monomer
P–98–0808	05/15/98	08/13/98	CBI	(G) Precursor for polyurethane	(G) Alkanedioic acid, polymer with alkylene glycols and aromatic diacid
P–98–0809	05/14/98	08/12/98	3M Company	(G) Polymer additive	(G) Fluorochemical esters
P–98–0810	05/15/98	08/13/98	CBI	(G) Coating component	(G) Modified polyether
P–98–0811	05/18/98		Inolex Chemical Company	(S) Polyester polyol for use as precursor for polyurethane coatings	(S) 1,4-benzenedicarboxylic acid, polymer with 1,2-ethanediol, hexanedioic acid and 1,3-isobenzofurandione*
P–98–0813	05/18/98	08/16/98	CBI	(S) Protective coatings additive	(G) Phenyl diurea compound

II. 29 Notices of Commencement Received From: 05/11/98 to 05/17/98

Case No.	Received Date	Commencement/Import Date	Chemical
P–94–2223	05/15/98	05/06/98	(G) Alkane/aromatic tribasic acid methoxypolyethylene glycol partial ester
P–94–2224	05/15/98	05/06/98	(G) Alkane/aromatic tribasic acid methoxypolyethylene glycol/2-ethylhexanol ester
P–96–1503	05/18/98	04/29/98	(S) Alcohol, $C_{14–15}$, ethoxylated proproxylated*
P–97–0272	05/07/98	04/09/98	(G) Salt of fatty acid
P–97–0273	05/07/98	04/09/98	(G) 12*h*-dibenzo[d,g][1,3,2]dioxaphosphocin, aluminum deriv.
P–97–0517	05/18/98	05/05/98	(G) Acetoacetate polyol
P–97–0678	05/11/98	04/16/98	(G) Benzenetricarboxylic acid, polymer with ethanediol and bifunctional alkylaryl amine
P–97–0796	05/11/98	04/17/98	(S) 2-propenoic acid, 2-methyl-, nonyl ester*
P–97–0838	05/15/98	04/29/98	(G) MDI polyether prepolymer
P–97–0999	05/05/98	04/30/98	(G) Azo dye sulfonic acid, sodium
P–97–1052	05/18/98	05/07/98	(G) Tall oil, polymer with polyol
P–97–1054	05/18/98	05/13/98	(G) Tall oil, polymer with polyol
P–98–0011	05/15/98	05/05/98	(G) Sodium alkyl alkoxide
P–98–0059	05/18/98	04/23/98	(G) Fatty acids, esters with mono $C_{12–}C_{14}$ alkyl ether and and tall-oil fatty carboxylates, ethoxylated
P–98–0108	05/07/98	04/07/98	(G) Polyurethane prepolymer
P–98–0146	05/08/98	04/17/98	(G) Amino benzohetermonocycle
P–98–0173	05/07/98	04/17/98	(G) Blocked aromatic polyisocyanate
P–98–0180	05/18/98	05/08/98	(G) Copolymer of aromatic diesters and alkyl polyols
P–98–0234	05/12/98	04/26/98	(G) Alkyl polyester resin
P–98–0258	05/18/98	05/07/98	(G) Polyurethane prepolymer
P–98–0303	05/11/98	05/07/98	(G) Polycarbodiimide polymer
P–98–0308	05/08/98	04/30/98	(S) 3,6-nonadien-1-ol, (e,z)-*
P–98–0324	05/18/98	05/15/98	(G) Reaction products formed between tannins and tallow amines in the presence of hydrochloric
P–98–0334	05/07/98	04/22/98	(G) Perfluoropolyether alcohol

II. 29 Notices of Commencement Received From: 05/11/98 to 05/17/98—Continued

Case No.	Received Date	Commence-ment/Import Date	Chemical
P–98–0335	05/07/98	04/22/98	(G) Alkyl ester of a perfluoropolyether
P–98–0336	05/07/98	04/22/98	(G) Aryl phosphonate ester of a perfluoropolyether
P–98–0343	05/15/98	04/17/98	(G) Fatty acids polymers with polyalkylene polyamines
P–98–0357	05/12/98	04/22/98	(G) Acrylic resin
P–98–0400	05/04/98	04/29/98	(S) Amines, C_{12-14}-tert-alkyl, sulfonates*

List of Subjects

Environmental protection, Premanufacture notices.

Dated: August 24, 1998.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 98–23319 Filed 8–28–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51910; FRL–6022–7]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from May 20, to May 31, 1998.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51910]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: oppt.ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPPTS–51910]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under ''SUPPLEMENTARY INFORMATION'' of this document.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–531, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number ''[OPPTS–51910]'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:
oppt.ncic@epamail.epa.gov

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

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

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to

the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; and (II) Notices of Commencement to manufacture/import.

I. 33 Premanufacture Notices Received From: 05/20/98 to 05/31/98

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–0812	05/20/98	08/18/98	Shell Chemical Company	(G) Catalyst system	(G) Reaction product of alkane, 1,3-bis(bis(substituted aryl)phosphino and substituted carboxy alkyl and palladium acetate
P–98–0814	05/20/98	08/18/98	CBI	(G) Open non-dispersive (surface sizing agent)	(G) Styrene/ acrylate copolymer
P–98–0816	05/20/98	08/18/98	Shell Chemical Company	(G) Catalyst component	(G) Alkane, 1-3-bis(bis(substituted aryl)phosphino)
P–98–0817	05/21/98	08/19/98	Cerdec Corporation	(G) Pigment	(G) Mixed metal phosphoric acid salt
P–98–0818	05/21/98	08/19/98	CBI	(G) Open, non-dispersive	(G) Complex salt of phthalocyanine sulfonic acid and quaternary alkyl ammonium
P–98–0819	05/22/98	08/20/98	CBI	(G) Laminating adhesive	(G) NCO terminated polyurethane
P–98–0820	05/22/98	08/20/98	Mitsui Chemicals America, Inc.	(G) Surface activator	(G) Copolymer of styrene and acrylic esters
P–98–0821	05/22/98	08/20/98	Zeon America Inc.	(S) Film (electric insulation, etc); sheet (electric insulation, etc); molded articles (lenses etc.)	(G) Cycloolefin polymer
P–98–0822	05/22/98	08/20/98	U.S. Polymers Inc.	(S) This resin is used in two component isocyanate crosslinked urethane coatings	(G) Reaction product of-methyl methacrylate, *n*-butyl methacrylate, hydroxy functional methacrylate, aliphatic methacrylates and methacrylic acid*
P–98–0823	05/26/98	08/24/98	CBI	(S) Raw material for nylon -12	(S) 12-aminododecanoic acid
P–98–0824	05/22/98	08/20/98	Hoechst Celanese Corporation	(G) Structural material for the production of articles	(G) Modified polyester
P–98–0825	05/22/98	08/20/98	Hoechst Celanese Corporation	(G) Structural material for the production of articles	(G) Modified polyester
P–98–0826	05/22/98	08/20/98	Hoechst Celanese Corporation	(G) Structural material for the production of articles	(G) Modified polyester
P–98–0827	05/22/98	08/20/98	Hoechst Celanese Corporation	(G) Structural material for the production of articles	(G) Modified polyester
P–98–0828	05/22/98	08/20/98	Hoechst Celanese Corporation	(G) Structural material for the production of articles	(G) Modified polyester
P–98–0829	05/22/98	08/20/98	Hoechst Celanese Corporation	(G) Structural material for the production of articles	(G) Modified polyester
P–98–0830	05/27/98	08/25/98	CBI	(G) Open non-dispersive uses	(G) Polyisocyanate polyol prepolymer
P–98–0831	05/29/98	08/27/98	Piedmont Chemical Industries	(G) Dye fix; flocculent; paper processing	(S) Formaldehyde, polymer with 4,4'-sulfonylbis [phenol], sulfonated*
P–98–0832	05/27/98	08/25/98	CBI	(S) Lamination adhesives	(G) Polyurethane
P–98–0833	05/27/98	08/25/98	Dupont Films	(G) Open, non-dispersive use	(G) Acrylic latex
P–98–0834	05/27/98	08/25/98	Cook Composites & Polymers Co.	(S) Marine application - laminating or spray - up resin	(S) 1,2-propanediol, 3*a*, 4 7 *a*-tetrahydro-4,7-methano-1*h*-idene and benzoic acid*
P–98–0835	05/27/98	08/25/98	Dainippon Ink and Chemicals, Inc.	(G) Coatings	(S) Castor oil, dehydrated, polymer with benzoic acid, glycerol, 2-hydroxyethyl methacrylate, me ,methacrylate, phthalic anhydride and styrene*
P–98–0836	05/26/98	08/24/98	Lambent Technologies Inc.	(G) Softener/ conditioner for fiber & fabric	(G) Guerbet ester

I. 33 Premanufacture Notices Received From: 05/20/98 to 05/31/98—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–0837	05/26/98	08/24/98	CBI	(S) Component fo antifouling paint	(G) Metal complex, copolymer of substituted acrylic acid, substituted methacrylate, substituted acrylate, and ethylene glycol substituted acylate alkyl ether
P–98–0838	06/01/98	08/30/98	CBI	(G) Surfactant rinse aid	(G) Alkali metal amino carboxylate
P–98–0839	06/01/98	08/30/98	CBI	(G) Open, non-dispersive use	(G) Acrylic resin
P–98–0840	06/01/98	08/30/98	CBI	(G) Open, non-dispersive use	(G) Polyester resin
P–98–0841	06/01/98	08/30/98	CBI	(S) A thickener in specialty greases	(G) Mixed carboxylic acids, lithium salts
P–98–0842	06/01/98	08/30/98	CBI	(G) Open, non-dispersive use	(G) Acrylic polymer
P–98–0843	05/28/98	08/26/98	CBI	(S) Curing agent in epoxy powder coatings; curing agent liquid epoxy adhesives	(G) Phenyl, alkyl, hydrocyalkyl substituted imidazole
P–98–0845	06/01/98	08/30/98	Champion Technologies	(S) Used as acid inhibitor in acid	(S) Amines, rosin alkyl, polymers with acetone and formaldehyde, hydrochlorides*
P–98–0846	05/29/98	08/27/98	UOP	(G) This material selectivity exchange ions of cesium and strontium in solution with ions of sodium in the crystal structure. In application 1 in section 2a the 910 powder is attached to magnetic particles and are batch slurred in milk to remove radioactive cs and sr. a magnetic field removes the particles from the milk	(S) Ca index name: niobium sodium titanium hydroxide oxide silicate*
P–98–0847	05/29/98	08/27/98	CBI	(G) Reactive oligomer for photoimageable solder resist ink which is applied to printed boards	(G) Polycarboxylic acid modified epoxy acrylate

II. 24 Notices of Commencement Received From: 05/20/98 to 05/31/98

Case No.	Received Date	Commencement/Import Date	Chemical
P–92–1204	05/26/98	04/21/98	(G) Amino-functional alkoxysilane
P–96–0729	05/20/98	04/30/98	(G) Substituted alkylenepolyamine
P–96–0731	05/20/98	04/26/98	(G) Salt of a substituted alkylenepolyamine
P–96–1503	05/18/98	04/29/98	(S) Alcohol, $C_{14–15}$, ethoxylated proproxylated*
P–97–0439	05/21/98	04/23/98	(G) Diamino-3,5-bis-4-(2-sulfoxyethylsulfonyl phenylazo) benzenesulfonic acid, sodium salt
P–97–0517	05/18/98	05/05/98	(G) Acetoacetate polyol
P–97–0595	05/19/98	04/16/98	(S) 2-propenoic acid, polymer with ethene, ammonium sodium salt*
P–97–0874	06/01/98	04/30/98	(G) Alkyl polyoxyalkylpropanamine
P–97–0879	05/29/98	04/30/98	(G) Alkylpolyoxyalkyl propionitrile
P–97–1052	05/18/98	05/07/98	(G) Tall oil, polymer with polyol
P–97–1054	05/18/98	05/13/98	(G) Tall oil, polymer with polyol
P–97–1109	05/21/98	05/05/98	(G) Metallized azo yellow pigment
P–97–1110	05/21/98	05/05/98	(G) Metallized azo yellow pigment
P–97–1111	05/21/98	05/05/98	(G) Metallized azo yellow pigment
P–98–0059	05/18/98	04/23/98	(G) Fatty acids, esters with mono C_{12}–C_{14} alkyl ether and and tall-oil fatty carboxylates, ethoxylated
P–98–0131	05/20/98	05/18/98	(G) Styrene acrylate
P–98–0180	05/18/98	05/08/98	(G) Copolymer of aromatic diesters and alkyl polyols
P–98–0242	05/22/98	05/15/98	(G) Styrene acrylic copolymer
P–98–0244	05/27/98	04/28/98	(G)2-naphthalenesulfonamide, *n,n*-bis(3-substituted propyl)-1-hydroxy-4-[[4-methoxy-2-(4-morpholinylsulfonyl) phenyl] azo]-5-[(metylsulfonyl)amino]-,sulfate (1:1)(salt)*
P–98–0252	05/22/98	05/05/98	(G) Polyurethane
P–98–0258	05/18/98	05/07/98	(G) Polyurethane prepolymer
P–98–0274	05/22/98	05/01/98	(G) Phenolic modified esterof modified rosin and fatty acid
P–98–0324	05/18/98	05/15/98	(G) Reaction products formed between tannins and tallow amines in the presence of hydrochloric
P–98–0355	05/22/98	04/23/98	(G) Ketime adduct

List of Subjects

Environmental protection, Premanufacture notices.

Dated: August 24, 1998.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 98–23320 Filed 8–28–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51911; FRL–6022–8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from June 1, to June 15, 1998.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51911]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: oppt.ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPPTS–51911]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under ''SUPPLEMENTARY INFORMATION'' of this document.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–531, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number ''[OPPTS–51911]'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

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

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

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and

safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; and (II) Notices of Commencement to manufacture/import.

I. 74 Premanufacture Notices Received From: 06/01/98 to 06/15/98

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–0844	06/02/98	08/31/98	CBI	(G) Coating component	(G) Prepolymer of aromatic isocyanate and polyester polyol
P–98–0848	06/05/98	09/03/98	USR Optonix Inc	(S) Luminescent colorant for plastic; luminescent colorant for wax	(S) Silicic acid, magnesium, strontium salt, dyprosium, europium doped*
P–98–0849	06/04/98	09/02/98	CBI	(G) For mechanical parts application	(G) Ppdi polyester-polyether prepolymer
P–98–0850	06/04/98	09/02/98	CBI	(G) Additive for lubricating fluids	(G) Fatty acids amide
P–98–0851	06/04/98	09/02/98	CBI	(G) Open non dispersive (resin)	(G) Aqueous polyurethane dispersion
P–98–0852	06/04/98	09/02/98	CBI	(G)	(G) Polyester polyol
P–98–0853	06/02/98	08/31/98	CBI	(S) Curing agent for epoxy resin coatings	(G) Amine functional epoxy curing agent
P–98–0854	06/03/98	09/01/98	Arizona Chemical	(S) Resin for decorative and protective coating	(G) Fatty acid modified rosin ester
P–98–0855	06/02/98	08/31/98	CBI	(G) Solvent for applications where low vapor pressure is desired	(G) Aromatic hydrocarbon
P–98–0856	06/02/98	08/31/98	CBI	(G) Solvent for applications where low vapor pressure is desired	(G) Aromatic hydrocarbon
P–98–0857	06/04/98	09/02/98	CBI	(G) Lubricant additive	(G) Alkyl benzenesulfonic acid salt
P–98–0858	06/04/98	09/02/98	CBI	(G) Lubrication additive	(G) Alkyl benzene
P–98–0859	06/04/98	09/02/98	CBI	(G) Lubrication additive	(G) Alkyl benzenesulfonic acid
P–98–0860	06/05/98	09/03/98	CBI	(G) Vacuum forming adhesive	(G) Water borne polyurethane
P–98–0861	06/04/98	09/02/98	CBI	(S) Resin for metal coatings; resin for coatings, inks, and adhesive	(G) Copolymer of acrylic and methacrylic esters
P–98–0862	06/05/98	09/03/98	CBI	(G) Coating resin, open, non-dispersive use	(G) Polyester polyurethane
P–98–0863	06/05/98	09/03/98	CBI	(G) Toner chemical (open, non-dispersive use)	(G) Perfluoroalkylmethacrylate maleimide type copolymer
P–98–0864	06/05/98	09/03/98	CBI	(G) Open, non-dispersive use	(G) Acrylic polymer
P–98–0865	06/05/98	09/03/98	CBI	(G) Open, non-dispersive use	(G) Acrylic resin
P–98–0866	06/05/98	09/03/98	CBI	(G) Open, non-dispersive use	(G) Acrylic polymer
P–98–0867	06/05/98	09/03/98	Union Carbide Corporation	(S) Catalyst solution	(G) Sodium alcoholate
P–98–0868	06/05/98	09/03/98	Union Carbide Corporation	(S) Catalyst solution	(G) Sodium alcoholate
P–98–0869	06/05/98	09/03/98	Union Carbide Corporation	(S) Catalyst solution	(G) Sodium alcoholate
P–98–0870	06/05/98	09/03/98	Union Carbide Corporation	(S) Catalyst solution	(G) Sodium alcoholate
P–98–0871	06/05/98	09/03/98	Union Carbide Corporation	(S) Catalyst solution	(G) Sodium alcoholate
P–98–0872	06/08/98	09/06/98	CBI	(G) Open, non-dispersive use	(G) Polyester resin
P–98–0873	06/08/98	09/06/98	CBI	(G) Open, non-dispersive use	(G) Methacrylate polymer
P–98–0874	06/08/98	09/06/98	CBI	(G) An open non-dispersive use	(G) Alkyd resin
P–98–0875	06/09/98	09/07/98	CBI	(G) Microelectronics film coating	(G) Substituted bicyclic olefin
P–98–0876	06/09/98	09/07/98	CBI	(S) Functions as isolated chemical intermediate in the manufacture of finished hydrocarbon hybrid resins for use in the production of lithographic inks	(G) Naphth (petrroleum), light steam cracked, dicyclopentadiene, conc. reaction products with tall oil.
P–98–0877	06/09/98	09/07/98	CBI	(S) Functions as isolated chemical intermediate in the manufacture of finished hydrocarbon hybrid resins for use in the production of lithographic inks	(G) Naphth (petrroleum), light steam cracked, dicyclopentadiene, conc. reaction products with tall oil.
P–98–0878	06/09/98	09/07/98	CBI	(S) Functions as isolated chemical intermediate in the manufacture of finished hydrocarbon hybrid resins for use in the production of lithographic inks	(G) Naphth (petrroleum), light steam cracked, dicyclopentadiene, conc. reaction products with tall oil.
P–98–0879	06/09/98	09/07/98	CBI	(S) Functions as isolated chemical intermediate in the manufacture of finished hydrocarbon hybrid resins for use in the production of lithographic inks	(G) Naphth (petrroleum), light steam cracked, dicyclopentadiene, conc. reaction products with tall oil and maleic anhydride.

I. 74 Premanufacture Notices Received From: 06/01/98 to 06/15/98—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–0880	06/09/98	09/07/98	CBI	(S) Functions as isolated chemical intermediate in the manufacture of finished hydrocarbon hybrid resins for use in the production of lithographic inks	(G) Naphth (petrroleum), light steam cracked, dicyclopentadiene, conc. reaction products with tall oil and maleic anhydride.
P–98–0881	06/09/98	09/07/98	CBI	(S) Functions as isolated chemical intermediate in the manufacture of finished hydrocarbon hybrid resins for use in the production of lithographic inks	(G) Naphth (petrroleum), light steam cracked, dicyclopentadiene, conc. reaction products with tall oil and maleic anhydride.
P–98–0882	06/09/98	09/07/98	CBI	(G) Component of coating for open use	(G) Quarternary ammonium functional acrylic polymer
P–98–0883	06/09/98	09/07/98	CBI	(G) Component of coating for open use	(G) Quarternary ammonium functional acrylic polymer
P–98–0884	06/09/98	09/07/98	CBI	(G) Component of coating for open use	(G) Quarternary ammonium functional acrylic polymer
P–98–0885	06/09/98	09/07/98	CBI	(S) Functions as the binder resin in lithographic inks	(G) Rosin, polymer with naphtha (petroleum), light steam cracked, dicyclopentadiene conc., maleic anhydride, tall oil and a polyol
P–98–0886	06/09/98	09/07/98	CBI	(S) Functions as the binder resin in lithographic inks	(G) Rosin, polymer with naphtha (petroleum), light steam cracked, dicyclopentadiene conc., maleic anhydride, tall oil and a polyol
P–98–0887	06/09/98	09/07/98	CBI	(S) Functions as the binder resin in lithographic inks	(G) Rosin, polymer with naphtha (petroleum), light steam cracked, dicyclopentadiene conc., maleic anhydride, tall oil and a polyol
P–98–0888	06/10/98	09/08/98	S. C. Johnson & Son, Inc.	(G) Open, non-dispersive use	(G) Acrylic polymer
P–98–0889	06/10/98	09/08/98	S. C. Johnson & Son, Inc.	(G) Open, non-dispersive use	(G) Acrylic polymer
P–98–0890	06/10/98	09/08/98	S. C. Johnson & Son, Inc.	(G) Open, non-dispersive use	(G) Acrylic polymer
P–98–0891	06/10/98	09/08/98	S. C. Johnson & Son, Inc.	(G) Open, non-dispersive use	(G) Acrylic polymer
P–98–0892	06/09/98	09/07/98	Mona Industries, Inc.	(S) Metal working; household, industrial and institutional sufactants, detergents, emilsifies personal care	(S) Amides, sunflower-oil, *n*-(hydroxyethyl), propoxylated*
P–98–0893	06/09/98	09/07/98	Mona Industries, Inc.	(S) Metal working; household, industrial and institutional sufactants, detergents, emilsifies personal care	(S) Amides, rape-oil, *n*-(hydroxyethyl), propoxylated*
P–98–0894	06/09/98	09/07/98	Mona Industries, Inc.	(S) Metal working; household, industrial and institutional sufactants, detergents, emilsifies personal care	(S) Amides, land-oil, *n*-(hydroxyethyl), propoxylated*
P–98–0895	06/09/98	09/07/98	Mona Industries, Inc.	(S) Metal working; household, industrial and institutional sufactants, detergents, emilsifies personal care	(S) Amides, castor-oil, *n*-(hydroxyethyl), propoxylated*
P–98–0896	06/09/98	09/07/98	Mona Industries, Inc.	(S) Metal working; household, industrial and institutional sufactants, detergents, emilsifies personal care	(S) Amides, borage, *n*-(hydroxyethyl), propoxylated*
P–98–0897	06/11/98	09/09/98	CBI	(S) Lamination adhesives	(G) Polyurethane
P–98–0898	06/11/98	09/09/98	Reichhold Chemicals Inc	(G) Intermediate in the manufacture of automotive anticorrosion primer coating	(G) Epoxy resin
P–98–0899	06/09/98	09/07/98	Henkel Adhesives	(S) Hot melt adhesive	(S) Fatty acids, C_{18}-unsat'd., dimers, polymers with adipic acid, ethylenediamine, piperazine and polypropylene glycol diamine*
P–98–0900	06/11/98	09/09/98	CBI	(S) Binder for coating materials that are applied on wood, paper, metal and plastics	(G) Poly(urethane-acrylate)
P–98–0901	06/11/98	09/09/98	Vianova Resins Incorporated	(S) Resin in ultraviolet/ electron beam coating	(G) Acrylate functional polyester resin
P–98–0902	06/11/98	09/09/98	Elf Development Inc.	(S) Detergent additive for diesel fuels engines	(G) Poly-alkyl-succinic-poly-imides
P–98–0903	06/12/98	09/10/98	CBI	(G) Coating additive	(G) Acidic polyester polyamide
P–98–0904	06/12/98	09/10/98	CBI	(G) Lubricants additive	(G) Polyalkymethacrylate
P–98–0905	06/12/98	09/10/98	CBI	(G) Coating additive	(G) Alkenyl half-ester of alkylpolyethoxylate

I. 74 Premanufacture Notices Received From: 06/01/98 to 06/15/98—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–0906	06/12/98	09/10/98	CBI	(S) Epoxy resin curing agent	(G) Amine functional epoxy curing agent
P–98–0907	06/12/98	09/10/98	Percy International Ltd.	(S) Exoxy resin curing agent in water	(S) 1,2-ethanediamine,*n*-(2-aminoethyl)-*n*′-[2-[(2-aminoethyl)amino]ethyl]-, polymer with 2,2′-[methylenebis(4,1-phenyleneoxymethylen-e)]bis[oxirane],2,2′-[(1-methylethylidene)bis(4,1-phenyleneoxymethylen-e)]bis[oxirane],[(2-methylphenoxy)methyl]oxirane and alpha-(oxiranylmethyl)-omega-(oxiranylmethoxy)poly[oxy(methyl-1,2-ethanediyl)]*
P–98–0908	06/12/98	09/10/98	Reichhold Chemicals Inc	(G) Component of automotive electrocoat resin	(G) Blocked isocyanated (mdi)
P–98–0909	06/12/98	09/10/98	Reichhold Chemicals Inc	(G) Component of automotive anticorrosion primer coating	(G) Acrylic resin
P–98–0910	06/12/98	09/10/98	CBI	(G) Adhesion Control Agent	(G) Alipahatic polycarboxylic acid, perester with branched chain fatty alcohol
P–98–0911	06/12/98	09/10/98	Dow Corning	(S) Silicone release coating	(G) Epoxyalkyl-functional siloxane
P–98–0912	06/15/98	09/13/98	Chemrex Inc.	(G) Mdi polymer modifier silane adduct	(G) Diphenyl methane diisocyanate polymer with a substituted silane
P–98–0913	06/12/98	09/10/98	CBI	(G) Emulsifier component for adhesive resin	(G) Modified polyether
P–98–0914	06/15/98	09/13/98	3M Company	(S) Industrial wood adhesive	(G) Polyurethane prepolymer
P–98–0917	06/12/98	09/10/98	CBI	(S) Coatings	(G) Acrylic copolymer
P–98–0918	06/12/98	09/10/98	CBI	(S) Coatings	(G) Acrylic copolymer
P–98–0919	06/12/98	09/10/98	CBI	(S) Coatings	(G) Acrylic copolymer
P–98–0920	06/12/98	09/10/98	CBI	(S) Coatings	(G) Acrylic copolymer
P–98–0921	06/12/98	09/10/98	CBI	(S) Coatings	(G) Acrylic copolymer
P–98–0922	06/06/98	09/04/98	CBI	(S) Metal pretreatment product	(G) Organo silane ester

II. 24 Notices of Commencement Received From: 06/01/98 to 06/15/98

Case No.	Received Date	Commencement/Import Date	Chemical
P–95–0293	06/05/98	05/15/98	(S) Cyclohexanamine, 4,4′-methylenebis [*n* (1-methylpropyl)-*
P–96–0296	06/02/98	05/07/98	(G) Bis substituted amino carboxylic acid salt
P–96–0297	06/02/98	05/14/98	(G) Substituted amino carboxylic acid salt
P–96–0323	06/15/98	06/02/98	(G) Polymeric product of reactions of epoxy with organic acid and acrylic monomers, partially neutralized with dimethyl ethanolamine.
P–97–0656	06/15/98	05/26/98	(G) Polyurea
P–97–0874	06/01/98	04/30/98	(G) Alkyl polyoxyalkylpropanamine
P–97–0899	06/04/98	05/15/98	(G) Methacrylate ester polymer
P–97–0990	06/02/98	05/12/98	(G) Aliphatic diamine aromatic epoxy adduct
P–98–0243	06/02/98	05/02/98	(G) Waterborne polyurethane dispersion based on a polyester polyol and 1,1′ methylenebis (4-isocyanatocyclohexane)
P–98–0247	06/08/98	04/30/98	(G) Polyether aromatic urethane
P–98–0262	06/08/98	05/20/98	(G) Cyanoacetate derivative
P–98–0329	06/08/98	05/28/98	(G) Substituted porphyrin
P–98–0361	06/03/98	05/07/98	(G) Aromatic acid acrylate half ester
P–98–0362	06/02/98	05/01/98	(G) Organic acid amine salt
P–98–0364	06/02/98	05/04/98	(G) Organic acid amine salt
P–98–0370	06/02/98	05/01/98	(G) Organic acid amine salt
P–98–0371	06/02/98	05/01/98	(G) Organic acid amine salt
P–98–0372	06/15/98	06/01/98	(G) Organic acid amine salt
P–98–0373	06/02/98	04/30/98	(G) Organic acid amine salt
P–98–0453	06/04/98	05/05/98	(G) Mixed dicarboxylic acid, barium salt
P–98–0485	06/04/98	05/22/98	(G) Sodium salt of 2,5-furandione, polymer with alkenes
P–98–0489	06/15/98	06/08/98	(G) Reaction product of aliphatic amine and polyacrylic ester
P–98–0514	06/15/98	06/05/98	(G) Polyamic acid, acrylate ester, ethyl ester
P–98–0548	06/15/98	06/09/98	(G) Phenolic-extended epoxy resin

List of Subjects

Environmental protection, Premanufacture notices.

Dated: August 24, 1998.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 98–23321 Filed 8–28–98; 8:45 am]

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*1–399	(869–034–00056–8)	29.00	Apr. 1, 1998
400–499	(869–034–00057–6)	28.00	Apr. 1, 1998
500–End	(869–034–00058–4)	44.00	Apr. 1, 1998
21 Parts:			
1–99	(869–034–00059–2)	21.00	Apr. 1, 1998
100–169	(869–034–00060–6)	27.00	Apr. 1, 1998
170–199	(869–034–00061–4)	28.00	Apr. 1, 1998
200–299	(869–034–00062–2)	9.00	Apr. 1, 1998
300–499	(869–034–00063–1)	50.00	Apr. 1, 1998
500–599	(869–034–00064–9)	28.00	Apr. 1, 1998
600–799	(869–034–00065–7)	9.00	Apr. 1, 1998
800–1299	(869–034–00066–5)	32.00	Apr. 1, 1998
1300–End	(869–034–00067–3)	12.00	Apr. 1, 1998
22 Parts:			
1–299	(869–034–00068–1)	41.00	Apr. 1, 1998
300–End	(869–034–00069–0)	31.00	Apr. 1, 1998
23	(869–034–00070–3)	25.00	Apr. 1, 1998
24 Parts:			
0–199	(869–034–00071–1)	32.00	Apr. 1, 1998
200–499	(869–034–00072–0)	28.00	Apr. 1, 1998
500–699	(869–034–00073–8)	17.00	Apr. 1, 1998
700–1699	(869–034–00074–6)	45.00	Apr. 1, 1998
1700–End	(869–034–00075–4)	17.00	Apr. 1, 1998
25	(869–034–00076–2)	42.00	Apr. 1, 1998
26 Parts:			
§§ 1.0-1–1.60	(869–034–00077–1)	26.00	Apr. 1, 1998
§§ 1.61–1.169	(869–034–00078–9)	48.00	Apr. 1, 1998
§§ 1.170–1.300	(869–034–00079–7)	31.00	Apr. 1, 1998
§§ 1.301–1.400	(869–034–00080–1)	23.00	Apr. 1, 1998
§§ 1.401–1.440	(869–034–00081–9)	39.00	Apr. 1, 1998
§§ 1.441-1.500	(869-034-00082-7)	29.00	Apr. 1, 1998
§§ 1.501–1.640	(869–034–00083–5)	27.00	Apr. 1, 1998
§§ 1.641–1.850	(869–034–00084–3)	32.00	Apr. 1, 1998
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§§ 1.908–1.1000	(869–034–00086–0)	35.00	Apr. 1, 1998
§§ 1.1001–1.1400	(869–034–00087–8)	38.00	Apr. 1, 1998
*§§ 1.1401–End	(869–034–00088–6)	51.00	Apr. 1, 1998
2–29	(869–034–00089–4)	36.00	Apr. 1, 1998
30–39	(869–034–00090–8)	25.00	Apr. 1, 1998
40–49	(869–034–00091–6)	16.00	Apr. 1, 1998
50–299	(869–034–00092–4)	19.00	Apr. 1, 1998
300–499	(869–034–00093–2)	34.00	Apr. 1, 1998
500–599	(869–034–00094–1)	10.00	Apr. 1, 1998
600–End	(869–034–00095–9)	9.00	Apr. 1, 1998
27 Parts:			
*1–199	(869–034–00096–7)	49.00	Apr. 1, 1998

Title	Stock Number	Price	Revision Date
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28 Parts:			
1-42	(869–032–00098–1)	36.00	July 1, 1997
43-end	(869-032-00099-9)	30.00	July 1, 1997
29 Parts:			
0–99	(869–034–00100–9)	26.00	July 1, 1998
100–499	(869–034–00101–7)	12.00	July 1, 1998
500–899	(869–032–00102–2)	41.00	July 1, 1997
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1900–1910 (§§ 1900 to 1910.999)	(869–032–00104–9)	43.00	July 1, 1997
1910 (§§ 1910.1000 to end)	(869–032–00105–7)	29.00	July 1, 1997
1911–1925	(869–032–00106–5)	19.00	July 1, 1997
1926	(869–032–00107–3)	31.00	July 1, 1997
1927–End	(869–032–00108–1)	40.00	July 1, 1997
30 Parts:			
1–199	(869–032–00109–0)	33.00	July 1, 1997
200–699	(869–032–00110–3)	28.00	July 1, 1997
700–End	(869–032–00111–1)	32.00	July 1, 1997
31 Parts:			
0–199	(869–034–00112–2)	20.00	July 1, 1998
200–End	(869–032–00113–8)	42.00	July 1, 1997
32 Parts:			
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1–190	(869–032–00114–6)	42.00	July 1, 1997
191–399	(869–032–00115–4)	51.00	July 1, 1997
400–629	(869–032–00116–2)	33.00	July 1, 1997
630–699	(869–032–00117–1)	22.00	July 1, 1997
700–799	(869–032–00118–9)	28.00	July 1, 1997
800–End	(869–032–00119–7)	27.00	July 1, 1997
33 Parts:			
1–124	(869–032–00120–1)	27.00	July 1, 1997
125–199	(869–032–00121–9)	36.00	July 1, 1997
200–End	(869–034–00122–0)	30.00	July 1, 1998
34 Parts:			
1–299	(869–032–00123–5)	28.00	July 1, 1997
300–399	(869–032–00124–3)	27.00	July 1, 1997
400–End	(869–032–00125–1)	44.00	July 1, 1997
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36 Parts			
1–199	(869–034–00127–1)	20.00	July 1, 1998
200–299	(869–032–00128–6)	21.00	July 1, 1997
300–End	(869–032–00129–4)	34.00	July 1, 1997
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38 Parts:			
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40 Parts:			
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52 (52.01–52.1018)	(869–032–00136–7)	27.00	July 1, 1997
52 (52.1019–End)	(869–032–00137–5)	32.00	July 1, 1997
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72–80	(869–032–00142–1)	35.00	July 1, 1997
81–85	(869–032–00143–0)	32.00	July 1, 1997
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87-135	(869–032–00145–6)	40.00	July 1, 1997
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700–789	(869–032–00154–5)	38.00	July 1, 1997
790–End	(869–032–00155–3)	19.00	July 1, 1997
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
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7		6.00	[3] July 1, 1984
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9		13.00	[3] July 1, 1984
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42 Parts:			
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400–429	(869–032–00161–8)	35.00	Oct. 1, 1997
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43 Parts:			
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45 Parts:			
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46 Parts:			
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47 Parts:			
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49 Parts:			
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50 Parts:			
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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.

[5] No amendments to this volume were promulgated during the period January 1, 1997 through December 31, 1997. The CFR volume issued as of January 1, 1997 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 1997, through April 1, 1998. The CFR volume issued as of April 1, 1997, should be retained.