

Federal Register

Friday
November 27, 1998

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NORTHEAST DAIRY COMPACT COMMISSION

7 CFR Parts 1301 and 1304

Over-Order Price Regulation

AGENCY: Northeast Dairy Compact Commission.

ACTION: Final rule.

SUMMARY: This rule amends the Compact Over-order Price Regulation to limit the payment of the Compact Over-order producer price to milk disposed of within the Compact regulated area, with a seasonally adjusted allowance for diverted or transferred milk, but does not restrict Compact payment on bulk transfers of processed fluid milk products. This rule also amends the definitions of *producer* and *producer milk* to be consistent with the amended rules regarding diverted and transferred milk, and further amends the definition of *producer* to include December 1998 as an additional requirement for qualification.

EFFECTIVE DATE: January 1, 1999.

ADDRESSES: Northeast Dairy Compact Commission, 43 State Street, P.O. Box 1058, Montpelier, Vermont 05601.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Becker, Executive Director, Northeast Dairy Compact Commission at the above address or by telephone at (802) 229-1941, or by facsimile at (802) 229-2028.

SUPPLEMENTARY INFORMATION:

I. Background

On June 11, 1998 the Northeast Dairy Compact Commission issued a notice of proposed rulemaking¹ to consider amendments to the Compact Over-order

Price Regulation that would exclude milk from the pool which is either diverted or transferred, in bulk, out of the Compact regulated area. The Commission held a public hearing to receive testimony on the proposed rules on July 1, 1998 and additional comments and exhibits were received until 5:00 PM on July 15, 1998. The Commission held a deliberative meeting on August 5, 1998² to consider the testimony and comments received and to discuss modifications to the proposed rules based on that information. The Commission determined that it required additional information on the issues and published notice³ (1) that an additional public hearing would be held on September 2, 1998; (2) that the comment period would be extended to September 16, 1998 to receive further testimony and comment on the proposed rules regarding diverted and transferred milk; and (3) that the Commission was considering updating the definition of *producer* to include December 1998 as an additional requirement for qualification.

The Commission held a second deliberative meeting on October 7, 1998⁴ to consider all oral and written comments received at the public hearings held on July 1, 1998 and September 2, 1998 and the additional comments received by the Commission's published comment deadlines, and to deliberate and act on the proposed amendments to the Over-order Price Regulation.

Based on the oral testimony and written comments and exhibits received, the Commission concludes that appropriate limits must be established to prevent increases in milk supply that are not needed for the New England market and hereby amends the following sections of the Over-order Price Regulation:

(1) 7 C.F.R. 1301.12—to clarify that producer milk must be physically moved to a pool plant, or be diverted as permitted by the regulation, to qualify for the Compact payment;

(2) 7 C.F.R. 1301.23 and 1304.2—to exclude milk from the pool which is either diverted or transferred, in bulk, out of the Compact regulated area, in

excess of 8% in the fall months of August, September, October and November, 10% in the transition months of January, February, July and December and 13% in the spring months of March, April, May and June. The percentage is calculated on the milk handler's total producer receipts. The amended rule does not restrict Compact payments on bulk transfers of skim milk and condensed milk, bulk milk transferred and classified Class I by a federal market order and fluid milk processed (i.e., pasteurized, homogenized, or blended) or fluid milk diverted or transferred due to certain catastrophic circumstances; and (3) 7 C.F.R. 1301.11—to be consistent with the amended rules regarding diverted and transferred milk and to add December 1998 as an additional requirement in the definition of *producer*.

II. Summary and Analysis of Issues and Comments

At the July 1, 1998 public hearing, the Commission's Regulations Administrator, Carmen Ross, testified and explained the issues presented under the current Over-order Price Regulation and why the proposed rules were needed.⁵ Mr. Ross provided data regarding the volume of milk transferred or diverted out of the Compact regulated area from July 1997 through May 1998.⁶ This data showed a clear pattern of an increasing volume of milk being diverted and transferred out of the Compact regulated area since the inception of the Over-order Price Regulation. For example, in July 1997, the first month of the Compact pool, diverted and transferred milk constituted 34.4 million pounds, or 6.5 percent of the July pool. However, in February 1998, the diverted and transferred milk volume had risen to 49.8 million pounds, or 9.8 percent of the February pool. This trend continued and in May 1998, 53.2 million pounds of milk was diverted or transferred out of the Compact regulated area, amounting to 9.2% of the May pool.⁷ Mr. Ross provided the most current data at the September 2, 1998 hearing which demonstrated that the volume of milk diverted and transferred out of the

¹ 63 FR 31943 (June 11, 1998). In this same notice of proposed rulemaking, the Commission also proposed to establish a reserve fund for reimbursement to school food authorities. The final rule establishing the reserve fund was published at 63 FR 46385 (September 1, 1998).

² Public notice of this meeting was published at 63 FR 40069 (July 27, 1998).

³ 63 FR 43891 (August 17, 1998).

⁴ Public notice of this meeting was published at 63 FR 51864 (September 29, 1998).

⁵ Carmen Ross, First Public Hearing Transcript ("Tr.") 9-28.

⁶ Ross, Tr. 17-18.

⁷ Ross Tr. 17-21.

Compact regulated area continued to rise to 64.3 million pounds, representing 11.3% of the July 1998 pool, or nearly double the volume of milk diverted and transferred in July 1997.

To address the concern of a steadily increasing volume of milk that qualifies for the Compact Over-order producer price and is then diverted and transferred out of the Compact regulated area, the Commission proposed to amend the Over-order Price Regulation, section 1301.12, which defines *producer milk*,⁸ and section 1301.23, which defines *diverted milk*, and section 1304.2 relating to classification of transfers of milk. The effect of these proposed amendments would be to depool the volume of producer milk that a handler diverts or transfers, in bulk, outside of the regulated area, thereby excluding it from the Compact Over-order producer price.⁹

The Commission held two public hearings and received testimony and comments from a total of fifteen individuals, including six representatives of dairy cooperatives,¹⁰ two representatives from a milk processor,¹¹ two state Commissioners of Agriculture and one state dairy economist,¹² a dairy farmer,¹³ and two representatives of the Community Development and Applied Economics Department of the University of Vermont.¹⁴ In addition, at the request of the Commission, the Federal Order 1 Market Administrator submitted additional data and testified at the September 2, 1998 hearing to answer the Commission's technical questions relating to that data.¹⁵

Of the total comments received after the first public hearing on July 1, 1998, two commenters¹⁶ supported the proposed rules relating to diverted or transferred milk, while eight

commenters¹⁷ opposed the total exclusion of diverted and transferred milk from the Compact pool. Those commenters opposed to the proposed amendments were most concerned with the seasonal fluctuations of supply and demand in the New England milk market,¹⁸ the vital role diversions and transfers of milk play in balancing the market to accommodate those fluctuations,¹⁹ and the impact, on both producers and the market, of totally depooling diverted and transferred milk.²⁰ However, most of these commenters also recognized the concerns identified by the Commission regarding the increase in diversions and transfers of milk out of the Compact regulated area, and offered some other solutions, including extending the qualification period for producers²¹ and implementing a cap on the volume of diverted and transferred milk that could qualify for the Compact payment.²²

Nine commenters²³ provided new or supplemental testimony during the extended public comment period. Of those nine commenters, four commenters²⁴ expressed support for a seasonally adjusted cap on the volume of diverted and transferred milk, calculated as a percentage of total handler producer receipts. No commenters opposed a seasonally adjusted cap. One commenter reiterated his prior suggestion that the qualification period for producers be extended.²⁵

In the initial public comment period, one commenter supported the proposed amendments and their intended effect of "limiting payments of the compact's over-order producer price to milk that is

necessary to meet the demand of the New England market."²⁶

The concerns expressed by this commenter reflect the concerns initially identified by the Commission. However, after careful review of all the testimony and comments received during this rulemaking proceeding, and as discussed in detail below, the Commission concludes, as does the commenter,²⁷ that a seasonally adjusted cap on the total volume of milk diverted and transferred out of the Compact regulated area appropriately addresses these concerns. The Commission further concludes that the Over-order Price Regulation appears to be having its intended result of stabilizing the New England milkshed, and, therefore, also concludes that a seasonally adjusted cap meets the dual goals of the Compact of assuring the continued viability of dairy farming in the Northeast and of assuring consumers of an adequate, local supply of pure and wholesome milk. Compact Article I, Section 1.

A. The New England Milkshed

One of the commenters who supported the proposed amendments at the first hearing stated that the proposals did not go far enough.²⁸ This commenter further suggested that the Commission should consider not paying the Compact price for any milk produced outside of the Compact area.²⁹ Another commenter was concerned that the Compact payment should only be made on milk needed to supply the New England market.³⁰

In response to questions from the Commission, one commenter³¹ stated that there is never enough milk produced in New England to meet the New England milk plant demands.³² The Commission emphasizes that milk produced outside of the Compact regulated area has traditionally been needed to meet the demand for milk and milk products in New England. As the Commission previously concluded:

According to data, the six state, New England, region draws approximately seventy percent of the raw product supply needed for the consumption of all milk products, fluid and manufactured, from New England farmers. The total volume of milk supplied for the region is approximately five billion pounds. The predominant remainder is supplied by New York farmers, who have traditionally made up a substantial portion of

⁸ 63 FR 31945 (June 11, 1998).

⁹ Ross Tr. 14–15.

¹⁰ Robert Wellington and Carl Peterson representing Agri-Mark; Dean Ellinwood representing Dairy Farmers of America; Edward Gallagher representing Dairy Cooperative, Inc.; Leon Berthiaume representing St. Albans Cooperative Creamery, Inc.; and Sally Beach representing Independent Dairyman's Cooperative Association, Inc.

¹¹ Neil Marcus and Bill Fitchett from Marcus Dairy.

¹² Jonathan Healy, Commissioner and William Gillmeister, Dairy Economist, Massachusetts Department of Food and Agriculture and Leon Graves, Vermont Commissioner of Agriculture, Food and Markets.

¹³ Kenneth Dibbell.

¹⁴ Assistant Professors Rick Wackernagel and Charles Nichols.

¹⁵ Erik Rasmussen, Market Administrator, Federal Milk Order No. 1.

¹⁶ Dibbell Tr. 31; Healy, First Written Comment Period ("WC") 3.

¹⁷ Marcus, Fitchett, Wellington, Ellinwood, Gallagher, Berthiaume, Graves, and Beach.

¹⁸ See, e.g., Marcus Tr. 43; Wellington Tr. 63–64, 68, 72; Ellinwood Tr. 99–100; Gallagher Tr. 119–120; Berthiaume WC 5; Graves WC 14; and Beach WC 15.

¹⁹ See, e.g., Marcus Tr. 44, 59; Wellington Tr. 64, 68, 72; Ellinwood Tr. 100–101 and WC 1; Gallagher Tr. 120–121; Berthiaume WC 5–6; Graves WC 13–14; and Beach WC 15.

²⁰ See, e.g., Marcus Tr. 54; Wellington Tr. 65, 67, 69 and WC 11; Ellinwood Tr. 102, 111; Gallagher Tr. 121–123; Berthiaume WC 5, 8; Graves WC 13; and Beach WC 15.

²¹ Wellington, on behalf of Agri-Mark and Dairylea, WC 12; Berthiaume WC 7; and Graves WC 14.

²² Wellington, on behalf of Agri-mark and Dairylea, WC 11; Ellinwood WC 2; Berthiaume WC 7; and Beach WC 16.

²³ Rasmussen, Wellington, Marcus, Dibbell, Berthiaume, Peterson, Gillmeister, Wackernagel and Nichols.

²⁴ Wellington Extended Public Hearing Transcript ("ETr.") 55; Marcus ETr. 112, Berthiaume ETr. 141 and Gillmeister Extended Written Comment Period ("EWC") 2.

²⁵ Wellington ETr. 56, 96–97 and EWC 2.

²⁶ Healy WC 3.

²⁷ Gillmeister EWC 1–3, on behalf of the Massachusetts Department of Food and Agriculture.

²⁸ Dibbell Tr. 30.

²⁹ Dibbell Tr. 30–31.

³⁰ Healy WC 3.

³¹ Gallagher Tr. 135.

³² Gallagher Tr. 136–7.

the New England milkshed. Less than three percent of the raw milk supply for the New England market is produced outside of the six state/New York milkshed.³³

The data submitted in this rulemaking proceeding confirms that the New England market, Federal Order 1, continues to rely on New York producers to meet the consumer demand for milk and milk products.³⁴ Since July 1997, New York producers have accounted for between 25% and 28% of the total producers supplying the New England market.³⁵ The data also shows that the total number of producers supplying the New England market since July 1997 is still less than the total number of producers in 1995 and 1996.³⁶

Mr. Rasmussen explained that the data reflects that over time, dairy farms get larger and, with New England urbanizing, there is less milk and fewer farmers in New England. As the number of dairy farms in New England continues to decline, milk handlers must look to New York to replenish their supply, because New England is surrounded on all other sides by ocean and Canada. Therefore, there is less of a decline in the number of producers in New York supplying the New England market.³⁷

Additional data compiled by the University of Vermont demonstrates that Vermont and New York have provided the largest volume of the milk supply to the New England market for the period of the study 1977–1997.³⁸ While the volume of milk produced in Vermont has increased substantially over this time period, the supply from New York state appears to be more volatile, with a small net increase over the twenty year period.

The Commission emphasizes that payment of the Compact Over-order premium to all producers supplying the New England market, regardless of location of production, is needed to stabilize the milkshed and assure a local supply of milk. In implementing the Over-order Price Regulation, the Commission found that, although milk production and consumption are in balance in New England, the situation is under considerable distress, and that it is necessary to at least stabilize, if not increase, the present, local supply of milk through the price regulation.³⁹ The

Commission also found that “the present, distant supply itself must be stabilized as well, to ensure that the milkshed does not reach further west.”⁴⁰

Since the inception of the Over-order Price Regulation, the supply of milk to the New England market and the Compact pool has steadily risen.⁴¹ The commenters offered several explanations for this increase in supply, and a simultaneous increase in diversions and transfers, such as the closing of a manufacturing plant in Hinesburg, Vermont and a slight increase in production in the region due to favorable weather conditions, lower grain prices, and good quality forage.⁴² A few commenters also observed that the Compact price regulation has attracted some milk to the New England market.⁴³ Therefore, the Commission concludes that the price regulation appears to be having the intended effect of stabilizing the milkshed and increasing the supply of milk available to the New England market, thus assuring consumers of a local supply of pure and wholesome milk.

B. Seasonal/Balancing

Eight commenters⁴⁴ who opposed the total exclusion of diverted and transferred milk in the proposed amendments commented that diversions and transfers are necessary due to seasonal or other normal and predictable fluctuations of supply and demand in the milk market, and are a routine method of balancing the market⁴⁵; that the normal production swing from spring to fall in the supply of milk is in direct opposition to the normal fluctuation in the demand for milk⁴⁶; that in order to meet the consumer demand for milk in the low production months, typically in the fall, cooperative associations and milk handlers must accept and market milk from their supplying producers in the high production months, typically in the spring⁴⁷; and that handlers must

also establish a reserve pool of milk to meet the New England fluid processing needs.⁴⁸

As these same commenters explained, cooperative associations and milk handlers must have a method of balancing the supply of milk at times when supply exceeds demand.⁴⁹ Balancing often is accomplished at a balancing plant, where milk that is not needed to meet the demand is processed into other marketable products such as butter and powder.⁵⁰ Reloading milk and shipping it to another plant outside of the Compact regulated area (transferring), or diverting milk to such a plant directly from a farm, also are common methods of balancing the supply of milk in the New England market.⁵¹ Five commenters⁵² noted that the federal order regulations allow transfers and diversions to meet the processors' balancing needs.

One commenter⁵³ observed that every Class 1 market has a large butter/powder plant for balancing. However, as this commenter also explained, when the New England market lost the Hinesburg, Vermont manufacturing plant, the West Springfield, Massachusetts butter/powder plant suddenly became a manufacturing plant, thus limiting the capacity of that plant to balancing the market.

The Commission recognizes the normal fluctuations of supply and demand of milk in the New England market and, as noted above, the traditional supply of milk to New England from outside the Compact area. The Commission appreciates the concerns expressed by the commenters and recognizes the seasonal fluctuations in milk supply and demand, and also recognizes the importance of balancing plants and methods in the New England milk market. In recognition of this integral part of the milk market, the Commission includes in the amended rules a seasonally adjusted allowance for the total of volume of diverted and transferred milk as a percentage of a milk handler's total producer receipts.

While the Commission concludes that the price regulation appears to be having the desired impact of increasing the supply of milk to the New England market and thereby stabilizing the

³³ 62 FR 23039 (April 28, 1997).

³⁴ Rasmussen, New England Milk Market Statistics 1994–1998.

³⁵ Rasmussen EWC Tables 2 and 3.

³⁶ Rasmussen EWC Table 3.

³⁷ Rasmussen ETR. 14, 24.

³⁸ Wackernagel EWC 3, Figure 1.

³⁹ 62 FR 23039–40 (April 28, 1997); 62 FR 29635 (May 30, 1997); 62 FR 62814 (November 25, 1997).

⁴⁰ 62 FR 23040 (April 28, 1997).

⁴¹ Ross, Second Addendum, EC 1.

⁴² Rasmussen ETR. 22; Wellington ETR. 48, 95; and Berthiaume ETR. 136.

⁴³ Wellington ETR. 91, EWC 10–11; Berthiaume EWC 4; Gillmeister EWC 2; Wackernagel EWC 4–5; and Nichols EWC 2.

⁴⁴ Marcus; Pritchett; Wellington; Ellinwood; Gallagher; Berthiaume; Graves; and Gillmeister.

⁴⁵ Marcus Tr. 43; Ellinwood Tr. 99–100; Wellington Tr. 63–64; Gallagher Tr. 116; Berthiaume WC 5; Graves WC 13; Beach WC 15; and Gillmeister EWC 2.

⁴⁶ Marcus Tr. 44; Wellington Tr. 63–64, 68; Ellinwood Tr. 99–100; Gallagher Tr. 119–120, 131, 133; Berthiaume WC 5–6; Graves WC 14; and Beach WC 15.

⁴⁷ Marcus Tr. 59; Wellington Tr. 63–64, 68; and Berthiaume WC 5.

⁴⁸ Ellinwood Tr. 100.

⁴⁹ Wellington Tr. 72, WC 11; Gallagher Tr. 131, 133; Berthiaume WC 5–6; Graves WC 14; and Beach WC 15.

⁵⁰ Beach WC 16; Wellington EWC 1–4.

⁵¹ Ellinwood WC 1; Wellington Tr. 72, ETR. 34–40, EWC 1–4; Gallagher Tr. 120

⁵² Ellinwood Tr. 100–101, WC 1; Wellington Tr. 64, WC 10; Gallagher Tr. 121 and Rasmussen ETR. 17–18.

⁵³ Wellington ETR. 40–41.

milkshed, it also concludes that appropriate limits must be established to prevent increases in milk supply that are not needed for the New England market.

C. Technical Amendments to the Price Regulation

Five commenters⁵⁴ observed that milk coming into the compact regulated area and being transferred or diverted back out of the compact regulated area is a problem. Three of these commenters⁵⁵ stated that such milk should not receive the compact payment. Two of these commenters⁵⁶ stated that this was a problem that would be difficult to solve.

Eight commenters opposed the proposed amendment of the current Over-order Price Regulation. However, some of these commenters did suggest alternative regulatory changes as discussed below.

1. Definition of Producer

Five commenters⁵⁷ proposed that the Commission amend the regulation at 1301.11 which defines "producer." One of these commenters⁵⁸ suggested that the existing rule, at 7 CFR 1301.11(b)(2) limits the handler's ability to replace producers. The Commission amends this section to delete the current language and to substitute "the volume of milk excluded from producer milk pursuant to section 1304.2." This amended language both addresses the concerns raised by the commenter and also makes this provision consistent with the amended diversion and transfer provisions adopted by the Commission.

The Commission also adds the language "and December 1998" to the provisions of sections 1301.11(b) and (b)(1) to update the current requirement that a producer must move milk to a pool plant in December 1996 and December 1997 and December 1998. The remaining four commenters all suggested that the five-month qualification period contained in the regulation at 1301.11(b) be extended to eight months. One commenter⁵⁹ further suggested that the Commission eliminate the December 1996 and 1997 provisions from this regulation. The Commission responds that increasing

the qualification period cannot be expected to have a significant impact on the issue of how much milk should be moved in and moved out of the market.⁶⁰

In response to a question from the Commission, one commenter⁶¹ observed that extending the qualification requirement that requires producers to move their milk into the Compact regulated area on more than one-half of the days on which they move milk would create higher transportation costs and decrease the balancing options for that milk. Similarly, Mr. Ross explained that increasing the number of days per month for qualifying purposes would not address the problem identified by the Commission and could actually make the situation worse by causing handlers to then move other milk, which would in turn create a financial burden on the handlers.⁶² As a result, the Commission concludes that no amendment to the qualifying period provisions of the existing regulation is justified at the present time.

2. Definition of Producer Milk

The Commission's initial rulemaking notice proposed to amend the definition of *producer milk* to clarify that the milk must be physically moved to a pool plant in the regulated area or be diverted pursuant to the Commission's regulation.⁶³ Mr. Ross explained that this amendment will depool producer milk that is moved to plants outside of the Compact regulated area and will treat all qualified producers the same.⁶⁴

The Commission received no comments on this provision and thus adopts the amendment as proposed.

3. Diverted and Transferred Milk Provisions

The Commission initially proposed to amend sections 1301.23 and 1304.2 to exclude all milk from the pool which was diverted or transferred out of the Compact region. During the first public hearing and comment period, five commenters⁶⁵ suggested that the Commission impose a five percent cap on transferred milk and one of these commenters⁶⁶ suggested the Commission impose a cap on both diverted and transferred milk. Four of

these commenters⁶⁷ also stated that if the Commission imposed a cap, then certain processed milk products, such as skim and skim condense, should be excluded from the cap, and also, that provision be made to suspend the cap for an individual cooperative or handler in appropriate circumstances, such as equipment failure.

Three commenters⁶⁸ recommended that a five percent cap on transferred milk be applied to the total volume of milk pooled by the cooperative or handler, with an exclusion for skim, and skim condense or other processed fluid milk products. Two commenters also recommended excluding milk sold for Class I purposes outside of the compact area.⁶⁹ The Commission discussed the recommendation for a five percent cap at its deliberative meeting on August 5, 1998.

During the second public hearing and comment period, some of those commenters and an additional commenter⁷⁰ refined their positions and instead proposed that the Commission adopt a seasonally adjusted allowance for a combined volume of diverted and transferred milk. These commenters explained in detail, and provided substantial data to support their arguments, that a seasonally adjusted allowance would best address the Commission's concerns and accommodate the realities of the New England milk market, including the possible negative impact that a five percent cap would have on the primary balancing plant in the Compact regulated area.⁷¹

After a careful consideration of the entire record, the Commission agrees that a seasonally adjusted allowance for diversions and transfers of milk more appropriately addresses the Commission's concerns. The Commission also agrees that the seasons should be defined as follows: Transition months—January, February, July, December; Spring months—March, April, May, June; Fall months—August, September, October, November.⁷²

⁶⁷ Ellinwood at WC 2; Wellington on behalf of Agri-Mark and Dairylea at WC 11; and Berthiaume at WC 7.

⁶⁸ Wellington WC at 11; Ellinwood WC at 2; and Berthiaume WC at 7.

⁶⁹ Wellington WC at 11; Berthiaume WC at 7.

⁷⁰ Wellington ETR. 53-4, EWC 12; Marcus ETR. 112; Berthiaume ETR. 137, 145-6; and Gillmeister EWC 2.

⁷¹ Rasmussen ETR. 16, 21, 31; Wellington ETR. 41-2, 45, 47, 93, EWC 1-7, 12-13, and Table 9 (supplemental); Marcus ETR. 99, 112; Dibbell ETR. 129; Berthiaume ETR. 133, 135, 137, EWC 3-4; and Gillmeister EWC 2-3.

⁷² Wellington EWC 12; Berthiaume ETR. 141; Gillmeister EWC 2.

⁵⁴ Dibbell Tr. 30-31; Jonathan Healy WC 3; Leon J. Berthiaume WC 5-6; Leon Graves WC 13; and Sally Beach WC 15.

⁵⁵ Dibbell Tr. 30; Healy WC 3; and Berthiaume WC 5, 6.

⁵⁶ Graves WC 13; and Beach WC 15-16.

⁵⁷ Marcus Tr. at 47; Wellington, on behalf of Agri-Mark and Dairylea at WC 11; Berthiaume at WC 7; and Graves at WC 14.

⁵⁸ Marcus Tr. at 47.

⁵⁹ Berthiaume at WC 7.

⁶⁰ Ross ETR. 149-150.

⁶¹ Wellington ETR. 96-97.

⁶² Ross ETR. 150-152.

⁶³ 63 FR 31943 (June 11, 1998).

⁶⁴ Ross Tr. 13.

⁶⁵ Ellinwood at WC 2; Wellington on behalf of Agri-Mark and Dairylea at WC 11; Berthiaume at WC 7; and Beach at WC 16.

⁶⁶ Beach at WC 16.

In setting the allowance for each season, the Commission has carefully reviewed the data and arguments of the commenters. The Commission is mindful of the importance of maintaining an allowance high enough to accommodate the reasonable balancing needs of the market while at the same time establishing reasonable limits on the amount of milk supplying the New England market relative to the demand for milk products within the Compact regulated area. Therefore, the Commission establishes the following seasonally adjusted allowance: Transition months—10%; Spring months—13%; Fall months—8%.

The Commission notes that these allowances were recommended by one commenter,⁷³ although the method adopted by the Commission is somewhat different than that used by the commenter. The Commission also notes that these percentages are slightly lower than those recommended by a commenter,⁷⁴ and supported by two commenters.⁷⁵ The Commission carefully considered the data provided by Mr. Wellington in Table 9 in his supplemental written comments. This commenter explained that the data provided in that table supported a seasonally adjusted allowance of 12% in the Transition months, 15% in the Spring months and 10% in the Fall months.⁷⁶ However, this commenter also acknowledged that the diversion and transfer volume numbers included in the table reflected milk transferred on behalf of other handlers, and that the handler volume used in the chart did not similarly reflect the total volume of milk handled.⁷⁷

The Commission concludes that adjusting the figures in Table 9 to reflect the percentage of the handler's milk diverted and transferred relative to the handler's volume for each month and excluding volumes attributable to other handlers results in appropriate percentage limits of 10% in the Transition months, 13% in the Spring months and 8% in the Fall months. The Commission also notes that the data provided in Table 9 include Class I transfers⁷⁸ which, as discussed below, are excluded from the allowance calculation.

The Commission emphasizes that the amendments regarding diverted and transferred milk specifically apply to milk received at a pool plant in the

regulated area. These amendments do not affect milk diverted or transferred to a partially regulated plant having Class I disposition in the regulated area. The Commission also emphasizes that the amendments apply only to bulk diversions and transfers of fluid milk, and do not apply to packaged milk products.

In addition, the Commission recognizes the importance of accommodating milk temporarily displaced due to catastrophic circumstances and adopts a provision for suspending the seasonally adjusted allowance in circumstances such as fire, flood, storm and equipment failure which are completely beyond the pool plant operator's control. The suspension provision requires the operator of the pool plant (and the handler, in the case of diverted milk) to notify the Commission of the catastrophic circumstance within two (2) days of the occurrence.

The Commission also recognizes the commenters' concerns regarding the treatment of processed milk under the diversion and transfer provisions. The commenters noted (1) that milk transferred or diverted for Class I utilization should be excluded from any cap because all producers benefit from the Class I utilization,⁷⁹ (2) that reloads for Class I utilization are for proper long distance hauling,⁸⁰ and (3) that processed products such as skim and condensed milk have separate markets. The Commission recognizes that these milk products do not present the problem identified by the Commission, which was acknowledged by several commenters,⁸¹ of "reloaded" milk, which is brought into a pool plant simply to qualify for the compact payment. Therefore, the Commission excludes bulk transfers of skim milk, condensed milk, bulk milk transferred and classified Class I by a federal market order and milk processed (i.e. pasturized, homogenized, or blended). All other fluid milk products transferred in bulk from a pool plant to a plant located outside of the regulated area, except a partially regulated plant having Class I disposition in the regulated area, will be subject to the seasonally adjusted allowance.

If the handler exceeds the diversion and transfer allowance, the plant operator may select the sources to be excluded. If the plant operator fails to

select the sources to be excluded, then the transferred milk that is excluded under this rule shall be prorated to all sources of milk received at that plant. The Commission notes that this provision is analogous to the federal order system regarding selection, by the handler, of classification of milk.

In sum, the Commission adopts a seasonally adjusted allowance that is calculated on the total of all diverted milk, which by definition is not processed milk, and non-excluded transferred milk, in determining the volume of milk on which the Compact payment will be made. This seasonally adjusted allowance is calculated on the total producer receipts reported by the handler.⁸² The Commission concludes that the seasonally adjusted allowance appropriately accommodates the competing interests and needs of the producers, consumers, cooperative associations and handlers, in order to assure New England consumers of an adequate, local supply of pure and wholesome milk throughout the year.⁸³ The Commission acknowledges the many and varied concerns raised by the commenters, and will continue to monitor closely the Over-order Price Regulation, as amended, to assure that the mission, purposes and objectives of the Compact and the price regulation are met.

III. Summary of Required Findings

Article V, Section 12 of the Compact directs the Commission to make four findings of fact before an amendment of the Over-order Price Regulation can become effective. Each required finding is discussed below.

a. Whether the Public Interest Will Be Served by the Amendments

The first finding considers whether the amendment of the Over-order Price Regulation serves the public interest. The Commission previously has determined that an Over-order Price Regulation serves the public interest,⁸⁴ and the Commission reaffirms that determination. The Commission also finds that the public interest will be served by amendment of the Over-order Price Regulation to exclude milk from the pool that is either diverted or transferred in bulk out of the Compact regulated area in excess of a seasonally adjusted allowance of total producer receipts, set at 10% in the Transition months of January, February, July and

⁷³ Gillmeister EWC 2-3.

⁷⁴ Wellington ETr. 55, EWC 12.

⁷⁵ Marcus ETr. 112; Berthiaume ETr. 141.

⁷⁶ Wellington ETr. 55, EWC 12.

⁷⁷ Wellington ETr. 55, EWC 11, Table 8.

⁷⁸ Wellington EWC 11.

⁷⁹ Marcus Tr. 45, 53, 55, ETr. 111; Ellinwood WC 2; Wellington WC 11, ETr. 72, EWC 10; Berthiaume WC 5-8, ETr. 138; and Rasmussen ETr. 21.

⁸⁰ Berthiaume WC 7.

⁸¹ Ross Tr. 13; Dibbell Tr. 30-31; Healy WC 3; Berthiaume WC 5-6; Graves WC 13; and Beach WC 15.

⁸² Concurring with this method: Wellington ETr. 53-4, EWC 12.

⁸³ See, discussion *infra* at III. a.

⁸⁴ 62 FR 29638 (May 30, 1997); 62 FR 62825 (November 25, 1997); 63 FR 10110 (February 27, 1998).

December, 13% of the Spring months of March, April, May and June, and 8% in the Fall months of August, September, October and November. The Commission further finds that the public interest will be served by amending the definitions of *producer* and *producer milk* to be consistent with the amended rules regarding diverted and transferred milk and to further amend the definition of *producer* to include December 1998 as an additional requirement.

The Commission emphasizes that the amendments regarding diverted and transferred milk do not impact on the New England consumers. The Over-order Price Regulation is structured so that assessments and obligations are based on Class I milk distributed in the New England market. Data submitted by the New England Market Administrator demonstrates that Class I utilization has been relatively constant over the last several years, although there has been a slight decline.⁸⁵ Therefore, the amount of milk subject to the Over-order Price Regulation is relatively stable and the cost to the consumer is defined by only this volume of Class I milk consumed in New England. The amended rules restricting the volume of diverted and transferred milk that is eligible for the Compact Over-order payment to a seasonally adjusted allowance is, therefore, cost-neutral to New England consumers.

b. The Impact on the Price Level Needed To Assure a Sufficient Price to Producers and an Adequate Local Supply of Milk

The second finding considers impact of the amendments on the level of producer price needed to cover costs of production and to assure an adequate local supply of milk for the inhabitants of the regulated area.⁸⁶

The Commission reaffirms its prior findings regarding the sufficiency of pay prices for milk needed to meet the New England market demand.⁸⁷ In adopting these amendments, the Commission notes that the primary impact of the increase in the pool beyond the capacity of the New England market, as reflected in the volume of milk that is diverted and transferred out of the Compact regulated area, is revealed in a slight depression of the producer pay price per

hundred weight of milk. The Commission concludes that the diverted and transferred milk amendments will not negatively impact on the price level paid to producers that is needed to assure an adequate local supply of milk. The Commission reaffirms its prior finding that the over-order price level will assure a sufficient price to producers and an adequate local supply of milk.⁸⁸

In reaching this conclusion, the Commission recognizes the seasonal variation in supply and demand for milk and milk products and the vital role diversions and transfers play in balancing the New England milk market. The Commission recognizes that the historical movement of milk in the New England milkshed involves both movement of milk into the Compact area from outside of the Compact area, and the reverse.⁸⁹ The Commission, in adopting these amendments, is focusing on the Compact payment to producers who supply milk to the New England market. The Commission recognizes the many challenges involved in balancing the supply and demand for milk in the New England market and therefore builds in a seasonally adjusted allowance on diverted or transferred milk.

The Commission further notes that the Compact payments to producers are intended to assure the continued viability of dairy farming in the northeast. Compact Art. 1, Section 1. The Over-order Price Regulation, as amended, balances this purpose with the equally important purpose of assuring an adequate, local supply of pure and wholesome milk for the Compact area consumers. Compact Art. 1, Section 1. The Compact specifically charges the Commission to also "take such action as necessary and feasible to ensure that the over-order price does not create an incentive for producers to generate additional supplies of milk." Compact Art. IV, Section 9(f). The Commission concludes that the amended regulation meets all three of these objectives and best preserves the integrity of the Compact by appropriately balancing these objectives.

c. Whether the Major Provisions of the Order, Other Than Those Fixing Minimum Milk Prices, Are in the Public Interest and Are Reasonably Designed To Achieve the Purposes of the Order

The third finding requires a determination of whether the provisions of the regulation other than those

establishing minimum milk prices are in the public interest. The amendments establish a seasonally adjusted allowance on milk diverted or transferred out of the Compact region. Therefore, the matter of the public interest is addressed under the first required finding and not under this finding. In any event, the Commission finds that the price regulation, as hereby amended, is in the public interest in the manner contemplated by this finding.

d. Whether the Terms of the Proposed Amendment Are Approved by Producers

The fourth finding, requiring a determination of whether the amendment has been approved by producer referendum pursuant to Article V, section 13 of the Compact is invoked in this instance given that the amendments will affect the level of the price regulation on the producer side. In this final rule, as in the previous final rules, the Commission makes this finding premised upon certification of the results of the producer referendum. The procedure for the producer referendum and certification of the results is set forth in 7 CFR Part 1371.

Pursuant to 7 CFR Part 1371.3, and the referendum procedure certified by the Commission, a referendum was held during the period of October 26, 1998 through November 6, 1998. All producers who were producing milk pooled in the Federal Order #1, or for consumption in New England during June, 1998, the representative period assumed by the Commission, were deemed eligible to vote. Ballots were mailed to these producers on or before October 26, 1998 by the Federal Order #1 Market Administrator. The ballots included an official summary of the Commission's action. Producers were notified that, to be counted, their ballots had to be returned to the Commission offices by 5:00 p.m. on November 6, 1998. The ballots were opened and counted in the Commission offices on November 9, 1998 under the direction and supervision of Mae S. Schmidle, Vice-Chair of the Commission and designated "Referendum Agent."

Twelve Cooperative Associations were notified of the procedures necessary to block vote. Cooperatives were required to provide prior written notice of their intention to block vote to all members on a form provided by the Commission, and to certify to the Commission that (1) timely notice was provided, and (2) that they were qualified under the Capper-Volstead Act. Cooperative Associations were further notified that the Cooperative

⁸⁵ Rasmussen, New England Market Statistics 1994-1998.

⁸⁶ As noted in prior rulemaking proceedings, the Commission limits its assessment to issues relating to the fluid milk market. 62 FR 29632 (May 30, 1997); 62 FR 62812 (November 25, 1997); and 63 FR 10109 (February 27, 1998).

⁸⁷ 62 FR 29632-29637 (May 30, 1997); 62 FR 62812-62817 (November 25, 1997); and 63 FR 10109-10110 (February 27, 1998).

⁸⁸ 62 FR 29638 (May 30, 1997); 62 FR 62825 (November 25, 1997).

⁸⁹ See, 62 FR 23039 (April 28, 1997).

Association block vote had to be received in the Commission office by 5:00 p.m. on November 6, 1998. Certified and notarized notification to its members of the Cooperative's intent to block vote or not to block vote had to be mailed by October 28, 1998 with notice mailed to the Commission offices no later than October 30, 1998.

Notice of Referendum Results

On November 9, 1998 the duly authorized referendum agent verified all ballots according to procedures and criteria established by the Commission. A total of 4,080 ballots were mailed to eligible producers. All producer ballots and cooperative block vote ballots received by the Commission were opened and counted. Producer ballots and cooperative block vote ballots were verified or disqualified based on criteria established by the Commission, including timeliness, completeness, appearance of authenticity, appropriate certifications by cooperative associations and other steps taken to avoid duplication of ballots. Ballots determined by the referendum agent to be invalid were marked "disqualified" with a notation as to the reason.

Block votes cast by Cooperative Associations were then counted. Producer votes against their cooperative associations block vote were then counted for each cooperative association. These votes were deducted from the cooperative association's total and were counted appropriately. Ballots returned by cooperative members who cast votes in agreement with their cooperative block vote were disqualified as duplicative of the cooperative block vote.

Votes of independent producers not members of any cooperative association were then counted.

The referendum agent then certified the following:

A total of 4,080 ballots were mailed to eligible producers.

A total of 3,006 ballots were returned to the Commission.

A total of 15 ballots were disqualified—late, incomplete or duplicate.

A total of 2,989 ballots were verified. A total of 2,966 verified ballots were cast in favor of the price regulation.

A total of 23 verified ballots were cast in opposition to the price regulation.

Accordingly, notice is hereby provided that of the verified ballots cast, 2,989, 99.2%, or 2,966, a minimum of two-thirds were in the affirmative.

Therefore, the Commission concludes that the terms of the proposed amendment is approved by producers.

IV. Required Findings of Fact

Pursuant to Compact Article V. Section 12, the Compact Commission hereby finds:

(1) That the public interest will be served by the amendment of minimum milk price regulation to dairy farmers under Article IV to: (1) exclude milk from the pool which is either diverted or transferred, in bulk, out of the compact regulated area, in excess of a seasonally adjusted allowance of total producer receipts, set at 10% for the Transition months of January, February, July and December, 13% for the Spring months of March, April, May and June and 8% for the Fall months of August, September, October and November, with specified exclusions; (2) to amend the definitions of *producer* and *producer milk* to be consistent with the amended provisions regarding diverted and transferred milk; and (3) to amend the definition of *producer* to include December 1998 as a requirement.

(2) That a level price of \$16.94 (Zone 1) to dairy farmers under Article IV will assure that producers supplying the New England market receive a price sufficient to cover their costs of production and will elicit an adequate supply of milk for the inhabitants of the regulated area and for manufacturing purposes.

(3) That the major provisions of the order, other than those fixing minimum milk prices, are in the public interest and are reasonably designed to achieve the purposes of the order.

(4) That the terms of the proposed amendments are approved by producers pursuant to a producer referendum required by Article V. section 13.

List of Subjects in 7 CFR Parts 1301 and 1304

Milk.

Codification in Code of Federal Regulations

For reasons set forth in the preamble, the Northeast Dairy Compact Commission amends 7 CFR Chapter XIII as follows:

PART 1301—DEFINITIONS

1. The authority citation for part 1301 continues to read as follows:

Authority: 7 U.S.C. 7256.

2. Section 1301.11(b) is revised to read as follows:

§ 1301.11 Producer.

* * * * *

(b) A dairy farmer who produces milk outside of the regulated area that is moved to a pool plant, provided that on more than half of the days on which the

handler caused milk to be moved from the dairy farmer's farm during December 1996, December 1997, and December 1998, all of that milk was physically moved to a pool plant in the regulated area. Or: to be considered a qualified producer, on more than half of the days on which the handler caused milk to be moved from the dairy farmer's farm during the current month and for five (5) months subsequent to July of the preceding calendar year, all of that milk must have moved to a pool plant, provided that the total amount of milk at a pool plant eligible to qualify producers who did not qualify in December 1996, December 1997, and December 1998 shall not exceed the total bulk receipts of fluid milk products less:

(1) Producers receipts as described in paragraph (a) of this section and producer receipts as described in paragraph (b) of this section who are qualified based on December 1996, December 1997, and December 1998; and

(2) The volume of milk excluded from producer milk pursuant to §§ 1301.23 (d) and (e), and 1304.2 (c) and (d).

* * * * *

3. Section 1301.12 is revised to read as follows:

§ 1301.12 Producer milk.

Producer milk means milk that the handler has received from producers and is physically moved to a pool plant in the regulated area or is diverted pursuant to § 1301.23(d). The quantity of milk received by a handler from producers shall include any milk of a producer that was not received at any plant but which the handler or an agent of the handler has accepted, measured, sampled, and transferred from the producer's farm tank into a tank truck during the month. Such milk shall be considered as having been received at the pool plant at which other milk from the same farm of that producer is received by the handler during the month, except that in the case of a cooperative association in its capacity as a handler under § 1301.9(d), the milk shall be considered as having been received at a plant in the zone location of the pool plant, or pool plants within the same zone, to which the greatest aggregate quantity of the milk of the cooperative association in such capacity was moved during the current month or the most recent month.

4. Section 1301.23 is amended by adding paragraphs (d) and (e) to read as follows:

§ 1301.23 Diverted milk.

* * * * *

(d) Milk moved, as described in paragraphs (a) and (b) of this section, from a dairy farmer's farm to a plant located outside of the regulated area, except a partially regulated plant having Class I disposition in the regulated area, the volume of milk (including milk transferred pursuant to § 1304.2(c)) in excess of the percentage of total producer receipts, pursuant to paragraph (e) of this section, shall be excluded from producer milk. This paragraph will not apply to milk normally associated with a pool plant which was caused to be diverted because the facilities of the pool plant are temporarily unusable because of fire, flood, storm, equipment failure or similar extraordinary circumstances completely beyond the pool plant operator control, provided both the handler and the operator of the pool plant notify the Commission within two (2) days following such occurrence;

(e) Milk diverted in excess of the following percentage of total producer receipts shall be excluded from producer milk:

	Percent
January, February, July, December	10
March, April, May, June	13
August, September, October, November	8

PART 1304—CLASSIFICATION OF MILK

1. The authority citation of part 1304 continues to read as follows:

Authority: 7 U.S.C. 7256.

2. Section 1304.2 is amended by adding paragraphs (c) and (d) to read as follows:

§ 1304.2 Classification of transfers and diversions

* * * * *

(c) *Transfers to plants located outside of the regulated area.* Fluid milk products (not including bulk transfers of skim milk, condensed milk, bulk milk transferred and classified Class I by a federal market order and milk processed (i.e., pasturized, homogenized, or blended) transferred in bulk from a pool plant to a plant located outside of the regulated area, except a partially regulated plant having Class I disposition in the regulated area, the volume of milk (including milk diverted pursuant to § 1301.23(d)) in excess of the percentage of total producer receipts, pursuant to paragraph (d) of this section, shall be excluded from producer milk. The transferred milk excluded pursuant to this paragraph

shall be prorated to all sources of milk received at this plant unless the operator of the plant selects the sources to be excluded. This paragraph will not apply to any pool plant in which the facilities are temporarily unusable because of fire, flood, storm, equipment failure or similar extraordinary circumstances completely beyond the pool plant operator's control; provided, the operator of the pool plant notifies the Commission within two (2) days following such occurrence;

(d) Milk transferred in excess of the following percentages of total producer receipts shall be excluded from producer milk:

	Percent
January, February, July, December	10
March, April, May, June	13
August, September, October, November	8

Dated: November 17, 1998.

Kenneth M. Becker,
Executive Director.

[FR Doc. 98-31587 Filed 11-25-98; 8:45 am]
BILLING CODE 1650-01-P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1439

RIN: 0560-AF29

American Indian Livestock Feed Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This regulation sets forth the terms and conditions of the American Indian Livestock Feed Program (AILFP). Assistance will be available to Federally recognized Indian tribes when, as a result of natural disaster, a significant loss of livestock feed has occurred and a livestock feed emergency exists, as determined by the Commodity Credit Corporation.

DATES: This interim rule is effective on November 27, 1998. Comments on this rule must be received on or before December 28, 1998 to be assured of consideration. Comments on the information collection in this rule must be received on or before January 26, 1999.

ADDRESSES: Submit written comments on this rule to Sean O'Neill, Chief, Noninsured Assistance Programs

Branch (NAPB), Production, Emergencies, and Compliance Division (PECD), Farm Service Agency (FSA), United States Department of Agriculture, STOP 0517, 1400 Independence Avenue, SW, Washington, DC 20250-0517; telephone (202) 720-9003; e-mail Sean_Oneill@wdc.fsa.usda.gov.

FOR FURTHER INFORMATION CONTACT: Sean O'Neill, Chief, Noninsured Assistance Programs Branch (NAPB), Production, Emergencies, and Compliance Division (PECD), Farm Service Agency (FSA), United States Department of Agriculture, STOP 0517, 1400 Independence Avenue, SW, Washington, DC 20250-0517; telephone (202) 720-9003; e-mail Sean_Oneill@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This interim rule is issued in conformance with Executive Order 12866 and has been determined to be significant and has been reviewed by OMB.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because neither FSA nor the Commodity Credit Corporation is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

Executive Order 12988

The interim rule has been reviewed in accordance with Executive Order 12988. The provisions of this interim rule preempt State laws to the extent such laws are inconsistent with the provisions of this rule. Before any judicial action may be brought concerning the provisions of this rule, the administrative remedies must be exhausted.

Executive Order 12372

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

Executive Order 12612

It has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of Government.

Executive Order 13084

The American Indian Livestock Feed Program is a voluntary program dispensing benefits to American Indian tribes. Nothing contained in this voluntary program imposes any substantial direct compliance costs on American Indian tribes. The American Indian Livestock Feed Program is a government-to-government program that adheres to the policies and procedures contained in Executive Order 13084.

Unfunded Mandates Reform Act of 1995 (UMRA)

This rule contains no Federal mandates under the regulatory provisions of Title II of the UMRA for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Small Business Regulatory Enforcement Fairness Act of 1996

Due to the need for immediate action and necessity in providing payments for losses expeditiously, CCC has determined that, pursuant to section 808 of the Small Business Regulatory Enforcement Fairness Act of 1996, it is impracticable and contrary to public interest to require this rule to conform to the requirements of section 801 of that Act. Accordingly this rule is effective upon publication.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, CCC will submit an emergency information collection request to OMB for the approval of the AILFP reports as necessary for the proper functioning of the program.

Title: American Indian Livestock Feed Program.

OMB Control Number: 0560-NEW SUBMISSION.

Type of Request: Emergency.

Abstract: This information collection will allow CCC to effectively administer American Indian Livestock Feed Program conducted under section 813 of the Agricultural Act of 1970. The information collected allows CCC to provide assistance under the program for losses of livestock feed crops,

including feed grains and forage. The collection is necessary to provide those charged with determining eligibility, a basis to determine whether the producer meets applicable conditions for assistance and to determine compliance with existing rules.

Estimate of Burden: Public reporting burden for this information collection is estimated to average .5 hours per response.

Respondents: Tribal members as determined by tribal governments.

Estimated Number of Respondents: 45,050.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 22,563 hours.

Proposed topics for comment include:

(a) Whether the continued collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the CCC's estimate of burden including the validity of the methodology and assumptions used; (c) enhancing the quality, utility, and clarity of the information collected; or (d) minimizing the burden of the collection of the information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Sean O'Neill, Chief, NAPP, PECD, FSA, United States Department of Agriculture, STOP 0517, 1400 Independence Avenue, SW, Washington, DC 20250-0517. All comments will become a matter of public record.

OMB is required to make a decision concerning the collection of information contained in these interim regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Background

Section 813 of the Agricultural Act of 1970 gives the Secretary of Agriculture the authority to provide assistance to relieve distress caused by a natural disaster. Accordingly, under this authority CCC will establish the American Indian Livestock Feed Program (AILFP). CCC will enter into contracts with tribal governments in regions that have been affected by a

natural disaster. The contracts will enable tribal governments to approve requests for benefits for eligible owners. When the eligible owner is a tribal government, CCC will make determinations regarding eligibility. The criteria set forth in this rule will be used to determine eligible regions for AILFP and other eligibility criteria.

List of Subjects in 7 CFR part 1439

Agricultural commodities, Disaster assistance, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1439 is amended as set forth below.

PART 1439—EMERGENCY LIVESTOCK ASSISTANCE

1. The authority citation for Part 1439 continues to read as follows:

Authority: 15 U.S.C. 714b and 714c, 7 USC 1427 and 1471-1471j.

2. Part 1439 is amended by adding Subpart—American Indian Livestock Feed Program to read as follows:

Subpart—American Indian Livestock Feed Assistance Program

Sec.

1439.900	[Reserved]
1439.901	Applicability.
1439.902	Administration.
1439.903	Definitions.
1439.904	Region.
1439.905	Responsibilities.
1439.906	Program availability.
1439.907	Eligibility.
1439.908	Payment application.
1439.909	Payments.
1439.910	Program suspension and termination.
1439.911	Appeals.
1439.912 through 1439.915	[Reserved]

Subpart—American Indian Livestock Feed Program**§ 1439.900 [Reserved]****§ 1439.901 Applicability.**

This subpart sets forth the terms and conditions of a government-to-government program titled the American Indian Livestock Feed Program (AILFP). The AILFP has been allocated a budget of \$12.5 million. Assistance will be available in those regions that Commodity Credit Corporation (CCC) determines have been affected by natural disaster, and where a determination is made by the Deputy Administrator for Farm Programs that a livestock feed emergency exists on tribal land. Funds made available under the AILFP shall be available beginning in crop year 1997 and subsequent crop years. Payments may become available as contracts with

tribal governments are approved. If any other benefits are received from the Department of Agriculture for the same loss, then payments under this part will be reduced accordingly. Payments will terminate when funds have been exhausted, without respect to the date of any application, or of when any contract has been entered into by any tribal government and CCC. Applicants will receive benefits on a first come, first served basis.

§ 1439.902 Administration.

(a) This subpart shall be administered by CCC under the general supervision of the Deputy Administrator for Farm Programs, Farm Service Agency (FSA). This program shall be carried out in the field as prescribed in these regulations and as directed in the contract executed between the applicable tribal government and CCC, except that in the event any contract provision conflicts with these regulations, the regulations shall apply.

(b) Tribal governments, their representatives, and employees do not have authority to modify or waive any provisions of the regulations of this subpart.

(c) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any provisions of regulations of this subpart.

(d) The Deputy Administrator may authorize State and county committees to waive or modify deadlines, and other program requirements in cases where the applicant or tribe, as applicable, show that circumstances beyond the applicant's or tribe's control precluded compliance with the deadline and where lateness or failure to meet such other requirements does not adversely affect the operation of the program.

(e) The tribal government will, in accordance with this part and in coordination with the U.S. Department of the Interior, Bureau of Indian Affairs (BIA) and FSA State and county committees, recommend the geographical size and shape of the region where the natural disaster has occurred, and whether the regional eligibility requirement has been satisfied. Documentation to support the reported natural disaster shall be provided by the FSA State office and shall accompany the recommendation. The recommendation of eligibility must be acted on by the Deputy Administrator.

(f) The Deputy Administrator will determine all prices with respect to implementing the AILFP.

(g) The FSA State committee will determine crop yields and livestock

carrying capacity with respect to implementing the AILFP.

(h) Participation in the AILFP by a tribal government for either the tribal government's benefits or for the benefit of any eligible owner is voluntary and is with the understanding that CCC will not reimburse the tribal government or its members for any administrative costs associated with the administration or implementation of the program.

(i) The provisions of §§ 1439.3, 1439.11 through 1439.22, 1439.24 and 1439.6(i)(1)(i), 1439.8(a), and 1439.9 (d) through (f) shall apply to this subpart, and the provisions of §§ 1439.10(a) and 1439.15, shall apply as set forth in §§ 1439.908 and 1439.909 of this subpart.

§ 1439.903 Definitions.

The definitions set forth in this section shall be applicable to the program authorized by this subpart. The terms defined in § 1439.3 shall also be applicable except where those definitions conflict with the definitions set forth in this subpart. The following terms shall have the following meanings:

Animal Unit (AU) means a standard expression of livestock based on a net energy maintenance requirement equal to 13.6 megacalories per day.

Animal Unit Day (AUD) means an expression of expected or actual stocking rate equal to one day.

Approving official means a representative of the tribal government who is authorized to approve an application for assistance made in accordance with this subpart.

Carrying capacity means the stocking rate expressed as acres per animal unit which is consistent with maintaining or improving vegetation or related resources.

Deputy Administrator means the Deputy Administrator for Farm Programs, FSA, or designee.

Disaster period means the length of time that damaging weather, adverse natural occurrence, or related condition has a detrimental affect on the production of livestock feed.

Eligible feed for assistance means any type of feed (feed grain, oilseed meal, premix, or mixed or processed feed, liquid or dry supplemental feed, roughage, pasture, or forage) that provides net energy megacalories and which is consistent with acceptable feeding practices and was not produced by the owner.

Eligible livestock means beef and dairy cattle; buffalo and beefalo maintained on the same basis as beef cattle; equine animals used for food or

used directly in the production of food; sheep; goats; and swine.

Eligible owner means an individual or entity, including the tribe, eligible to participate in this program, who:

(1) Contributes to the production of eligible livestock or their products;

(2) Has such contributions at risk;

(3) Meets the criteria set forth in § 1439.907 of this subpart; and

(4) Meets eligibility criteria set forth by the tribal government in an approved contract.

Livestock Feed Emergency means a situation in which a natural disaster causes more than a 35 percent reduction in the feed produced in a region determined in accordance with § 1439.904 of this subpart for a defined period, as determined by CCC. Any loss of feed production attributable to overgrazing or other factors not considered to be a natural disaster as specified in this subpart shall not be included in the loss used to determine if a livestock feed emergency occurred.

Natural disaster means damaging weather, including but not limited to drought, hail, excessive moisture, freeze, tornado, hurricane, excessive wind, or any combination thereof; or an adverse natural occurrence such as earthquake, flood, or volcanic eruption; or a related condition, including but not limited to heat, or insect infestation, which occurs as a result of aforementioned damaging weather or adverse natural occurrence prior to or during the crop year that directly causes, accelerates, or exacerbates the reduction of livestock feed production.

Net Energy Maintenance means the appropriate amount of net energy needed to meet the daily maintenance needs for livestock based on the weight range by type of eligible livestock as provided in this section, as determined by CCC.

Region means a geographic area suffering a livestock feed emergency because of natural disaster as determined by a tribal government in accordance with § 1439.904 of this subpart.

Tribal Governed Land means:

(1) All land within the limits of any Indian reservation;

(2) Dependent Indian communities;

(3) Any lands title to which is either held in trust by the United States for the benefit of an Indian tribe or Indian, or held by an Indian tribe or Indian subject to a restriction by the United States on alienation; and

(4) Land held by an Alaska Native, Alaska Native Village or village or regional corporation under the provisions of the Alaska Native Claim

Settlement Act or other Act relating to Alaska Natives.
Tribe means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary

of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

Type and weight range means the weight range by type of livestock and appropriate amount of energy required to provide the daily maintenance needs for livestock, as follows:

Kind/type	Weight range (lbs.)	Daily energy requirements
(1) Beef cattle (Buffalo/Beefalo):		
Beef	Less than 400	3.01 NEm Mcal
Beef	400-799	5.59 NEm Mcal
Beef	800-1099	7.31 NEm Mcal
Beef	1100+	10.75 NEm Mcal
Beef, cow	All	13.60 NEm Mcal
Beef, bull	1000+	11.18 NEm Mcal
(2) Dairy cattle:		
Dairy	Less than 400	3.01 NEm Mcal
Dairy	400-799	5.59 NEm Mcal
Dairy	800-1099	7.31 NEm Mcal
Dairy	1100+	10.75 NEm Mcal
Dairy, cow	Less than 1100	23.22 NEI Mcal
Dairy, cow	11-1299	26.66 NEI Mcal
Dairy, cow	1300-1499	28.38 NEI Mcal
Dairy, cow	1500+	29.67 NEI Mcal
Dairy, bull	1000+	12.47 NEm Mcal
(3) Equine:		
Equine	Less than 450	6.2 DE Mcal
Equine	450-649	8.9 DE Mcal
Equine	650-874	11.6 DE Mcal
Equine	875+	17.3 DE Mcal
(4) Swine:		
Swine	Less than 45	780 DE Kcal
Swine	45-124	1630 DE Kcal
Swine	125+	2867 DE Kcal
Swine, sow	235+	9854 DE Kcal
Swine, boar	235+	5446 DE Kcal
(5) Sheep:		
Sheep	Less than 44	0.34 NEm Mcal
Sheep	44-82	0.77 NEm Mcal
Sheep	83+	0.95 NEm Mcal
Sheep, ewe	150+	2.66 NEm Mcal
Sheep, ram	150+	1.46 NEm Mcal
(6) Goats:		
Goats	Less than 44	0.43 NEm Mcal
Goats	44-82	0.95 NEm Mcal
Goats	83+	1.29 NEm Mcal
Goats, doe	125+	3.00 NEm Mcal
Goats, doe, dairy 1994 and subsequent crop years	125+	4.47 NEm Mcal
Goats, buck	125+	1.80 NEm Mcal

§ 1439.904 Region.

- (a) The size of a region will consist of:
 - (1) An entire reservation, even if the reservation is less than 320,000 acres; or
 - (2) Contiguous acreage of at least 320,000 acres and include land acreage of an Indian reservation or tribal governed land. If a region is delineated based on minimum size of 320,000 acres, the region shall be delineated without regard to the boundary of a reservation or tribal governed land. If the acreage affected by the natural disaster does not meet the minimum acreage requirement specified in this subparagraph, acreage will be added from surrounding land until the minimum requirement is met.
- (b) The region must:

- (1) Include acreage affected by the natural disaster which is the basis for the region's designation;
- (2) Correspond to the shape of the natural disaster to the maximum extent possible;
- (3) Be defined in a manner that does not intentionally include or exclude owners or crops;
- (4) Contain some acreage of tribal governed land; and
- (5) Have suffered a livestock feed emergency as defined in § 1439.903 of this subpart.

§ 1439.905 Responsibilities.

- (a) During the operation of this program, CCC shall:
 - (1) Provide weather data, crop yields and carrying capacities to tribes requesting such information;

- (2) Review contracts submitted by tribal governments requesting disaster regions; and
 - (3) Act as an agent for disbursing payments to eligible livestock owners in approved disaster regions.
- (b) Tribal governments shall be responsible for:
- (1) Approaching CCC to obtain a contract to participate in the AILFP based on the tribes' voluntary decisions that participation will benefit its members;
 - (2) Gathering, organizing, and reporting accurate information regarding disaster conditions and region;
 - (3) Advising livestock owners in an approved region that they may be eligible for payments, in addition to the method and requirements for filing applications;

(4) Accepting applications for payment from individual livestock owners;

(5) Determining that the information provided by individual livestock owners on payment applications is accurate and complete and that the owner is eligible for payments under this program;

(6) Submitting only accurate and complete payment applications to the designated FSA office acting as an agent for disbursing payments to eligible livestock owners.

(c) The owner or authorized representative, shall:

(1) Furnish all the information specified on the payment application, as requested by CCC;

(2) Provide any other information which the tribal government deems necessary to determine the owner's eligibility; and

(3) Certify that purchased feed was or will be fed to the owner's eligible livestock.

§ 1439.906 Program availability.

(a) When a tribal government determines that a livestock feed emergency exists due to a natural disaster, the tribal government may submit a properly completed contract requesting approval of a region. All contracts requesting region approval must be submitted by the later of December 28, 1998, or 30 days after the end of the disaster period specified on the contract.

(b) Properly completed contracts shall consist of:

(1) A completed form CCC-453, Contract To Participate; and

(2) A completed form CCC-648, Region Designation And Feed Loss Assessment; and

(3) Supportive documentation as determined by CCC including, but not limited to:

(i) A map of the region delineated according to § 1439.904 of this subpart;

(ii) Historical production data and estimated or actual production data for the disaster year;

(iii) Climatological data provided by the FSA State Office; and

(iv) A report of an on-site survey.

(c) The Deputy Administrator shall make a determination as to whether a livestock feed emergency exists not later than 30 days after receipt of a properly completed contract made in accordance with this subpart and shall notify the tribal government and FSA State Office of such determination as applicable.

(d) The feeding period provided in the approved contract will be for a term not to exceed 90 days, except as provided in paragraph (e) of this section. The feeding period shall not be extended if

the livestock feed emergency no longer exists. Notwithstanding the duration of any feeding period, assistance under this subpart terminates immediately and without notice according to § 1439.901.

(e) The tribal government may request to extend the feeding period not to exceed an additional 90 days for each extension if disaster conditions have not diminished significantly and a livestock feed emergency continues.

§ 1439.907 Eligibility.

(a) An eligible owner must own or jointly own the eligible livestock for which payments under this subpart are requested. Notwithstanding any other provision of this subpart, livestock leased under a contractual agreement which has been in effect at least 6 months prior to the date of application for assistance made under this subpart shall be considered as being owned by the lessee if the lease:

(1) Requires the lessee to furnish the feed for such livestock; and

(2) Provides for an interest in such livestock, such as the right to market a share of the increase in weight of livestock.

(b) A State or non-tribal local government or subdivision thereof, or any individual or entity determined to be ineligible in accordance with § 1400.501 of this chapter are not eligible for benefits under this subpart.

(c) Any eligible owner of livestock, including the tribe, may file a CCC-approved AILFP payment application with the tribal government. When such a payment application is filed, the owner and an authorized tribal government representative shall execute the certification contained on such payment application no later than the deadline established by CCC upon approval of the region.

(d) To be eligible for benefits under this subpart, livestock owners must own or lease tribal governed land in the delineated region; and have had livestock on such land at the time of disaster which is the basis for the region's designation

(e) Eligible livestock owners shall be responsible for providing information to the tribal government that accurately reflects livestock feed purchases for eligible livestock during the feeding period. False or inaccurate information may affect the owner's eligibility.

§ 1439.908 Payment application.

(a) Except as provided in paragraph (d) of this section, payment applications from interested eligible owners must be:

(1) Submitted to the tribal government by the owner no later than a date announced by the tribe, such date being

no later than the applicable date in § 1439.907(c); and

(2) Submitted by the tribal government to the office designated by CCC no later than a date announced by CCC; and

(3) Accompanied by valid receipts substantiating purchase of eligible feed for assistance. Valid receipts must also be accompanied by the certification referenced in § 1439.907(d)(3) of this subpart and shall contain:

(i) The date of feed purchase, which must fall within the eligible feeding period as approved on the contract;

(ii) The names and addresses of the buyer and the vendor;

(iii) The type of feed purchased;

(iv) The quantity of the feed purchased;

(v) The cost of the feed; and

(vi) The vendor's signature if the vendor is not licensed to conduct this type of business transaction.

(b) The tribal government shall review each payment application, as specified by CCC, for completeness and accuracy. Except as provided in paragraphs (c) and/or (d) of this section, the tribal government shall approve those eligible owners and applications meeting the requirements of this subpart.

(c) No approving tribal government member shall review and approve a payment application for any operation for which such member has a direct or indirect interest. Such payment application may be reviewed for approval by a member of the tribal government who is not related to the applicant by blood or marriage.

(d) Tribal governments do not have the authority to approve a payment application for any operation for which the tribe has a direct or indirect interest. Payment applications for tribal owned livestock shall contain an original signature of a member of the tribal government, signing as representing all owners of the tribal owned livestock, who possesses the authority to sign documents on behalf of the tribe and shall be submitted to an office designated by the Secretary for approval.

(e) No payment application, as specified by CCC, shall be approved unless the owner meets all eligibility requirements. Information submitted by the owner and any other information, including knowledge of the tribal government concerning the owner's normal operations, shall be taken into consideration in making recommendations and approvals. If either the payment application is incomplete or information furnished by the owner is incomplete or ambiguous and sufficient information is not

otherwise available with respect to the owner's farming operation in order to make a determination as to the owner's eligibility, the owner's payment application, as specified by CCC, shall be denied. The tribal government shall be responsible for notifying the owner of the reason for the denial and shall provide the owner an opportunity to submit additional information as requested.

(f) All payment applications, as specified by CCC, approved by the tribal government will be submitted to a designated FSA office for calculation of payment.

§ 1439.909 Payments.

(a) Provided all other eligibility requirements of this subpart are met and funds are available, all eligible payment applications submitted to the designated FSA office shall have payments issued to the applicant by CCC.

(b) If any term, condition, or requirement of these regulations or contract are not met, payments and benefits previously provided by CCC which were not earned under the provisions of the application shall be refunded.

(c) Each owner's share of the total payment shall be indicated on the application, and each owner shall receive benefits or final payment from CCC according to benefits or payments earned under the provisions of the application.

(d) CCC may reduce the benefits payable to an applicant under this program if CCC has made assistance available to such applicant under any other CCC program with respect to the same natural disaster.

(e) The amount of assistance provided to any owner shall not exceed the smaller of either:

(1) The dollar amount of eligible livestock feed purchased, as documented by acceptable purchase receipts, less the dollar amount of any sale of livestock feed (whether purchased or produced) by the owner during the feeding period; or

(2) 30 percent of the amount computed by multiplying:

(i) The number of animal units determined on the basis of the number of eligible livestock of each type and weight range; by

(ii) The smaller of the number of days the owners provided feed to eligible livestock or the total days in the contract's feeding period; by

(iii) The Animal Unit Day value, as established by the Deputy Administrator for Farm Programs, less the dollar amount of any sale of livestock feed

(whether purchased or produced) by the owner during the feeding period.

(f) Payments issued in conjunction with this program will not be subject to offset for debts incurred through participation in any other program conducted by the Department of Agriculture.

§ 1439.910 Program suspension and termination.

(a) The tribal government that requested the AILFP assistance, may at any time during the operation of a program recommend suspension or termination of the program.

(b) The Deputy Administrator may suspend or terminate the program at any time if:

- (1) The tribal government requests termination or suspension; or
- (2) Funding is exhausted.

§ 1439.911 Appeals.

Any person who is dissatisfied with a CCC determination made with respect to this subpart may make a request for reconsideration or appeal of such determination in accordance with part 780 of this chapter. Any person who is dissatisfied with a determination made by the tribal authority should seek reconsideration of such determination with the tribe. Decisions and determinations made under this subpart not rendered by CCC or FSA are not appealable to the National Appeals Division.

§§ 1439.912 through 1439.915 [Reserved]

Signed at Washington, DC, on November 20, 1998.

Keith Kelly,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 98-31655 Filed 11-25-98; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 331

[Docket No. 98-048F]

Termination of Designation of the State of Minnesota With Respect to the Inspection of Meat and Meat Food Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule and termination of designation.

SUMMARY: This final rule amends the Federal meat inspection regulations by terminating the designation of the State of Minnesota under Titles I, II, and IV

of the Federal Meat Inspection Act (FMIA). The State of Minnesota has enacted a State meat inspected program law and regulations that impose inspection requirements that are at least equal to those requirements of the FMIA. The State of Minnesota will remain designated under sections 1-4, 6-11, and 12-22 of the Poultry Products Inspection Act (PPIA).

DATES: The effective date of this final rule is December 28, 1998.

FOR FURTHER INFORMATION CONTACT: Dr. William F. Leese, Director, Federal-State Relations Staff, Food Safety and Inspection Service; telephone (202) 418-8900 or FAX (202) 418-8834.

SUPPLEMENTARY INFORMATION:

Background

Section 301(c) of the FMIA (21 U.S.C. 661(c)) and section 5(c) of the PPIA (21 U.S.C. 454(c)) authorize the Secretary of Agriculture to designate a State as one in which the provisions of Titles I and IV of FMIA shall apply to operations and transactions wholly within the State after the Secretary has determined that requirements at least "equal to" those imposed under the Acts have not been developed and effectively enforced by the State.

On January 2, 1971, and May 16, 1972, the Secretary of Agriculture designated the State of Minnesota under paragraph 5(c) (21 U.S.C. 454(c) of the PPIA and paragraph 301(c) (21 U.S.C. 661(c)) of the FMIA as a State in which the Federal Government is responsible for providing meat and poultry inspection, respectively, at eligible establishments and for otherwise enforcing the applicable provisions of PPIA and FMIA with regard to intrastate activities in the State.

In addition, on January 31, 1975 (40 FR 4646), a document was published in the **Federal Register** announcing that effective on that date, the Federal Government would assume the responsibility of administering the authorities provided for under sections 202, 203, and 204 (21 U.S.C. 642, 643, and 644) of the FMIA and sections 11 (b) and (c) (21 U.S.C. 460 (b) and (c)) of the PPIA regarding certain categories of processors of meat and poultry products.

These designations were undertaken by the Department when it was determined that the State of Minnesota was not in a position to enforce inspection requirements under State laws for products in intrastate commerce that are at least "equal to" the requirements of FMIA and PPIA enforced by the Federal Government.

The Governor of the State of Minnesota has advised FSIS that on December 28, 1998, the State of Minnesota will be in a position to administer a State meat inspection program which includes requirements at least "equal to" those imposed under the Federal meat inspection program for products in interstate commerce. The Governor of the State of Minnesota also has advised FSIS that the State, at this time, will remain designated for poultry products inspection under the PPIA.

Section 301(c)(3) of the FMIA provides that whenever the Secretary of Agriculture determines that any designated State has developed and will enforce State meat inspection requirements at least "equal to" those imposed by the Federal Government under the FMIA, with regard to intrastate operations and transactions within the State, the Secretary will terminate the designation of such State. The Secretary has determined that the State of Minnesota has developed, and will enforce, such a State meat inspection program in accordance with such provisions of the FMIA. In addition, the Secretary has determined that the State of Minnesota also is in a position to enforce effectively the provisions of sections 202, 203, and 204 of the FMIA. Therefore, the designations of the State of Minnesota under Titles I, II, and IV of FMIA are hereby terminated. The designations of Minnesota under sections 1-4, 6-11, and 12-22 of the PPIA, however, at this time, will remain in effect, and are hereby not terminated.

Because it does not appear that public participation in this matter would make additional relevant information available to the Secretary under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public procedure is impracticable and unnecessary.

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866 and has been determined not to be a major rule. It will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local governments agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Terminating the designation of the State of Minnesota will provide for the State

to assume the responsibility, previously limited to the Federal Government, of administering a meat inspection program for intrastate operations and transactions and for ensuring compliance by persons, firms, and corporations engaged in intrastate commerce in specified kinds of businesses. Qualifying businesses will have the option to operate under State inspection as an alternative to Federal inspection. The State of Minnesota will be required to administer the meat inspection program in a manner that is at least "equal to" the inspection program administered by the Federal Government.

Effect on Small Entities

The Administrator of the Food Safety and Inspection Service (FSIS) has determined that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601). As stated above, the State of Minnesota is assuming a responsibility, previously limited to the Federal Government, of administering the meat inspection program for intrastate meat operations and transactions. The State's poultry products inspection program, at this time, will remain designated. No additional requirements are being imposed on small entities.

List of Subjects in 9 CFR Part 331

Meat inspection.

Part 331 of the Federal meat inspection regulations (9 CFR Part 331) is amended to read as follows:

PART 331—[AMENDED]

1. The authority citation for Part 331 continues to read as follows:

Authority: 21 U.S.C. 601-695; CFR 2.17, 2.55.

§ 331.2 [Amended]

2. The table in § 331.2 of the Federal meat inspection regulations (9 CFR 331.2) is amended by removing the entry for "Minnesota".

§ 331.6 [Amended]

3. Section 331.6 of the Federal meat inspection regulations (9 CFR 331.6) is amended by removing the entry for "Minnesota" in all three places.

Done in Washington, DC, on November 18, 1998.

Thomas J. Billy,
Administrator.

[FR Doc. 98-31441 Filed 11-25-98; 8:45 am]

BILLING CODE 3410-DM-P

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y; Docket No. R-0990]

Appraisal Standards for Federally Related Transactions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System has approved an amendment to Subpart G of the Board's Regulation Y, Appraisal Standards for Federally Related Transactions, which exempts from the Board's appraisal requirements transactions involving the underwriting or dealing of mortgage-backed securities. This amendment permits bank holding company subsidiaries engaged in underwriting and dealing in securities (so-called section 20 subsidiaries) to underwrite and deal in mortgage-backed securities without demonstrating that the loans underlying the securities are supported by appraisals that meet the Board's appraisal requirements.

EFFECTIVE DATE: December 28, 1998.

FOR FURTHER INFORMATION CONTACT: Norah M. Barger, Assistant Director (202/452-2402), or Virginia M. Gibbs, Senior Supervisory Financial Analyst, (202/452-2521), Division of Banking Supervision and Regulation; or Mark Van Der Weide, Attorney (202/452-2263), Legal Division; Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Background

The Board is adopting an amendment to its appraisal regulation that exempts from the Board's appraisal regulation transactions involving the underwriting or dealing of mortgage-backed securities. The amendment is designed to address the concerns raised by bank holding companies regarding the extent to which the Board's appraisal regulation restricts the ability of section 20 subsidiaries to actively participate in the commercial mortgage-backed securities (CMBS) market.

In 1990, the Board adopted its appraisal regulation pursuant to the requirements of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 *et seq.*). Title XI directed the federal banking agencies (the agencies) to publish appraisal rules for federally

related transactions¹ within the jurisdiction of each agency. The stated purpose of the legislation is to protect federal financial and public policy interests in real estate-related financial transactions by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, and by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.² In their appraisal regulations, the agencies exempted certain categories of real estate-related financial transactions that do not require the services of an appraiser in order to protect federal financial and public policy interests or to satisfy principles of safe and sound banking.

In June 1994, several existing exemptions to the agencies' appraisal regulations were modified and new exemptions were added. At that time, the agencies clarified that a regulated institution investing in, underwriting, or dealing in a mortgage-backed security or similar instrument need not obtain new Title XI appraisals for the underlying real estate-secured loans so long as the loans met regulatory appraisal requirements for the institution at the time the loans were originated.³

When the agencies adopted the 1994 amendments to their appraisal rules, the mortgage-backed securities market consisted of securitized 1-to-4 family residential loans, most of which were generated in accordance with the agencies' appraisal requirements. Since 1994, the commercial real estate market has recovered and a market in CMBS has emerged and expanded significantly with the wider acceptance of collateralized securities. Because many commercial mortgages are originated by non-regulated institutions, they often do not fully meet the agencies' appraisal regulations. As a result, banking organizations have effectively been restricted in their ability to participate in the CMBS market.

¹ Section 1121(4) of FIRREA, 12 U.S.C. 3350(4), defines a federally related transaction as a real estate-related financial transaction that is regulated or engaged in by a federal financial institutions regulatory agency and requires the services of an appraiser. Section 1121(5), in turn, defines a real estate-related financial transaction as any transaction that involves: (1) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof; (2) the refinancing of real property or interests in real property; and (3) the use of real property or interests in real property as security for a loan or investment, *including mortgage-backed securities* (emphasis added).

² See Title XI's Statement of Purpose. 12 U.S.C. 3331.

³ See 59 FR 29482 (1994).

In December 1997, the Board issued a proposal to amend its real estate appraisal regulation to permit bank holding companies and their nonbank subsidiaries to underwrite and deal in mortgage-backed securities without demonstrating that the loans underlying the securities are supported by appraisals that meet the Board's appraisal requirements.⁴ In issuing this proposal, the Board acknowledged that the amendment would affect only section 20 subsidiaries because section 20 subsidiaries are the only nonbank entities subject to the Board's appraisal regulation that are permitted to underwrite or deal in mortgage-backed securities.

Summary of Comments and Description of the Final Rule

The Board received eleven comments on the proposed amendment to the appraisal regulation: four from banking associations, one from a bank holding company, one from a professional appraiser association, and five from Federal Reserve Banks. Ten of the commenters strongly favored the proposed amendment. The professional appraiser association did not express support for the proposal and urged the Board to consider whether a uniform due diligence standard should be developed for the CMBS market before adopting this amendment.

Several of the commenters stated that the appraisal regulation made it difficult for bank holding companies and their section 20 subsidiaries to participate in the CMBS market. As one commenter stated, the amendment would strengthen the competitiveness of bank holding companies by placing their section 20 subsidiaries on a more equal footing with nonbank competitors. Ten commenters stated that the public rating and due diligence required by the market for mortgage-backed securities provided sufficient information for the regulated institution to assess risks. One commenter noted that the rating agencies perform sophisticated stress tests of mortgage-backed securities, which examine the ability of the real estate collateral to meet the associated debt obligation under adverse market conditions, to ensure the soundness of their rating.

One commenter contended that the CMBS market attributed little value to appraisals and that other characteristics of the CMBS market, such as public ratings and due diligence requirements, typically provide more protection to investors than the appraisal requirement. Another commenter stated

⁴ See 62 FR 64997 (1997).

that obtaining appraisals is a costly and time-consuming process that is impossible to complete in the time constraints applicable to underwriting and dealing in CMBS.

One commenter suggested that the Board consider adopting additional exemptions from the appraisal regulation for transactions involving: (1) the investment in investment-grade CMBS by bank holding companies and their bank and nonbank affiliates and (2) the warehousing of commercial real estate loans by bank holding companies and their nonbank affiliates for the purpose of packaging and selling them as CMBS.

In contrast, the comment letter from the professional appraiser association contended that federal oversight and underwriting criteria, as well as due diligence procedures used by market participants, may not adequately address all safety and soundness issues that exist in the CMBS market. The commenter expressed concern that without guidance from the agencies regarding due diligence standards for CMBS, federally insured institutions could assume undue or unacceptable risk. Further, this commenter contended that many of the underwriting criteria and investment decisions involving CMBS require that an appraisal be performed to check the validity, quality, and quantity of cash flow from the underlying property. The commenter also expressed concern that increased competition in the commercial real estate market may lead to increased risk taking and raised concern about the use of federally-insured deposits to fund CMBS activity.

The Board believes that permitting section 20 subsidiaries to underwrite and deal in mortgage-backed securities without obtaining appraisals that meet the Board's appraisal requirements is not likely to create significant additional risks for bank holding companies or pose a systemic risk to the banking system. The Board notes that bank holding companies have substantial expertise in analyzing the risks associated with loans secured by residential and commercial real estate, and that section 20 subsidiaries have developed the necessary procedures to evaluate the credit risks involved in underwriting and dealing in mortgage-backed securities. In addition, section 20 subsidiaries that seek to underwrite or deal in CMBS are subject to an operational and managerial infrastructure inspection prior to being permitted to engage in such activities. Periodic inspections by the Federal Reserve verify that proper underwriting

and risk management procedures are in place at section 20 subsidiaries.

When a section 20 subsidiary serves as lead underwriter, it is responsible for performing adequate due diligence. In other instances, such as the dealing of an outstanding debt security, a section 20 subsidiary may rely on the due diligence performed by independent rating agencies. Due diligence efforts conducted by a section 20 subsidiary or an independent rating agency often include analyses of factors such as payment history, mortgage and security structure, borrower's income or property cash flow, credit enhancements, and seasoning. In most CMBS transactions, the underlying loans have demonstrated their ability to perform over a period of time. As the underlying commercial real estate loans in a CMBS pool season, appraisals obtained at origination become increasingly less relevant to an investor's decision to purchase the related CMBS because the market assumptions upon which the appraisals were based may have become obsolete. Further, the public rating or due diligence that must be obtained or conducted for CMBS provides investors with sufficient information to assess the risks associated with the CMBS. A majority of the commenters agreed with this assessment of the CMBS market.

In response to the concerns expressed by one commenter that exempting CMBS transactions from the appraisal regulation would pose undue or unacceptable risk to federally-insured depository institutions, the Board notes that the proposed amendment relates solely to section 20 subsidiaries of bank holding companies and would not affect the appraisal requirements applicable to any federally-insured depository institution. In addition, transactions between a federally-insured depository institution and an affiliated section 20 subsidiary would continue to be subject to applicable restrictions in section 23A and 23B of the Federal Reserve Act (12 U.S.C. 37k, 37k-1). At this time, the Board is not considering any additional exemptions from the appraisal regulation for other transactions related to the CMBS market. Further, since the agencies have uniform appraisal regulations, any proposal to exempt CMBS-related transactions for federally-insured depository institutions would be addressed on an interagency basis.

Regulatory Flexibility Act Analysis

This amendment is not expected to have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because this amendment will

only affect bank holding companies that have section 20 subsidiaries, which generally are among the largest bank holding companies. Further, the amendment is not expected to impose any additional burdens on regulated institutions.

Paperwork Reduction Act

No collection of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is contained in this rulemaking.

List of Subjects in 12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, the Board amends 12 CFR part 225 as set forth below:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828o, 1831i, 1831p-1, 1843(c)(8), 1844(b), 1972(l), 3106, 3108, 3310, 3331-3351, 3907, and 3909.

2. In Subpart G, § 225.63 is amended by removing the word "or" at the end of paragraph (a)(11), by redesignating paragraph (a)(12) as paragraph (a)(13), and by adding a new paragraph (a)(12) to read as follows:

§ 225.63 Appraisals required; transactions requiring a State certified or licensed appraiser.

(a) * * *

(12) The transaction involves underwriting or dealing in mortgage-backed securities; or

* * * * *

By order of the Board of Governors of the Federal Reserve System.

Dated: November 20, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-31602 Filed 11-25-98; 8:45 am]

BILLING CODE 6210-01-P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 722, 723 and 741

Organization and Operations of Federal Credit Unions; Appraisals; Member Business Loans; and Requirements for Insurance

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interim final rule; extension of comment period.

SUMMARY: On September 23, 1998, the NCUA issued an interim final rule concerning member business loans and appraisals for federally insured credit unions' as well as implementing recent statutory limitations regarding member business loans. The interim final rule was published in the **Federal Register** on September 29, 1998 (see 63 FR 51793). The NCUA Board stated that comments on the interim final rule must be received by November 30, 1998. Due to a request made, the Board has decided to extend the comment period for an additional 60 days to January 29, 1999.

DATES: The comment period is being extended from November 30, 1998 to January 29, 1999. Comments must be postmarked or received by January 29, 1999.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428. Fax comments to (703) 518-6319. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Senior Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518-6540.

By the National Credit Union Administration Board on November 19, 1998.

Becky Baker,

Secretary of the Board.

[FR Doc. 98-31597 Filed 11-25-98; 8:45 am]

BILLING CODE 7535-01-U

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 708a

Conversion of Insured Credit Unions to Mutual Savings Banks

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interim final rule with request for comments.

SUMMARY: The NCUA is revising its rules that govern the conversion of insured credit unions to mutual savings banks or savings associations, if the savings associations are in mutual form. These revisions will simplify the charter conversion process and reduce regulatory burden for insured credit unions that choose to convert. NCUA is making these revisions in compliance

with recent federal legislation that mandates such revisions.

DATES: This rule is effective November 27, 1998. Comments must be received on or before February 25, 1999.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428. Fax comments to (703) 518-6319. *Please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: Frank S. Kressman, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518-6540.

SUPPLEMENTARY INFORMATION:

Background

The Credit Union Membership Access Act (the Membership Access Act) was enacted into law on August 7, 1998. Public Law 105-21. Section 202 of the Membership Access Act amends the provisions of the FCU Act concerning conversion of insured credit unions to mutual savings banks or mutual savings associations. Pursuant to the amendments, NCUA is required to promulgate final rules regarding charter conversions within six months that are: (1) consistent with the Membership Access Act; (2) consistent with the charter conversion rules promulgated by other financial regulators; and (3) no more or less restrictive than rules applicable to charter conversions of other financial institutions. Accordingly, NCUA is revising part 708a to implement the provisions of § 202 of the Membership Access Act. NCUA does not interpret the Membership Access Act to preclude state regulatory authorities from imposing more restrictive charter conversion rules on federally insured state-chartered credit unions.

Interim Final Rule

The NCUA Board is issuing this rule as an interim final rule because there is a strong public interest in having rules in place consistent with the requirements of § 202 of the Membership Access Act. If this rule were not effective immediately, there would be no such rule in place to process credit union conversions to mutual savings banks. Accordingly, for good cause, the Board finds that, pursuant to 5 U.S.C. 553(b)(3)(B), notice and public procedures are impracticable, unnecessary, and contrary to the public interest; and, pursuant to 5 U.S.C. 553(d)(3), the rule shall be effective immediately and

without 30 days advance notice of publication. Although the rule is being issued as an interim final rule and is effective immediately, the NCUA Board encourages interested parties to submit comments.

Section by Section Analysis

Section 708a.1 Definitions

This section defines a number of terms used throughout part 708a. Although the former part 708a did not contain a section specifically designated for definitions, former § 708a.2(c)(2) defined "senior management official." Revised § 708a.1 expands on that definition to include, at the end of the definition, the phrase "and any other senior executive officer as defined by the appropriate federal banking agency pursuant to section 32(f) of the Federal Deposit Insurance Act." 12 U.S.C. 1831i(f).

Section 708a.2 Authority to Convert

This section restates a portion of the Membership Access Act that provides an insured credit union may convert to a mutual savings bank or a savings association that is in mutual form without the prior approval of NCUA. Although the Membership Access Act eliminates the need for credit unions to obtain NCUA's prior approval, it requires NCUA to administer the membership vote. Also, the vote must be verified by the federal or state agency having jurisdiction over the credit union after the conversion. As provided in § 708a.7 discussed below, if NCUA disapproves of the methods or procedures applicable to the membership vote, it may require that another vote be taken. This section also states that conversions require the approval of the credit union's members and are subject to the laws governing mutual savings banks and savings associations and the other requirements of this part.

Section 708a.3 Board of Directors and Membership Approval

This section provides that the board of directors must approve the proposal to convert by a majority vote and must set a date for a membership vote on the proposal. Membership approval requires an affirmative vote of a majority of those members who vote on the proposal. Former § 708a.5 required a majority vote of the entire membership, not just a majority of those members choosing to vote. The former requirements for NCUA approval of a detailed plan and disclosure statement have been deleted.

Section 708a.4 Voting Procedures

This section sets out the voting and notice requirements for the membership vote on the proposal to convert. It provides that members eligible to vote on the proposal to convert may do so in person at the meeting designated for the vote on the proposal or by written ballot filed by the member. It also provides that the credit union must provide members with notice to the members 90, 60, and 30 calendar days before the date of the vote and a ballot not less than 30 calendar days before the date of the vote. This section describes the basic requirements for the content of the notice, namely, that the notice must adequately state the purpose and subject matter of the proposal and inform members that they may vote either at the meeting or by submission of a written ballot. The notice must set out the date, time, and place for the meeting.

Section 708a.5 Notice to NCUA

This section requires the credit union to provide NCUA with notice of its intent to convert during the 90 calendar day period preceding the date for the membership vote. A credit union may fulfill this notification requirement by providing the NCUA a letter describing the material features of the conversion or a copy of the filing made with another federal or state regulatory agency seeking that agency's approval of the conversion. With the notice to NCUA, a credit union must include a copy of the notice, ballot and all other written materials it has provided or intends to provide to members so that NCUA can fulfill its oversight responsibility regarding the methods and procedures of the membership vote. If it chooses, a credit union may provide notice of intent to convert prior to the 90 calendar day period preceding the membership vote. If a credit union submits its notice of intent early, the Regional Director will review it and let the credit union know within 30 calendar days if there is a problem with the methods and procedures for the membership vote. This preliminary review is intended to provide time to credit unions, for example, to correct any defects in the notice to members or other problems in connection with the proposed membership vote. In any event, the credit union will still have to comply with the requirement of verifying the membership vote once it is taken and the Regional Director will still have the right to require a new vote if it is determined that the methods and procedures of the membership vote were not conducted properly.

Section 708a.6 Certification of Vote on Conversion Proposal

This section requires the board of directors of the converting credit union to certify to NCUA the results of the membership vote within 10 calendar days after the vote is taken. The board of directors is also required at this time to certify that all notices, ballots and other written materials provided to members were identical to those submitted to NCUA pursuant to § 708a.5 or to provide copies of any new or revised materials and an explanation of the reason for the changes.

Section 708a.7 NCUA Oversight of Methods and Procedures of Membership Vote

The Membership Access Act specifically requires NCUA to participate in the conversion process by overseeing the membership vote concerning the charter conversion. This oversight function centers on reviewing the methods by which the membership vote was taken and the procedures applicable to the membership vote. The Membership Access Act provides that if, upon review of the membership vote, NCUA disapproves of the methods by which the vote was taken or the procedures applicable to the membership vote, then NCUA is authorized to direct a new membership vote be taken on the proposal to convert. NCUA interprets "methods and procedures" of the membership vote to include determining that the notice that the credit union sends to its members is accurate and not misleading, that all required notices were timely, and that the membership vote was conducted in a fair and legal manner.

This section provides that, once the Regional Director receives a certification from the converting credit union of the results of the membership vote, the Regional Director will have 10 calendar days to issue a determination regarding the methods and procedures applicable to the membership vote. This section also sets out that the Regional Director's review of the methods and procedures will consider whether the notice was accurate and not misleading, that all required notices were provided and that the membership vote was conducted in a fair and legal manner.

Section 708a.8 Other Regulatory Oversight of Methods and Procedures of Membership Vote

The Membership Access Act requires the federal or state regulatory agency that will have jurisdiction over the financial institution after conversion to verify the membership vote, and has

authorized that agency to direct a new membership vote be taken on the proposal to convert if it disapproves of the methods by which the vote was taken or the procedures applicable to the membership vote.

Section 708a.9 Completion of Conversion

This section provides that upon receipt of the approvals discussed in § 708a.7 and § 708a.8, the credit union may complete the conversion transaction. The board of directors of the newly chartered mutual savings bank or mutual savings association is required to certify completion of the conversion transaction to NCUA within 30 calendar days of the effective date of the conversion. Upon receipt of such certification, the NCUA will cancel the credit union's insurance certificate and federal charter, if applicable.

Section 708a.10 Limit on Compensation of Officials

This section provides that directors and senior management officials of a credit union may not receive any economic benefit from the conversion of their credit union other than compensation and benefits paid to them in the ordinary course of business. This section is intended to insure that decisions to convert are based on proper and appropriate business judgment.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities (primarily those under \$1 million in assets). The NCUA has determined and certifies that this interim rule will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the NCUA has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

The NCUA Board has determined that the notice and disclosure requirements in part 708a constitute a collection of information under the Paperwork Reduction Act. NCUA is submitting a copy of this interim final rule to the Office of Management and Budget (OMB) for its review.

The interim final rule requires an insured credit union that intends to convert to a mutual savings bank or savings association to provide notice and disclosure of its intent to convert to its members and NCUA. It also requires

the credit union to provide additional information to NCUA at various points in the conversion process. These notice and disclosure requirements are mandated by the Membership Access Act. They are also necessary to insure safety and soundness in the credit union industry, and to protect the interests of credit union members in the charter conversion context.

The NCUA Board estimates that it will take an average of 15 to 20 hours to comply with the notice and disclosure requirements of part 708a. The NCUA Board also estimates that fewer than 10 insured credit unions will convert per year, so that the total annual collection burden is estimated to be no more than 200 hours.

The Paperwork Reduction Act of 1995 and OMB regulations require that the public be provided an opportunity to comment on information collection requirements, including an agency's estimate of the burden of the collection of information. The NCUA Board invites comment on: (1) whether the collection of information is necessary; (2) the accuracy of NCUA's estimate of the burden of collecting the information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of collection of information. Comments should be sent to: OMB Reports Management Branch, New Executive Office Building, Room 10202, Washington, D.C. 20503; Attention: Alex T. Hunt, Desk Officer for NCUA. Please send NCUA a copy of any comments you submit to OMB.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The final rule, as does the current rule, applies to all federally insured credit unions, including federally insured state chartered credit unions. However, since the final rule reduces regulatory burden, NCUA has determined that the final rule does not constitute a "significant regulatory action" for purposes of the Executive Order.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedures Act, 5 U.S.C. 551. The Office of Management and Budget is reviewing this rule to determine whether it is major for

purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 12 CFR Part 708a

Charter conversions, Credit unions.

By the National Credit Union Administration Board on November 19, 1998.

Becky Baker,

Secretary of the Board.

For the reasons set forth above, 12 CFR part 708a is revised to read as follows:

PART 708a—CONVERSION OF INSURED CREDIT UNIONS TO MUTUAL SAVINGS BANKS

Sec.

708a.1 Definitions.

708a.2 Authority to convert.

708a.3 Board of directors and membership approval.

708a.4 Voting procedures.

708a.5 Notice to NCUA.

708a.6 Certification of vote on conversion proposal.

708a.7 NCUA oversight of methods and procedures of membership vote.

708a.8 Other regulatory oversight of methods and procedures of membership vote.

708a.9 Completion of conversion.

708a.10 Limit on compensation of officials.

Authority: 12 U.S.C. 1766, 12 U.S.C. 1785(b).

§ 708a.1 Definitions.

As used in this part:

(a) *Credit union* has the same meaning as insured credit union in section 101 of the Federal Credit Union Act.

(b) *Mutual savings bank* and *savings association* have the same meaning as in section 3 of the Federal Deposit Insurance Act.

(c) *Federal banking agencies* has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(d) *Senior management official* means a chief executive officer, an assistant chief executive officer, a chief financial officer, and any other senior executive officer as defined by the appropriate federal banking agency pursuant to section 32(f) of the Federal Deposit Insurance Act, 12 U.S.C. 1831i(f).

§ 708a.2 Authority to convert.

An insured credit union, with the approval of its members, may convert to a mutual savings bank or a savings association that is in mutual form without the prior approval of the NCUA, subject to applicable law governing mutual savings banks and savings associations and the other requirements of this part.

§ 708a.3 Board of directors and membership approval.

(a) The board of directors must approve a proposal to convert by majority vote and set a date for a vote on the proposal by the members of the credit union.

(b) The membership must approve the proposal to convert by the affirmative vote of a majority of those members who vote on such proposal.

§ 708a.4 Voting procedures.

(a) A member may vote on the proposal to convert in person at a special meeting held on the date set for the vote or by written ballot filed by the member.

(b) A credit union that proposes to convert must provide written notice of its intent to convert to each member who is eligible to vote on the conversion. The notice to members must be sent by registered, certified, or regular mail with postage prepaid and postmarked 90 calendar days, 60 calendar days, and 30 calendar days before the date of the membership vote on the conversion and a ballot must be sent not less than 30 calendar days before the date of the vote.

(c) The notice to members must adequately describe the purpose and subject matter of the vote to be taken at the special meeting or by submission of the written ballot. The notice must clearly inform the member that the member may vote at the special meeting or by submitting the written ballot. The notice must state the date, time, and place of the meeting.

§ 708a.5 Notice to NCUA.

(a) The credit union must provide the Regional Director for the region where the credit union is located with notice of its intent to convert during the 90 calendar day period preceding the date of the membership vote on the conversion.

(b) The credit union must give notice to the Regional Director by providing a letter describing the material features of the conversion or a copy of the filing the credit union has made with another federal or state regulatory agency in which the credit union seeks that agency's approval of the conversion. The credit union must include with the notice to the Regional Director a copy of the notice the credit union provides to members under § 708a.4, as well as, the ballot form and all written materials the credit union has distributed or intends to distribute to the members.

(c) If it chooses, the credit union may provide the Regional Director notice of its intent to convert prior to the 90 calendar day period preceding the date

of completion of the conversion. In this case, the Regional Director will make a preliminary determination regarding the methods and procedures applicable to the membership vote. The Regional Director will notify the credit union within 30 calendar days of receipt of the credit union's notice of intent to convert if the Regional Director disapproves of the proposed methods and procedures applicable to the membership vote. The credit union's prior submission of the notice of intent does not relieve the credit union of its obligation to certify the results of the membership vote required by § 708a.6 or eliminate the right of the Regional Director to disapprove the actual methods and procedures applicable to the membership vote if the credit union fails to conduct the membership vote in a fair and legal manner.

§ 708a.6 Certification of vote on conversion proposal.

The board of directors of the converting credit union must certify the results of the membership vote to the Regional Director within 10 calendar days after the vote is taken. The board of directors must also certify at this time that the notice, ballot and other written materials provided to members were identical to those submitted pursuant to § 708a.5 or provide copies of any new or revised materials and an explanation of the reasons for the changes.

§ 708a.7 NCUA oversight of methods and procedures of membership vote.

(a) The Regional Director will issue a determination that the methods and procedures applicable to the membership vote are approved or disapproved within 10 calendar days of receipt from the credit union of the certification of the result of the membership vote required under § 708a.6.

(b) If the Regional Director disapproves of the methods by which the membership vote was taken or the procedures applicable to the membership vote, the Regional Director may direct that a new vote be taken.

(c) The Regional Director's review of the methods by which the membership vote was taken and the procedures applicable to the membership vote includes determining that the notice to members is accurate and not misleading, that all notices required by this section were timely, and that the membership vote was conducted in a fair and legal manner.

§ 708a.8 Other regulatory oversight of methods and procedures of membership vote.

The federal or state regulatory agency that will have jurisdiction over the financial institution after conversion must verify the membership vote and may direct that a new vote be taken, if it disapproves of the methods by which the membership vote was taken or the procedures applicable to the membership vote.

§ 708a.9 Completion of conversion.

(a) Upon receipt of approvals under § 708a.7 and § 708a.8 of this part, the credit union may complete the conversion transaction.

(b) Within 30 calendar days after the effective date of the conversion, the board of directors of the mutual savings bank or mutual savings association must certify completion of the transaction to the Regional Director. NCUA will cancel the insurance certificate of the credit union and, if applicable, the charter of the federal credit union.

§ 708a.10 Limit on compensation of officials.

No director or senior management official of an insured credit union may receive any economic benefit in connection with the conversion of the credit union other than compensation and other benefits paid to directors or senior management officials of the converted institution in the ordinary course of business.

[FR Doc. 98-31599 Filed 11-25-98; 8:45 am]

BILLING CODE 7535-01-U

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 932, 935, 936 and 970

[No. 98-48]

RIN 3069-AA75

Community Investment Cash Advance Programs

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is adopting a final rule establishing a general framework under which the Federal Home Loan Banks (Banks) may offer Community Investment Cash Advance (CICA) programs in addition to their Affordable Housing Programs (AHP) and Community Investment Programs (CIP). CICA programs other than AHP and CIP are entirely optional on the part of the Banks. The final rule is intended to provide the Banks with an array of specific standards for projects, targeted

beneficiaries and targeted income levels that the Finance Board has determined support community lending under all CICA programs, including CIP. The final rule, however, does not apply to a Bank's AHP, which is governed specifically by part 960 of the Finance Board's regulations. A Bank may offer CICA programs, called Rural Development Advance (RDA) and Urban Development Advance (UDA) programs, for community lending using the specified standards for targeted beneficiaries or targeted income levels, without prior Finance Board approval. A Bank also may offer other CICA programs for projects, targeted beneficiaries and targeted income levels established by the Bank with prior Finance Board approval.

EFFECTIVE DATE: December 28, 1998.

FOR FURTHER INFORMATION CONTACT: Charles E. McLean, Deputy Director, Market Research, (202) 408-2537, Stanley Newman, Associate Director, Market Research, (202) 408-2812, or Diane E. Dorius, Associate Director, Program Development, (202) 408-2576, Office of Policy; or Roy S. Turner, Jr., Attorney-Advisor, (202) 408-2512, Sharon B. Like, Senior Attorney-Advisor, (202) 408-2930, or Deborah F. Silberman, General Counsel, (202) 408-2570, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

The Banks currently have broad authority under section 10(a) of the Federal Home Loan Bank Act (Bank Act) and part 935 of the Finance Board's regulations to make advances in support of housing finance, including housing for very low-, low- and moderate-income families. See 12 U.S.C. 1430(a); 12 CFR part 935. In the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), Congress required the Banks to offer two programs, the AHP and the CIP, to provide advances in support of unmet housing finance and economic development credit needs. See Pub. L. 101-73, § 721, 103 Stat. 183 (Aug. 9, 1989).

The AHP is a subsidy program through which the Banks support the finance of affordable owner-occupied and rental housing. See 12 U.S.C. 1430(j). The Finance Board first issued implementing regulations for the AHP in 1990. See 12 CFR part 960.

The CIP is a program through which the Banks provide advances to members at cost to support the financing of housing benefiting families with incomes at or below 115 percent of the

area median income, and economic development activities benefiting families with incomes at or below 80 percent of the area median income. See 12 U.S.C. 1430(i)(2). The Finance Board previously has not promulgated regulations implementing the CIP.

Section 10(j)(10) of the Bank Act authorizes the Banks to establish CICA programs in addition to the CIP and the AHP to support "community investment." See *id.* section 1430(j)(10). The Finance Board has not previously promulgated regulations or other specific guidance on what kinds of Bank lending are permitted under this authority.

Since the enactment of the Banks' statutory authority to make advances for community investment under FIRREA, the Banks have provided relatively less long-term credit for economic development projects than for housing, and all of the verifiable targeted economic development lending by the Banks has been done under their CIP authority, as opposed to their authority to establish other CICA programs. In the past eight years, the Banks have provided \$18.1 billion in CIP advances to finance 368,359 housing units. Only 25 percent of those units have been rental units that often provide housing for lower-income families and are usually more difficult to finance than single-family owner-occupied housing. In addition, only \$751 million or 4 percent of CIP advances have financed economic development projects. Furthermore, CIP advances are not available to the Banks' nonmember borrowers. See *id.* section 1430(i)(1).

The Finance Board believes there is a need for long-term financing for economic development that is not being met by the financial community generally, nor by members using the CIP specifically. The Banks can help to meet this need through the establishment of other CICA programs to provide long-term financing for economic development. In order to facilitate and encourage such community lending, the Finance Board issued a proposed rule to establish uniform standards for all CICA programs defining the kinds of housing and economic development projects and activities, targeted beneficiaries and targeted income levels that would constitute "community investment" eligible to be financed by advances under section 10(j)(10) of the Bank Act. This proposed rule was published in the **Federal Register** on May 8, 1998, with a 90-day period for public comment that closed on August 6, 1998. See 63 FR 25718 (May 8, 1998).

The Finance Board received 31 comment letters on the proposed rule. Commenters included: eleven Banks, a Bank board of directors, a Bank member thrift, three Bank Advisory Councils, five government entities, an organization representing government entities, five trade associations, and an investment advisor.

In the proposed rule, the Finance Board requested comment on whether it should establish CICA standards, in whole or in part, in the form of a regulation or a policy statement or guidelines. See 63 FR 25718. The Finance Board asked whether a policy statement or guidelines would be a more effective means of achieving the goal of promoting the Bank's support of community investment financing. Commenters supporting issuance of CICA standards via a regulation stated that the proposed rule contained sufficient flexibility and discretion to enable the Banks to promote community investment in response to the needs of their individual districts. Commenters noted that the establishment of clear and specific CICA standards would be more likely to increase economic development activities in targeted communities, and would make CICA programs easier to implement and monitor. The Finance Board agrees with these commenters and has determined to issue a final rule.

Commenters preferring issuance of a policy statement or guidelines stated that regulatory standards and reporting requirements would increase the cost of implementing CICA programs and might discourage members and others from participating in such programs. Commenters also suggested that policy guidelines could be modified more quickly than a regulation to respond to changing markets and project needs. There appears to be little merit in these arguments. First, the standards and reporting requirements would exist regardless of the form of the guidance. This argument implies that such standards and requirements could be more easily ignored if the guidance existed in the form of a policy statement, since a policy statement is not legally enforceable by the agency. Such arguments only serve to demonstrate why a regulation is preferable to a policy statement. Second, changing a policy statement requires action by the Board of Directors of the Finance Board, as does changing a regulation. The only real difference in timing is the public comment process required for a rulemaking procedure. Once again, this only serves to demonstrate why the regulatory route is preferable.

Under the Administrative Procedures Act (APA), regulations are subject to a wide-ranging notice and public comment process, which enables the regulatory agency to obtain the broadest possible input from the regulated industry, program users, and the public in developing the standards and other requirements to be incorporated into such regulations. See 5 U.S.C. 553. In addition, as noted above, unlike policy statements and guidelines which do not have the force of law and therefore are not legally binding, regulations are legally enforceable by the agency. In order to provide the most certainty for the agency, the Banks and their members, the Finance Board has determined that it is most appropriate to issue the CICA program standards in a regulation rather than as a policy statement or guidelines.

II. Analysis of Final Rule

The final rule adds a new part 970 to the Finance Board's regulations. Part 970 establishes a general framework whereby the Banks may offer CICA programs to provide advances to members and nonmember borrowers, who in turn can use the advances to provide financing for housing and economic development projects or activities for targeted beneficiaries with incomes at or below a targeted income level, to address unmet economic development credit needs. Projects with unmet credit needs are those for which financing is not generally available, or is available at lower levels or under less attractive terms. The final rule does not require a Bank to establish a CICA program (other than AHP and CIP, which are required by statute). The final rule is intended to provide the Banks with the parameters for what the Finance Board has determined will meet the statutory requirement for "community investment" under section 10(j)(10). See 12 U.S.C. 1430(j)(10).

As further described below, the final rule has been substantially reorganized from the proposed rule to provide greater clarity.

A. Scope—§ 970.1

Section 970.1 of the final rule states that part 970 establishes requirements for all CICA programs offered by a Bank, except for a Bank's AHP, which is governed specifically by part 960 of the Finance Board's regulations (Affordable Housing Program Regulation, 12 CFR part 960).

B. Purpose—§ 970.2

Section 970.2 of the final rule states that the purpose of part 970 is to identify community lending projects or

activities (as defined in § 970.3 and discussed further below) that the Banks may support through the establishment of CICA programs. A Bank may offer the following CICA programs in support of community lending: Rural Development Advance (RDA) programs; Urban Development Advance (UDA) programs; and any other CICA programs that meet the requirements of part 970. In addition, a Bank is required to offer CICA programs under section 10(i) of the Bank Act (CIP) (12 U.S.C. 1430(i)), and under section 10(j) of the Bank Act (AHP) (12 U.S.C. 1430(j)).

C. Community Lending Plan—§ 970.4

Section 970.4 of the final rule requires each Bank to develop and adopt an annual Community Lending Plan pursuant to § 936.6 of the Finance Board's Community Lending Regulation (12 CFR 936.6). As further discussed below, a Bank's Community Lending Plan shall contain quantitative community lending performance goals, and the initiatives and incentives the Bank intends to offer to promote community lending and affordable housing finance by the Bank's borrowers.

1. Proposed Budget and Strategy Process

The final rule does not adopt the budget and strategy process for establishing community lending goals that was set forth in the proposed rule. Proposed § 970.3 would have authorized the Banks to establish an annual budget for the cumulative discount the Bank intended to make available under its CIP and other CICA programs (excluding AHP) the Bank established. The budget was to be based on the Bank's projected annual totals of CIP advances and other CICA advances that the Bank intended to make, and the extent to which the Bank intended to provide a pricing discount, if any, for such other CICA advances. If a Bank chose to establish a budget, the Bank was urged to establish standards for allocating the discount among specific types of eligible community lending activities. In the absence of such a budget, the Bank was required to fund requests from qualified borrowers for any advances that otherwise met the requirements of the Bank's CIP or any other CICA program the Bank offered. The proposed rule also would have required each Bank to establish a strategy, after consultation with the Bank's Advisory Council and economic development organizations in the Bank's district, for providing CIP advances to support financing for community lending that is otherwise not generally available, or is available at

lower levels or under less attractive terms.

The proposal was meant to encourage the Banks to engage in a deliberate decisionmaking process about how much community lending credit they intended to make available each year, through their CIP and other CICA programs, and the kinds of projects to which that credit should be directed. As discussed above, the Banks' community lending efforts to date have been through volume lending under the CIP in support of home mortgage loans, to the relative exclusion of economic development financing. The Banks' concentration on volume funding of CIP-eligible home mortgage loans may have been encouraged by the CIP target system established in the past by the Finance Board, which was based on a Bank's average annual outstanding CIP advances. The Finance Board wishes to reverse this trend and to shift the Banks' focus from volume of CIP lending to maximizing the impact of individual advances. The proposed rule made clear that each Bank had authority to determine the appropriate amount of CIP credit to make available on an annual basis. However, the Finance Board believed that the authority to limit the amount of available CIP credit imposed an obligation for the Bank to target how the opportunity cost associated with CIP advances is to be used most effectively in relation to the kinds of CIP projects the Bank funds.

One Bank commenter specifically supported the necessity of having a Bank System-wide basis for determining the dollar value of the discount for specific advances, in order to ensure that all of the Banks budget their cumulative discounts consistently, regardless of the actual CICA programs and discounts offered. The commenter stated that capital limitations should be included as a factor which Banks could consider in the cumulative discount budgeting process, since CIP and other CICA advances must be funded under the statutory 20-to-1 capital leverage limits, just as regular advances are funded. *See id.* section 1426(b)(2). One Bank commenter added that it should be clarified that the Banks are dependent on lenders to decide whether to originate specific types of loans and to finance them with Bank advances and, therefore, the Banks should have flexibility to adjust their budgets in response to changing market realities.

Other commenters stated that the budget dollar amount selected by the Bank would be an inaccurate and unrelated measure of a Bank's commitment to community lending and should not be used by the Finance

Board as a proxy for such lending. Commenters claimed that it would be nearly impossible for the Banks to demonstrate that a CICA advance to support projects is "otherwise not generally available or is available at lower levels or under less attractive terms." A Bank commenter questioned how the Finance Board would treat Banks that do not "spend" all of their annual CICA budget, or spend more or budget less than the Finance Board desires. Another commenter expressed concern that the proposed annual budget requirement could result in a Bank having to make all of its advances at cost, without any profit, which would be burdensome and unworkable. One commenter also noted that the proposed budget requirement could create uncertainty rather than a stable source of discounted funding for eligible projects. For example, if the volume of CICA advances were to decline, discounts offered near the end of the budget period may be more significant than those offered earlier in the year in order for the Banks to fulfill their volume or discount quota under the proposed rule. Conversely, in order to meet volume or discount quota, Banks may offer aggressive discounts early in the year, to the detriment of worthy projects needing funding later in the year that may not receive as favorable terms.

A Bank commenter recommended deletion of the proposed provision that in determining projected annual totals for CIP and other CICA program advances, a Bank should take into account its earnings, fearing that this would become the primary measure for establishing a CICA budget, rather than taking into account market conditions, product demand, and other variables that typically are considered in developing budget projections.

Several Bank commenters suggested that the proposed requirement that the Bank must fund CICA advance requests in the absence of a CICA budget adopted by the Bank be deleted as inconsistent with safe and sound business practices, and contrary to the statutory language granting the Banks' boards of directors discretionary authority to deny or condition approval of an advance. *See id.* section 1429.

Several commenters suggested instead that each Bank's board of directors, in consultation with its Advisory Council, should be required to establish specific annual measurable goals or performance standards for CIP and CICA advances, such as volume targets or dollar targets, based on assessment of critical community lending needs in the Bank's district. One Bank commenter suggested

evaluating a Bank's CICA performance taking into account its marketing efforts, technical assistance activities and other information on CICA programs.

A commenter suggested that the Banks be encouraged to adopt one CICA plan covering the AHP, CIP, Community Support and other CICA programs, rather than separate plans for each program.

A commenter suggested clarification of the need for a CIP strategy statement where the Bank will not be establishing a budget but intends to fund all qualified requests for CIP advances. Several commenters supported requiring consultation with economic development organizations, in addition to Advisory Councils, in developing CIP strategies. Other commenters suggested that consultation with such organizations should be encouraged but not required, as the Advisory Councils are very capable of providing input in the development of CICA programs, and representatives of such organizations often are members of the Advisory Councils.

The Finance Board believes that many of these comments have merit, and has sought in the final rule to address the concerns expressed by the commenters while maintaining the essence of the proposal in a less burdensome manner. Accordingly, the budget and strategy provisions of proposed § 970.3 have not been adopted in the final rule. Instead, a number of the comments have been incorporated into the final rule through amendment of § 936.6 of the Finance Board's Community Support Regulation, as further discussed below.

2. Community Lending Plan

There is already established in the Finance Board's Community Support Regulation (12 CFR 936) a requirement that the Banks provide technical assistance and engage in outreach to their members for affordable housing and certain community lending. *See id.* § 936.6. The final rule amends § 936.6 to require the Banks to expand the scope of the existing marketing activities required under their Community Support Programs to encourage community lending by their borrowers, and include in their Community Support Programs an annual Community Lending Plan containing quantitative community lending performance goals. As further discussed below, "community lending" is defined in the final rule as "providing financing for economic development projects for targeted beneficiaries." *See* § 970.3.

Specifically, the final rule amends §§ 936.6(a) and (b) of the Community Support Regulation (to be codified in

§ 936.6(a)), to provide that a Bank's Community Support Program should:

- (1) Promote and expand affordable housing finance;
- (2) Encourage members to increase their community lending and affordable housing finance activities by providing incentives, as provided therein;
- (3) Include an annual Community Lending Plan, approved by the Bank's board of directors and subject to modification, which shall require the Bank to:
 - (i) Conduct market research in the Bank's district;
 - (ii) Describe how the Bank will address the identified credit needs and market opportunities in the Bank's district for community lending;
 - (iii) Consult with its Advisory Council and with members, nonmember borrowers, and public and private economic development organizations in the Bank's district in developing and implementing its Community Lending Plan; and
 - (iv) Establish quantitative community lending performance goals.

The Community Lending Plan is intended not as a burden, but as a tool to assist the Banks in identifying credit needs and business opportunities within the Bank's district and in crafting viable business responses to those needs and opportunities. Market research is the methodology through which the Banks may discover the opportunities available and thereby may develop an informed Community Lending Plan. No formal methodology is required by the final rule; each Bank, therefore, is responsible for determining what market research activity will be sufficient to enable the Bank to identify the community lending credit needs and market opportunities in its district and develop programs to address those needs and opportunities.

3. CICA Program Information Dissemination

In the proposed rule, the Finance Board requested comment on how information about a Bank's CIP and other CICA programs could best be disseminated to Bank members and nonmember borrowers, as well as to other interested members of the public. See 63 FR 25719. Several commenters stated that existing Bank information dissemination procedures under the Banks' other affordable housing and community lending programs are adequate for CICA purposes. The Finance Board agrees with these commenters and has included in the final rule a CICA information dissemination requirement as a part of the existing Community Support

information dissemination process. Specifically, the final rule amends § 936.6(c) of the Finance Board's Community Support Regulation (to be codified in § 936.6(b)) to require that the Banks provide annually to each of their members a written notice:

- (1) Identifying CICA programs and other Bank activities that may provide opportunities for a member to meet the community support requirements and to engage in community lending; and
- (2) Summarizing community lending and affordable housing activities undertaken by members, nonmember borrowers, nonprofit housing developers, community groups, or other entities in the Bank's district, that may provide opportunities for a member to meet the community support requirements and to engage in community lending.

D. Community Investment Cash Advance Programs—§ 970.5

1. Types of CICA Programs

The final rule defines a "CICA program" as a Bank's AHP, CIP, RDA or UDA program using any combination of the standards specified in § 970.3, and any other program for community lending offered by a Bank using standards other than those specified in § 970.3, with prior Finance Board approval. See § 970.3.

2. "Community Lending"

Section 970.5 of the final rule provides that Bank advances offered under CICA programs must be made for "community lending" and eligible housing projects at the appropriate "targeted income levels." See also 12 CFR 935.1 (as amended by the final rule) (definition of "community investment cash advance"). "Community lending" is a new term in the final rule, which is defined as "providing financing" for "economic development projects" for "targeted beneficiaries." See § 970.3.

In response to a commenter, the Finance Board wishes to clarify that CICA loans may be used for affordable housing, but that only the CIP and AHP CICA programs have targeting requirements for affordable housing under CICA. The fact that CICA loans may be made for targeted economic development financing does not negate the fact that CICA loans also may be made for affordable housing. CICA loans also may be used for mixed-use projects involving both community lending and affordable housing, although only the community lending portion of the project would be subject to targeting under CICA (except for CIP projects).

See § 970.5(b). Nothing in this final rule diminishes the Banks' authority to provide advances to fund loans for affordable housing projects pursuant to their regular advances authority under section 10(a) of the Bank Act. See 12 U.S.C. 1430(a).

In the proposed rule, the Finance Board requested comment on defining targeted income levels for CICA programs based upon area median income data other than that published annually by HUD. See 63 FR 25720. A number of commenters favored allowing the Banks to choose among the median income standards identified in the Finance Board's AHP regulation (12 CFR 960.1). Accordingly, targeted income levels in the final rule are based on the "median income for the area," as defined in § 970.3, consistent with the definition in the AHP regulation, which will provide uniformity between the AHP and other CICA programs. In addition, in response to commenters, the median income for the area may be adjusted for family size, rather than just for a family of four.

The final rule specifically defines the component terms of "community lending," as further discussed below.

a. "Providing financing"

"Providing financing" means:

- (1) Originating loans;
- (2) Purchasing a participation interest, or providing financing to participate, in a loan consortium for CICA-eligible housing or economic development projects;
- (3) Making loans to entities that, in turn, make loans for CICA-eligible housing or economic development projects;
- (4) Purchasing mortgage revenue bonds or mortgage-backed securities, where all of the loans financed by such bonds and all of the loans backing such securities, respectively, meet the eligibility requirements of the CICA program under which the member or nonmember borrower receives an advance;
- (5) Creating or maintaining a secondary market for loans, where all such loans are mortgage loans meeting the eligibility requirements of the CICA program under which the member or nonmember borrower receives an advance;
- (6) Originating CICA-eligible loans within 3 months prior to receiving the CICA advance; or
- (7) purchasing low-income housing tax credits. See § 970.3.

Bank commenters specifically supported the inclusion of purchasing qualifying mortgage revenue bonds and mortgage-backed securities, and creating

or maintaining a secondary market for qualifying loans. The financing techniques listed in paragraphs (2), (3), (6) and (7) were added in response to commenters' suggestions, in order to provide additional flexibility for the Banks to use various financing strategies to support community lending.

A Bank commenter recommended that the proposed list of eligible financing techniques be revised to permit other appropriate activities as determined by the Bank, which the Bank may submit to the Finance Board for approval. The Finance Board believes that the list of eligible activities in the final rule, which has been expanded to include commenters' suggestions, is sufficiently inclusive to take into account anticipated community lending financing.

b. "Economic development projects"

"Economic development projects" are:

(1) Commercial, industrial, manufacturing, social service, and public facility projects and activities; and

(2) Public or private infrastructure projects, such as roads, utilities, and sewers. See § 970.3.

In response to a Bank comment, the final rule adds industrial projects, which were not included in the proposed rule.

c. "Targeted beneficiaries"

"Targeted beneficiaries" are beneficiaries determined by the geographical area in which a project is located (Geographically Defined Beneficiaries), by the individuals who benefit from a project as employees or service recipients (Individual Beneficiaries), or by the nature of the project itself (Activity Beneficiaries). See § 970.3. A list of targeted beneficiaries appeared under the definition of "benefit" in § 970.4 of the proposed rule. Targeted beneficiaries as defined in the final rule are composed of three groups:

(1) Geographically Defined Beneficiaries:

(i) The project is located in a neighborhood with a median income at or below the targeted income level. Thus, for CIP-funded projects, the targeted income level must be 80 percent of area median income; for RDA-funded projects (defined in § 970.3), the targeted income level is 115 percent of area median income; and for UDA-funded projects (defined in § 970.3), the targeted income level is 100 percent of area median income;

(ii) The project is located in a rural Champion Community, or a rural

Empowerment Zone or rural Enterprise Community, as designated by the Secretary of the U.S. Department of Agriculture (USDA);

(iii) The project is located in an urban Champion Community, or an urban Empowerment Zone or urban Enterprise Community, as designated by the Secretary of the Department of Housing and Urban Development (HUD);

(iv) The project is located in an Indian area, as defined by the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*), Alaskan Native Village, or Native Hawaiian Home Land;

(v) The project is located in an area and involves a property eligible for a Brownfield Tax Credit;

(vi) The project is located in an area affected by a military base closing and is a "community in the vicinity of the installation" as defined by the Department of Defense at 32 CFR part 176;

(vii) The project is located in a designated community under the Community Adjustment and Investment Program as defined under 22 U.S.C. 290m-2;

(viii) The project is located in a Federally declared disaster area; or (ix) the project is located in a state declared disaster area, or qualifies for assistance under another Federal or state targeted economic development program, approved by the Finance Board.

One Bank commenter suggested that projects located in state declared disaster areas be included as eligible for CICA advances. Another Bank commenter recommended including state-designated Empowerment and Enterprise Zones in order to provide greater flexibility in addressing local needs of the targeted income group. Other commenters suggested allowing the Banks the discretion to select other areas not listed in the rule that are designated for targeted economic development. In response to these comments, paragraph (ix) was added to enable the Banks to fund projects located in state declared disaster areas, or qualifying for assistance under another Federal or state targeted economic development program not specifically listed in the final rule, with prior approval of the Finance Board. This will enable the Finance Board to determine, on a case-by-case basis, whether specific state declared disaster areas or economic development programs are defined by specific standards and are sufficiently targeted to be considered a CICA program.

(2) Individual Beneficiaries:

(i) The annual salaries for at least 51 percent of the permanent full-and part-

time jobs, computed on a full-time equivalent basis, created or retained by the project, other than construction jobs, are at or below the targeted income level (job creation or retention project); or

(ii) At least 51 percent of the families who otherwise benefit from (other than through employment), or are provided services by, the project have incomes at or below the targeted income level.

The Finance Board requested comment in the proposed rule on whether measuring the salaries of jobs created by a project is an effective way to determine whether the project benefits families with incomes at or below a targeted income level. See 63 FR 25720. Several Bank commenters supported measuring such salaries as a reasonable method of determining whether a project benefits households with incomes at or below a targeted income level. A Bank commenter noted that jobs with modest salaries are typically entry level or for people with limited job skills, and are an important link in upward mobility of low-income people. Other commenters stated that the proposed job salary measure gives the appearance of promoting lower-paying jobs when it would be preferable to promote an increase in the number and quality of employment opportunities, and could prevent worthy projects that could not meet the standard from being eligible for CICA funds.

Some commenters recommended lowering the target for eligible job creation or retention projects from 75 percent in the proposed rule (see 63 FR 25724 (definition of "benefit")) to 50 or 51 percent. Commenters stated that projects meeting the lower standard still would be creating or retaining a significant number of jobs in the community, and would provide more career and income potential and may be more viable, given the mix of incomes, than projects with a higher percentage of the jobs at or below the targeted income level. Commenters stated that a 50 percent standard would maintain consistency with other targets in the proposed rule, as well as with targets used by other Federal housing and economic development programs. One commenter suggested changing the target to a "significant number" of jobs created or retained by the project, with the threshold number determined by each Bank in its community investment-affordable housing plan. Another Bank commenter recommended that the Banks have the discretion to set the target for the number of jobs created or retained by the project, taking into account the individual needs of the Bank's district.

The final rule retains the proposed measure of salaries of jobs created or retained by a project which, as noted by a number of commenters, should be an effective method to determine whether the project benefits families with incomes at or below a targeted income level. However, in response to the comments, the final rule changes the target for job creation or retention projects in the proposed rule from 75 percent to 51 percent of the total number of jobs created or retained. The 51 percent standard should ensure that projects eligible for CICA funding have a substantial number of jobs at the targeted salary level, while not excluding a large number of worthy projects in credit needy areas. The 51 percent standard also is consistent with the targeting requirements of other Federal housing and economic development programs.

(3) Activity Beneficiaries:

Projects that qualify as small businesses, as defined in § 970.3.

(4) Other Targeted Beneficiaries:

A Bank may designate, with the prior approval of the Finance Board, other targeted beneficiaries for its community lending.

A number of commenters were concerned that the list of CICA-eligible projects in the definition of "benefit" in the proposed rule was too limited and did not allow the Banks flexibility to fund other types of worthy projects, thereby limiting innovation by the Banks. The final rule addresses this concern by allowing the Banks, with the prior approval of the Finance Board, to designate other types of projects as eligible for CICA funding.

Section 970.3 of the final rule further provides that only targeted beneficiaries identified in paragraphs (1)(i) through (iv), and (2)(i) and (ii) are eligible for CIP advances. This is necessary in order to ensure satisfaction of the statutory CIP targeting requirements. See 12 U.S.C. 1430(i)(2).

3. AHP

Section 970.5(a)(1) of the final rule reiterates the statutory requirement that each Bank shall offer an AHP, in accordance with part 960 of the Finance Board's regulations. See 12 U.S.C. 1430(j); 12 CFR part 960.

4. CIP

Section 970.5(a)(2) of the final rule provides that each Bank shall offer a CIP, as required by statute (see 12 U.S.C. 1430(i)), to "provide financing" for "housing projects" and for eligible "community lending" at the appropriate "targeted income levels." Under the statute, the Banks are required to

provide funding for members who, in turn, "provide loans" to finance CIP-eligible activities. See *id.* Most of the Banks have implemented this statutory requirement by providing advances to members to fund the origination of loans financing CIP-eligible activities. Consistent with the proposed rule, the final rule adopts a more expansive reading of the meaning of the statutory language authorizing CIP advances to be used by members to "provide loans." See *id.* section 1430(i)(2). Specifically, the final rule authorizes CIP advances and other CICA advances to be used not only to fund CICA-eligible loan originations, but also for other types of financing activities as set forth in the definition of "providing financing" in § 970.3. The Finance Board believes that these are additional means of providing loans for the financing of CIP- and other CICA-eligible activities, in accordance with the intent of the statute, because they create liquidity in the market for CIP- and other CICA-eligible loans.

Section 970.3 of the final rule defines "housing projects" to mean projects or activities that involve the purchase, construction or rehabilitation of, or predevelopment financing for:

(1) Individual owner-occupied housing units, each of which is purchased or owned by a family with an income at or below the targeted income level;

(2) Projects involving multiple units of owner-occupied housing in which at least 51 percent of the units are owned or are intended to be purchased by families with incomes at or below the targeted income level;

(3) Rental housing where at least 51 percent of the units in the project are occupied by, or the rents are affordable to, families with incomes at or below the targeted income level; or

(4) Manufactured housing parks where:

(i) At least 51 percent of the units in the project are occupied by, or the rents are affordable to, families with incomes at or below the targeted income level; or

(ii) The project is located in a neighborhood with a median income at or below the targeted income level.

In response to comments, the final rule adds as eligible CIP projects any projects involving rehabilitation of owner-occupied housing units, construction of rental housing and manufactured housing parks, or predevelopment financing for housing projects, which were omitted from the proposed rule.

The final rule clarifies in paragraph (2) that projects involving multiple units of owner-occupied housing, *i.e.*, condominium, cooperative and single-

family detached housing projects, that meet the 51 percent test are eligible for CIP funding. Thus, single-family detached owner-occupied housing projects with a mix of incomes, Planned Unit Developments, and other mixed income projects, would be eligible for CIP advances.

In response to comments, the final rule changes the requirement in the proposed rule that "substantially all" of the resident families in a manufactured housing park have incomes at or below the targeted incomes, to a requirement that at least 51 percent of the units in the project are occupied by, or the rents are affordable to, families meeting the targeted income level. This makes the occupancy/affordability standard for manufactured housing parks consistent with the 51 percent standard for rental housing projects, and is a clearer standard to meet than the proposed standard.

Most occupants of manufactured housing parks own their homes but rent the space on which their homes are located. Verification of income is not a usual practice in the course of renting space to the owner of a manufactured home. Therefore, it is difficult to verify that the resident families in a manufactured housing park are income-eligible. The criterion in the final rule that the manufactured housing park be located in a neighborhood with a median income at or below the targeted income level is intended as a proxy for the requirement that each resident family be income-eligible.

The "targeted income level" for CICA advances provided under CIP for housing projects and economic development projects is incomes at or below 115 percent and 80 percent of the median income for the area, respectively, both as adjusted for family size in accordance with the methodology of the applicable area median income standard or, at the option of the Bank, for a family of four. See *id.*

5. RDA and UDA Programs

Section 970.5(a)(3) of the final rule provides that each Bank may offer RDA or UDA programs, or both, for community lending using the targeted beneficiaries or targeted income levels specified in § 970.3, without prior Finance Board approval. "RDA programs" and "UDA programs" are programs offered by a Bank for community lending in "rural" or "urban" areas, respectively. See § 970.3. "Targeted income levels" for RDA and UDA programs, where applicable, are incomes at or below 115 percent and 100 percent of the median income for

the area, respectively, both as adjusted for family size in accordance with the methodology of the applicable area median income standard or, at the option of the Bank, for a family of four. See § 970.3. These income limits are higher than those required under CIP or AHP, and are intended to benefit families not targeted by those programs. Due to generally higher median incomes in urban areas, the UDA income eligibility limit, although numerically lower than the RDA income eligibility limit, reaches families with higher incomes.

A number of commenters specifically supported the income limits established for RDA and UDA programs. Several Bank commenters stated that these income limits do not go far enough to address the income level imbalances between rural and urban areas. Several commenters suggested that the RDA and UDA programs both should have the same income limit of 115 percent, on the basis that while income ranges are lower in rural areas, urban areas have higher costs of living. A trade association commenter supported the establishment of such programs generally, but expressed concern that the higher income limits of these programs would divert financing from lower income and minority neighborhoods to neighborhoods where residents are either mostly middle-income or in the upper range of moderate-income. If a Bank determines that the higher income limits of the RDA or UDA programs are not appropriate for a particular CICA program it wishes to offer in its district, under the final rule the Bank may adopt other income limits upon prior Finance Board approval. See § 970.3 (definition of "targeted income level").

Section 970.3 of the final rule defines "urban area" as: (1) a unit of general local government with a population of more than 25,000; or (2) an unincorporated area within a Metropolitan Statistical Area (MSA) that does not qualify for housing or economic development assistance from the USDA.

A Bank commenter recommended that "rural area" be defined as any town with a population of 30,000 that is not attached to a central city. Another Bank commenter suggested deletion of the proposed 30,000 reference, recommending instead that "rural area" be defined as any county located outside an MSA, consistent with the definition in other Federal housing programs. In response to these comments, "rural area" is defined in § 970.3 as: (1) a unit of general local government with a population of 25,000

or less; (2) an unincorporated area outside an MSA; or (3) an unincorporated area within an MSA that qualifies for housing or economic development assistance from the USDA. The population number of 30,000 was changed to 25,000 in order to be consistent with the definition of rural used in USDA housing programs. Paragraph (3) of the definition takes into account a comment that the proposed definition should not have excluded large areas within MSAs that are predominantly rural in nature.

6. Other CICA Programs Requiring Finance Board Approval

Section 970.5(a)(4) of the final rule provides that each Bank may offer CICA programs for community lending using targeted beneficiaries and targeted income levels other than those specified in § 970.3, established by the Bank with the prior approval of the Finance Board. In response to comments, this provision is intended to give the Banks greater flexibility, in response to market needs and demands, to offer CICA programs that may not use one of the enumerated targeted beneficiaries or targeted income levels included in the final rule, to better reflect the needs of the individual Bank's district.

7. Mixed-Use Projects

a. CICA programs other than CIP

Section 970.5(b)(1) of the final rule provides that for projects funded under CICA programs other than CIP, involving a combination of housing projects and economic development projects, only the economic development components of the project must meet the appropriate targeted income level for the respective CICA program.

b. CIP programs

Section 970.5(b)(2) of the final rule provides that for projects funded under CIP, both the housing and economic development components of the project must meet the appropriate targeted income levels. This is necessary to ensure satisfaction of the statutory CIP targeting requirements for housing and economic development projects. See 12 U.S.C. 1430(i)(2).

8. Refinancing

Section 970.5(c) of the final rule provides that CICA advances other than AHP may be used to refinance economic development and housing projects, provided that any equity proceeds of the refinancing of rental housing and manufactured housing park projects are used to rehabilitate the projects or to

preserve affordability for current residents.

A trade association commenter specifically supported allowing the use of CICA advances for refinancing of economic development projects. Several commenters opposed the proposed restriction on the use of CICA advances for refinancing as unnecessary and difficult to enforce from a compliance standpoint. One commenter stated that the restriction in proposed §§ 970.5(d)(2) and 970.7(d) on owner-occupied refinancing would penalize low-income families vis a vis upper-income families who face no such limitations on their right to refinance their homes. The Finance Board agrees that targeted homeowners should be able to take advantage of all the incidents of home ownership, including accessing any equity that has accumulated, that other homeowners may use. Accordingly, the proposed refinancing restriction for owner-occupied housing has been omitted from the final rule. In response to a commenter's request for clarification, the final rule's reference to "any" equity proceeds makes clear that there is no restriction on refinancing that results in no "equity proceeds," *i.e.*, refinancing with no cash out to achieve a lower debt service. The Finance Board believes that the restriction on refinancing of rental housing and manufactured housing park projects is necessary to ensure that occupants of such projects are not adversely affected by a refinancing, such as taking equity out of a project resulting in an increase in rents to cover the repayment of the financing.

9. Pricing and Availability of CICA Advances

a. Advances to members

Consistent with proposed § 970.7(f)(1), § 970.5(d)(1) of the final rule provides that for CICA programs other than AHP and CIP, a Bank shall price advances to members as provided in § 935.6 of the Finance Board's Advances Regulation (12 CFR 935.6), and may price such advances at rates below the price of advances of similar amounts, maturities and terms made pursuant to section 10(a) of the Bank Act (12 U.S.C. 1430(a)). Permitting the Banks to price such CICA advances as regular advances may provide the Banks with a financial incentive to make such advances. Banks still have the option to provide reduced pricing for such advances in order to provide borrowers with a financial incentive to undertake community lending.

b. Pricing of CIP advances

Consistent with the statutory requirement, § 970.5(d)(2) of the final rule provides that the price of CICA advances made under CIP shall not exceed the Bank's cost of issuing consolidated obligations of comparable maturity, taking into account reasonable administrative costs. *See id.* section 1430(i)(1). The CIP pricing provision formerly appeared at § 935.7 of the Finance Board's Advances Regulation (12 CFR 935.7).

Section 970.5(f)(1) of the proposed rule would have allowed the Banks, in pricing CIP advances, to take into account only those administrative costs necessary for the operation of the CIP. A trade association commenter specifically supported this pricing restriction, stating that it would ensure that the prices of CIP advances are lower than prices of other similar regular advances. A Bank commenter pointed out that it currently prices CIP advances by adding a minimal markup based on the overall cost of putting advances on its books, not based on unique CIP costs. The commenter noted that if unique CIP costs are singled out and spread only over the relatively small CIP advances portfolio, the resulting price markup may actually be greater than the current CIP markup. In response to the latter comment, the final rule does not include the pricing restriction of the proposed rule.

In the proposed rule, the Finance Board requested comment on whether the rule should contain a list of factors that could be the basis for deeper CIP discounts by the Banks. *See* 63 FR 25721. The proposed rule noted that several Banks vary CIP pricing based on the kinds of projects being financed and the income levels of the households benefiting from the project, such as projects that benefit families with incomes at or below 80 percent of the area median income. One Bank provided lower pricing for members that have been assigned a rating of outstanding under the Community Reinvestment Act. *See* 12 U.S.C. 2901 *et seq.* A Bank commenter supported inclusion of such a list in the rule in order to provide special incentives for borrowers to use CIP advances for projects that are difficult to develop. A trade association commenter and Bank commenter supported inclusion of a list of such factors in the rule as long as adoption of the factors was optional for the Banks. A number of Bank commenters opposed inclusion of a list of such factors, stating that the adoption of such pricing factors should be left to the discretion of the Banks in order to

ensure greater flexibility and creativity on the part of the Banks.

The Finance Board found these comments to be extremely useful. In response to these comments, § 970.5(d)(6) of the final rule authorizes each Bank to establish a fund (Discount Fund), as discussed further below, which the Bank may use to reduce the price of CIP or CICA advances below the advance prices provided by part 970. The Finance Board believes the Discount Fund authorized by the final rule will be a more productive method of addressing the points raised by the commenters than the inclusion of a list of factors for a Bank to consider contained in the proposal.

c. Pricing of AHP advances

Section 970.5(d)(3) of the final rule provides that a Bank shall price CICA advances made under AHP in accordance with parts 935 and 960 of the Finance Board's regulations (12 CFR parts 935, 960).

d. Advances to nonmember borrowers

Section 970.5(d)(4)(i) of the final rule provides that a Bank may offer advances under CICA programs to nonmember borrowers at the Bank's option, except for AHP and CIP, which are available only to members.

Consistent with proposed § 970.7(f)(2), § 970.5(d)(4)(ii) of the final rule provides that a Bank shall price advances to nonmember borrowers as provided in § 935.24 of the Finance Board's Advances Regulation (12 CFR 935.24), and may price such advances at rates below the price of advances of similar amounts, maturities and terms made pursuant to section 10b of the Bank Act (12 U.S.C. 1430b).

A consumer mortgage trade association and a member thrift expressed their opinion that the Banks do not have authority to provide advances to nonmembers under section 10(j)(10) of the Bank Act. The trade association also stated that the rule would allow the Banks to compete with well-functioning private markets, thereby destabilizing those markets. The Finance Board disagrees.

Section 10(j)(10) of the Bank Act provides that "[n]o provision of this subsection or subsection (i) of this section shall preclude any Bank from establishing *additional* community investment cash advance programs or contributing additional sums to the Affordable Housing Reserve Fund." *See id.* section 1430(j)(10) (emphasis added). While advances under AHP and CIP are restricted by statute to members, section 10(j)(10) states that the Banks may establish "additional" community

investment cash programs, *i.e.*, programs in addition to those specified in the Bank Act. There is nothing in the plain language of section 10(j)(10) to suggest or require that Bank advances under "additional" CICA programs be restricted solely to members. The Finance Board has determined that the statutory language is sufficiently broad to be reasonably interpreted to allow Bank lending to nonmembers, especially since the Banks already are authorized to lend to nonmember borrowers pursuant to section 10b of the Bank Act. *See id.* section 1430b. The final rule does not *require* that the Banks offer CICA programs to nonmember borrowers, but merely provides for such an option, if a Bank should choose to do so.

e. Pricing pass-through

Section 970.5(d)(5) of the final rule provides that a Bank may require that borrowers receiving CICA advances pass through the benefit of any price reduction from regular advance pricing to their borrowers. This provision extends the pricing pass-through option for CIP advances in proposed § 970.5(g) to all CICA advances, which was recommended by a trade association commenter. As suggested by commenters, the benefit of a price reduction may be passed through in a number of ways other than as a reduction in the interest rate on the end loan, such as through reduced fees or downpayment requirements on the end loan.

The statutory provisions governing CIP do not require members that obtain CIP advances to pass on the benefit of the pricing differential between CIP advances and regular Bank advances to the owners or occupants of CIP-financed projects. *See* 12 U.S.C. 1430(i)(1). A 1996 survey of the Banks' CIP pricing policies indicated that two Banks specifically required such a pass-through and four Banks encouraged a pass-through.

f. Discount Fund

As discussed above, the Finance Board in the proposed rule requested comment on whether the rule should contain a list of factors that could be the basis for deeper CIP discounts by the Banks. *See* 63 FR 25721. A number of commenters opposed including an exclusive list of such factors in the rule. In lieu of that approach, § 970.5(d)(6) of the final rule provides that a Bank may establish a Discount Fund which the Bank may use to reduce the price of CIP or other CICA advances below the advance prices provided for by part 970. Price reductions made through the

Discount Fund must be made in accordance with a fair distribution scheme. This authority is intended to encourage the Banks to find sources of income both from within the Bank and from third party partners to be used to reduce the cost of financing for community lending. One Bank currently has established such a fund with monies received from a third party partner which the Bank uses to reduce the cost of CIP advances, with discounts below the CIP rate ranging from 50 to 300 basis points for maturities up to 20 years.

E. Reporting—§ 970.6

Section 970.6(a) of the final rule requires each Bank, by July 1, 1999, to provide to the Finance Board an initial assessment of the credit needs and market opportunities in a Bank's district for community lending.

Section 970.6(b) provides that, effective in 2000, each Bank annually shall provide to the Finance Board, on or before January 31, a Community Lending Plan (as outlined in § 936.6(a) (as amended by this final rule)).

Section 970.6(c) requires each Bank to provide such other reports concerning its CICA programs as the Finance Board may request from time to time.

F. Documentation—§ 970.7

Section 970.7(a) of the final rule provides that each Bank shall require the borrower to certify to the Bank that each project funded by a CICA advance (other than AHP) meets the respective targeting requirements of the CICA program. Such certification shall include a description of how the project meets the requirements, and where appropriate, a statistical summary or list of incomes of the borrowers, rents for the project, or salaries of jobs created or retained. The certification requirement is based on current documentation practices employed by the Banks for their CIPs.

Section 970.7(b) provides that for those CICA-funded projects that also receive funds from another targeted Federal economic development program that has income targeting requirements that are the same as, or more restrictive than, the targeting requirements of the applicable CICA program, the Bank shall permit the borrower to certify that compliance with the criteria of such Federal economic development program will meet the requirements of the respective CICA program.

Section 970.7(c) provides that such certifications shall satisfy the Bank's obligations to document compliance with the CICA lending provisions of part 970. Finance Board examination of the Banks for compliance with part 970

will be satisfied by demonstration of compliance with the documentation requirements of § 970.7. Examination as to whether any Bank's level of community lending is consistent with the carrying out of such Bank's mission would be undertaken pursuant to separate regulatory standards to be developed by the Finance Board in the future.

Several commenters recommended that the rule include specific CICA documentation and monitoring requirements in order to avoid discouraging member participation due to lack of clear requirements as to any reporting and monitoring burdens. Another Bank commenter stated that the proposed rule contained reporting requirements that would discourage program users from participating in CICA programs. The documentation requirements contained in the final rule should provide the clarity requested by the commenter without being so burdensome as to discourage participation by borrowers in CICA programs.

G. Conforming Amendments to the Finance Board's Advances Regulation and Incentive Compensation Regulation

The final rule makes several conforming amendments to other regulations. First, the final rule amends the Finance Board's Advances Regulation in order to make clear that a Bank may make long-term advances for the purpose of financing community lending and affordable housing finance activities that meet the requirements of a CICA program. Specifically, the final rule amends the existing definition of "residential housing finance assets" in § 935.1 of the Advances Regulation to include loans or investments financed by CICA advances. See 12 CFR 935.1 (as amended). The final rule also revises certain provisions of the Advances Regulation regarding the use of long-term advances under the CIP in order to make clear that these provisions apply to all CICA programs, not just the CIP. See *id.* §§ 935.13(a)(5), 935.14(b)(2) (as amended). In addition, the final rule replaces the definition of "Community Investment Program" in the Advances Regulation with a new definition of "Community Investment Cash Advance," which, as discussed above, includes advances made under CICA programs, including the CIP. See *id.* § 935.1.

Second, the final rule replaces a reference to CIP with a reference to CICA in § 932.41(c)(2)(ii) of the Finance Board's Compensation Regulation, see *id.* § 932.41(c)(2)(ii) (as amended by the final rule), and deletes references to

"growth" in the activities to be considered to encourage quality over volume as the appropriate standard.

III. Regulatory Flexibility Act

The final rule applies only to the Banks, which do not come within the meaning of "small entities," as defined in the Regulatory Flexibility Act (RFA). See 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, see *id.* § 605(b), the Finance Board hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects

12 CFR Part 932

Banks, Banking, Conflicts of interest, Elections, Ethical conduct, Federal home loan banks, Financial disclosure, Reporting and recordkeeping requirements.

12 CFR Part 935

Credit, Federal home loan banks, Reporting and recordkeeping requirements.

12 CFR Part 936

Credit, Federal home loan banks, Housing, Reporting and recordkeeping requirements.

12 CFR Part 970

Credit, Federal home loan banks, Housing, Reporting and recordkeeping requirements.

Accordingly, chapter IX, title 12, Code of Federal Regulations, is hereby amended as set forth below:

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 932—ORGANIZATION OF THE BANKS

1. The authority citation for part 932 continues to read as follows:

Authority: 12 U.S.C. 1422a, 1422b, 1426, 1427, 1432; 42 U.S.C. 8101 *et seq.*

2. Amend § 932.41 by revising the first sentence of paragraph (c)(2)(ii) to read as follows:

§ 932.41 Compensation.

* * * * *

(c) *Incentive payments for Bank employees.*

* * * * *

(2) * * *

(ii) At least fifty percent of the Bank President's incentive payment shall be based on the extent to which the Bank meets reasonable numerical performance targets established by the Bank's board of directors related to the

Bank's achievement of its housing finance mission, which shall include substantial consideration of innovative products directed at unmet credit needs, Community Investment Cash Advances (including Community Investment Program advances) as defined in § 935.1 of this chapter, non-advance credit support and risk management products for members, as well as advances, including long-term advances. * * *

PART 935—ADVANCES

1. The authority citation for part 935 continues to read as follows:

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a)(1), 1426, 1429, 1430, 1430b, and 1431.

2. Section 935.1 is amended by adding in alphabetical order the following definition of *Community Investment Cash Advance*, by removing the definition of *Community Investment Program*, and in the definition of *Residential housing finance assets* by republishing the introductory text and revising paragraph (4) to read as follows:

§ 935.1 Definitions.

Community Investment Cash Advance or *CICA* means any advance made through a program offered by a Bank under section 1430 of the Act and parts 960 and 970 of this chapter to provide advances for community lending and affordable housing, including advances made under: a Bank's Rural Development Advance (RDA) program, offered under section 1430(j)(10) of the Act; a Bank's Urban Development Advance (UDA) program, offered under section 1430(j)(10) of the Act; a Bank's Affordable Housing Program (AHP), offered under section 1430(j) of the Act; a Bank's Community Investment Program (CIP), offered under section 1430(i) of the Act; or any other program offered by a Bank that meets the requirements of part 970 of this chapter.

Residential housing finance assets means any of the following:

(4) Loans or investments financed by advances made pursuant to a CICA program;

§ 935.7 [Removed and reserved]

3. Section 935.7 is removed and reserved.

4. Section 935.13 is amended by revising paragraph (a)(5) to read as follows:

§ 935.13 Restrictions on advances to members that are not qualified thrift lenders.

(a) * * *
(5) The requirements of paragraph (a)(2) of this section shall not apply to applications from non-savings association members for CICA advances.

5. Section 935.14 is amended by revising paragraph (b)(2) to read as follows:

§ 935.14 Limitations on long-term advances.

(b) * * *
(2) Applications for CICA advances are exempt from the requirements of paragraph (b)(1) of this section.

PART 936—COMMUNITY SUPPORT REQUIREMENTS

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

Authority: 12 U.S.C. 1422a(3)(B), 1422b(a)(1), 1429, and 1430.

2. Amend § 936.1 by revising paragraphs (g) and (h) to read as follows:

§ 936.1 Definitions.

(g) *CICA* or *Community Investment Cash Advance* has the same meaning as in § 935.1 of this chapter.

(h) *Community lending* has the same meaning as in § 970.3 of this chapter.

3. Amend § 936.5 by revising paragraph (e) to read as follows:

§ 936.5 Restrictions on access to long-term advances.

(e) *CICA*. A member that is subject to a restriction on access to long-term advances under this part shall not be eligible to participate in a CICA program offered under parts 960 and 970 of this chapter. The restriction in this paragraph (e) shall not apply to CICA applications or funding approved before the date the restriction is imposed.

4. Amend § 936.6 by revising paragraphs (a) introductory text, (a)(2) and (a)(4), removing paragraph (b), redesignating paragraph (c) as paragraph (b) and revising it, and adding paragraph (a)(5) to read as follows:

§ 936.6 Bank community support programs.

(a) *Requirement*. Consistent with the safe and sound operation of the Bank, each Bank shall establish and maintain

a community support program. A Bank's community support program shall:

(2) Promote and expand affordable housing finance;

(4) Encourage members to increase their community lending and affordable housing finance activities by providing incentives such as awards or technical assistance to nonprofit housing developers or community groups with outstanding records of participation in community lending or affordable housing finance partnerships with members;

(5) Include an annual Community Lending Plan, approved by the Bank's board of directors and subject to modification, which shall require the Bank to:

- (i) Conduct market research in the Bank's district;
 - (ii) Describe how the Bank will address identified credit needs and market opportunities in the Bank's district for community lending;
 - (iii) Consult with its Advisory Council and with members, nonmember borrowers, and public and private economic development organizations in the Bank's district in developing and implementing its Community Lending Plan; and
 - (iv) Establish quantitative community lending performance goals.
- (b) *Notice*. A Bank shall provide annually to each of its members a written notice:

(1) Identifying CICA programs and other Bank activities that may provide opportunities for a member to meet the community support requirements and to engage in community lending; and

(2) Summarizing community lending and affordable housing activities undertaken by members, nonmember borrowers, nonprofit housing developers, community groups, or other entities in the Bank's district, that may provide opportunities for a member to meet the community support requirements and to engage in community lending.

5. Revise § 936.7 to read as follows:

§ 936.7 Reports.

Each Advisory Council annual report required to be submitted to the Finance Board pursuant to section 10(j)(11) of the Act shall include an analysis of the Bank's community lending and affordable housing activities.

6. Subchapter F, consisting of part 970, is added to chapter IX to read as follows:

SUBCHAPTER F—COMMUNITY INVESTMENT

PART 970—Community Investment Cash Advance Programs

- Sec.
 970.1 Scope.
 970.2 Purpose.
 970.3 Definitions.
 970.4 Community Lending Plan.
 970.5 Community Investment Cash Advance Programs.
 970.6 Reporting.
 970.7 Documentation.

Authority: 12 U.S.C. 1422b(a)(1) and 1430.

§ 970.1 Scope.

Section 10(j)(10) of the Act authorizes the Banks to offer Community Investment Cash Advance (CICA) programs. (See 12 U.S.C. 1430(j)(10)). This part establishes requirements for all CICA programs offered by a Bank, except for a Bank's Affordable Housing Program (AHP), which is governed specifically by part 960 of this chapter.

§ 970.2 Purpose.

The purpose of this part is to identify community lending projects that the Banks may support through the establishment of CICA programs under section 10(j)(10) of the Act. (12 U.S.C. 1430(j)(10)). Pursuant to this part, a Bank may offer Rural Development Advance (RDA) or Urban Development Advance (UDA) programs, or both, for community lending using the targeted beneficiaries or targeted income levels specified in § 970.3 of this part, without prior Finance Board approval. A Bank also may offer other CICA programs for community lending using targeted beneficiaries and targeted income levels other than those specified in § 970.3 of this part, established by the Bank with the prior approval of the Finance Board. In addition, a Bank shall offer CICA programs under section 10(i) of the Act (Community Investment Program (CIP), 12 U.S.C. 1430(i)), and section 10(j) of the Act (Affordable Housing Program (AHP), 12 U.S.C. 1430(j)).

§ 970.3 Definitions.

As used in this part:

Act means the Federal Home Loan Bank Act, as amended (12 U.S.C. 1421 *et seq.*).

Advance has the same meaning as in § 935.1 of this chapter.

AHP means the Affordable Housing Program, the CICA program required to be offered pursuant to section 10(j) of the Act (12 U.S.C. 1430(j)) and part 960 of this chapter.

Bank means a Federal Home Loan Bank established under the authority of the Act.

Board of Directors means the Board of Directors of the Finance Board.

Champion Community means a community which developed a strategic plan and applied for designation by either the Secretary of HUD or the Secretary of the USDA as an Empowerment Zone or Enterprise Community, but was designated a Champion Community.

CICA or *Community Investment Cash Advance* has the same meaning as in § 935.1 of this chapter.

CICA program or *Community Investment Cash Advance program* means:

- (1) A Bank's AHP;
- (2) A Bank's CIP;
- (3) REA Bank's RDA program or UDA program using any combination of the targeted beneficiaries and targeted income levels specified in § 970.3 of this part; and
- (4) Any other program offered by a Bank using targeted beneficiaries and targeted income levels other than those specified in § 970.3 of this part, established by the Bank with the prior approval of the Finance Board.

CIP means the Community Investment Program, a CICA program required to be offered pursuant to section 10(i) of the Act (12 U.S.C. 1430(i)).

Community lending means providing financing for economic development projects for targeted beneficiaries.

Economic development projects means:

- (1) Commercial, industrial, manufacturing, social service, and public facility projects and activities; and
- (2) Public or private infrastructure projects, such as roads, utilities, and sewers.

Family means one or more persons living in the same dwelling unit.

Finance Board means the agency established as the Federal Housing Finance Board.

Housing projects means projects or activities that involve the purchase, construction or rehabilitation of, or predevelopment financing for:

- (1) Individual owner-occupied housing units, each of which is purchased or owned by a family with an income at or below the targeted income level;
- (2) Projects involving multiple units of owner-occupied housing in which at least 51% of the units are owned or are intended to be purchased by families with incomes at or below the targeted income level;
- (3) Rental housing where at least 51% of the units in the project are occupied by, or the rents are affordable to, families with incomes at or below the targeted income level; or

(4) Manufactured housing parks where:

- (i) At least 51% of the units in the project are occupied by, or the rents are affordable to, families with incomes at or below the targeted income level; or
- (ii) The project is located in a neighborhood with a median income at or below the targeted income level.

HUD means the United States Department of Housing and Urban Development.

Median income for the area. (1) *Owner-occupied housing projects and economic development projects*. For purposes of owner-occupied housing projects and economic development projects, median income for the area means one or more of the following, as determined by the Bank:

- (i) The median income for the area, as published annually by HUD;
- (ii) The applicable median family income, as determined under 26 U.S.C. 143(f) (Mortgage Revenue Bonds) and published by a State agency or instrumentality;

(iii) The median income for the area, as published by the USDA; or

(iv) The median income for any definable geographic area, as published by a Federal, state, or local government entity for purposes of that entity's housing and economic development programs, and approved by the Board of Directors, at the request of a Bank, for use under the Bank's CICA programs.

(2) *Rental housing projects*. For purposes of rental housing projects, median income for the area means one or more of the following, as determined by the Bank:

(i) The median income for the area, as published annually by HUD; or

(ii) The median income for any definable geographic area, as published by a Federal, state, or local government entity for purposes of that entity's housing programs, and approved by the Board of Directors, at the request of a Bank, for use under the Bank's CICA programs.

Member means an institution that has been approved for membership in a Bank and has purchased capital stock in the Bank in accordance with §§ 933.20 and 933.25 of this chapter.

MSA means a Metropolitan Statistical Area as designated by the Office of Management and Budget.

Neighborhood means:

- (1) A census tract or block numbering area;
- (2) A unit of local government with a population of 25,000 or less;
- (3) A rural county; or
- (4) A geographic location designated in comprehensive plans, ordinances, or other local documents as a

neighborhood, village, or similar geographic designation that is within the boundary of but does not encompass the entire area of a unit of general local government.

Nonmember borrower means an entity that has been approved as a nonmember mortgagee pursuant to Subpart B of part 935 of this chapter.

Provide financing means:

- (1) Originating loans;
- (2) Purchasing a participation interest, or providing financing to participate, in a loan consortium for CICA-eligible housing or economic development projects;
- (3) Making loans to entities that, in turn, make loans for CICA-eligible housing or economic development projects;
- (4) Purchasing mortgage revenue bonds or mortgage-backed securities, where all of the loans financed by such bonds and all of the loans backing such securities, respectively, meet the eligibility requirements of the CICA program under which the member or nonmember borrower receives an advance;
- (5) Creating or maintaining a secondary market for loans, where all such loans are mortgage loans meeting the eligibility requirements of the CICA program under which the member or nonmember borrower receives an advance;
- (6) Originating CICA-eligible loans within 3 months prior to receiving the CICA advance; and
- (7) Purchasing low-income housing tax credits.

RDA or Rural Development Advance means an advance made pursuant to an RDA program.

RDA program or Rural Development Advance program means a program offered by a Bank for community lending in rural areas.

Rural area means:

- (1) A unit of general local government with a population of 25,000 or less;
- (2) An unincorporated area outside an MSA; or
- (3) An unincorporated area within an MSA that qualifies for housing or economic development assistance from the USDA.

Small business means a "small business concern," as that term is defined by section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and implemented by the Small Business Administration under 13 CFR part 121, or any successor provisions.

Targeted beneficiaries means beneficiaries determined by the geographical area in which a project is located (Geographically Defined Beneficiaries), by the individuals who

benefit from a project as employees or service recipients (Individual Beneficiaries), or by the nature of the project itself (Activity Beneficiaries), as follows:

(1) Geographically Defined Beneficiaries:

- (i) The project is located in a neighborhood with a median income at or below the targeted income level;
- (ii) The project is located in a rural Champion Community, or a rural Empowerment Zone or rural Enterprise Community, as designated by the Secretary of the USDA;
- (iii) The project is located in an urban Champion Community, or an urban Empowerment Zone or urban Enterprise Community, as designated by the Secretary of HUD;
- (iv) The project is located in an Indian area, as defined by the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*), Alaskan Native Village, or Native Hawaiian Home Land;
- (v) The project is located in an area and involves a property eligible for a Brownfield Tax Credit;
- (vi) The project is located in an area affected by a military base closing and is a "community in the vicinity of the installation" as defined by the Department of Defense at 32 CFR part 176;
- (vii) The project is located in a designated community under the Community Adjustment and Investment Program as defined under 22 U.S.C. 290m-2;
- (viii) The project is located in a Federally declared disaster area; or
- (ix) The project is located in a state declared disaster area, or qualifies for assistance under another Federal or state targeted economic development program, approved by the Finance Board.

(2) Individual Beneficiaries:

- (i) The annual salaries for at least 51% of the permanent full- and part-time jobs, computed on a full-time equivalent basis, created or retained by the project, other than construction jobs, are at or below the targeted income level; or
- (ii) At least 51% of the families who otherwise benefit from (other than through employment), or are provided services by, the project have incomes at or below the targeted income level.

(3) Activity Beneficiaries: Projects that qualify as small businesses.

(4) Other Targeted Beneficiaries. A Bank may designate, with the prior approval of the Finance Board, other targeted beneficiaries for its community lending.

(5) Only targeted beneficiaries identified in paragraphs (1)(i) through

(1)(iv), and (2)(i) and (2)(ii) of this definition are eligible for CIP advances.

Targeted income level means:

- (1) For rural areas, incomes at or below 115 percent of the median income for the area, as adjusted for family size in accordance with the methodology of the applicable area median income standard or, at the option of the Bank, for a family of four;
- (2) For urban areas, incomes at or below 100 percent of the median income for the area, as adjusted for family size in accordance with the methodology of the applicable area median income standard or, at the option of the Bank, for a family of four;
- (3) For CICA advances provided under CIP:
 - (i) For economic development projects, incomes at or below 80 percent of the median income for the area; or
 - (ii) For housing projects, incomes at or below 115 percent of the median income for the area, both as adjusted for family size in accordance with the methodology of the applicable area median income standard or, at the option of the Bank, for a family of four; or
- (4) For CICA advances provided under any other CICA program offered by a Bank, a targeted income level established by the Bank with the prior approval of the Finance Board.

UDA or Urban Development Advance means an advance made pursuant to a UDA program.

UDA program or Urban Development Advance program means a program offered by a Bank for community lending in urban areas.

Urban area means:

- (1) A unit of general local government with a population of more than 25,000; or
- (2) An unincorporated area within an MSA that does not qualify for housing or economic development assistance from the USDA.

USDA means the United States Department of Agriculture.

§ 970.4 Community Lending Plan

Each Bank shall develop and adopt an annual Community Lending Plan pursuant to § 936.6 of this chapter.

§ 970.5 Community Investment Cash Advance Programs.

(a) *In general.*

(1) Each Bank shall offer an AHP in accordance with part 960 of this chapter.

(2) Each Bank shall offer a CIP to provide financing for housing projects and for eligible community lending at the appropriate targeted income levels.

(3) Each Bank may offer RDA programs or UDA programs, or both, for

community lending using the targeted beneficiaries or targeted income levels specified in § 970.3 of this part, without prior Finance Board approval.

(4) Each Bank may offer CICA programs for community lending using targeted beneficiaries and targeted income levels other than those specified in § 970.3 of this part, established by the Bank with the prior approval of the Finance Board.

(b) *Mixed-use projects.* (1) For projects funded under CICA programs other than CIP, involving a combination of housing projects and economic development projects, only the economic development components of the project must meet the appropriate targeted income level for the respective CICA program.

(2) For projects funded under CIP, both the housing and economic development components of the project must meet the appropriate targeted income levels.

(c) *Refinancing.* CICA advances other than AHP may be used to refinance economic development projects and housing projects, provided that any equity proceeds of the refinancing of rental housing and manufactured housing parks are used to rehabilitate the projects or to preserve affordability for current residents.

(d) *Pricing and Availability of CICA advances.*

(1) *Advances to members.* For CICA programs other than AHP and CIP, a Bank shall price advances to members as provided in § 935.6 of this chapter, and may price such advances at rates below the price of advances of similar amounts, maturities and terms made pursuant to section 10(a) of the Act. (12 U.S.C. 1430(a)).

(2) *Pricing of CIP advances.* The price of CICA advances made under CIP shall not exceed the Bank's cost of issuing consolidated obligations of comparable maturity, taking into account reasonable administrative costs.

(3) *Pricing of AHP advances.* A Bank shall price CICA advances made under AHP in accordance with parts 935 and 960 of this chapter.

(4) *Advances to nonmember borrowers.* (i) A Bank may offer advances under CICA programs to nonmember borrowers at the Bank's option, except for AHP and CIP, which are available only to members.

(ii) A Bank shall price advances to nonmember borrowers as provided in § 935.24 of this chapter, and may price such advances at rates below the price of advances of similar amounts, maturities and terms made pursuant to section 10b of the Act. (12 U.S.C. 1430b).

(5) *Pricing pass-through.* A Bank may require that borrowers receiving CICA advances pass through the benefit of any price reduction from regular advance pricing to their borrowers.

(6) *Discount Fund.* (i) A Bank may establish a fund which the Bank may use to reduce the price of CIP or other CICA advances below the advance prices provided for by this part.

(ii) Price reductions made through the Discount Fund shall be made in accordance with a fair distribution scheme.

§ 970.6 Reporting.

(a) By July 1, 1999, each Bank shall provide to the Finance Board an initial assessment of the credit needs and market opportunities in a Bank's district for community lending.

(b) Effective in 2000, each Bank annually shall provide to the Finance Board, on or before January 31, a Community Lending Plan.

(c) Each Bank shall provide such other reports concerning its CICA programs as the Finance Board may request from time to time.

§ 970.7 Documentation.

(a) A Bank shall require the borrower to certify to the Bank that each project funded by a CICA advance (other than AHP) meets the respective targeting requirements of the CICA program. Such certification shall include a description of how the project meets the requirements, and where appropriate, a statistical summary or list of incomes of the borrowers, rents for the project, or salaries of jobs created or retained.

(b) For those CICA-funded projects that also receive funds from another targeted Federal economic development program that has income targeting requirements that are the same as, or more restrictive than, the targeting requirements of the applicable CICA program, the Bank shall permit the borrower to certify that compliance with the criteria of such Federal economic development program will meet the requirements of the respective CICA program.

(c) Such certifications shall satisfy the Bank's obligations to document compliance with the CICA lending provisions of this part.

Dated: October 28, 1998.

By the Board of Directors of the Federal Housing Finance Board.

Bruce A. Morrison,
Chairman.

[FR Doc. 98-31489 Filed 11-25-98; 8:45 am]

BILLING CODE 6725-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-SW-05-AD; Amendment 39-10918; AD 98-24-32]

RIN 2120-AA64

Airworthiness Directives; Eurocopter France Model AS-365N2, SA-360C, SA-365C, C1, C2, N, N1, and SA-366G1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Eurocopter France Model AS-365N2, SA-360C, SA-365C, C1, C2, N, N1, and SA-366G1 helicopters. This action requires inspecting for broken or out-of-tolerance attachment springs on the tail rotor hub fairing (fairing), replacing broken attachment springs and attachment springs that are out-of-tolerance, and marking the fairing to indicate compliance with this AD. This amendment is prompted by three in-service reports of failed attachment springs. The actions specified in this AD are intended to prevent failure of an attachment spring, which could cause loss of the fairing, damage to the tail rotor, and subsequent loss of control of the helicopter.

DATES: Effective December 14, 1998.

Comments for inclusion in the Rules Docket must be received on or before January 26, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98-SW-05-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

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: The Direction Generale De L'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Eurocopter France Model AS-365N2, SA-360C, SA-365C, C1, C2, N, N1, and SA-366G1 helicopters. The DGAC advises that inspecting for broken or out-of-tolerance attachment springs on the fairing, replacing broken attachment springs and attachment

springs that are out-of-tolerance, and marking the fairing are necessary due to reports of broken attachment springs.

Eurocopter France has issued SA-360C, SA-365C, C1, C2 Service Bulletin No. 01.34, dated 96-14(N); SA-365N Service Bulletin No. 01.00.43, dated 96-14(N); SA-365N1, AS-365N2 Service Bulletin No. 01.00.42, dated 96-14(N), and SA-366G1 Service Bulletin No. 01.22, dated 96-14(N). These service bulletins specify several actions regarding the fairing and attachment springs. The DGAC classified these service bulletins as mandatory and issued AD 95-107-039(B)R1 and AD 95-112-040(B), both dated June 7, 1995, and AD 95-108-018(B), dated May 24, 1995, in order to assure the continued airworthiness of these helicopters in France.

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

Since an unsafe condition has been identified that is likely to exist or develop on other Model AS-365N2, SA-360C, SA-365C, C1, C2, N, N1, and SA-366G1 helicopters of the same type design registered in the United States, this AD is being issued to prevent failure of the attachment springs which could cause loss of the tail rotor hub fairing, damage to the tail rotor, and subsequent loss of control of the helicopter. This AD requires inspecting for broken or out-of-tolerance attachment springs on the fairing, replacing broken attachment springs and those that are out-of-tolerance, and marking the fairing with an "X" by the fairing part number to indicate compliance.

The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability of the helicopter. Therefore, the inspections, replacement, and marking are required prior to further flight, and this AD must be issued immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment

hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

The FAA estimates that 135 helicopters of U.S. registry will be affected by this AD, that it will take 1.5 work hours per helicopter to accomplish the actions, and that the average labor rate is \$60 per work hour. Required parts will cost approximately \$988 per helicopter. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be \$145,530.

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-05-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, 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 a new airworthiness directive to read as follows:

AD 98-24-32 Eurocopter France:

Amendment 39-10918. Docket No. 98-SW-05-AD.

Applicability: Model AS-365N2, SA-360C, SA-365C, C1, C2, N, N1, and SA-366G1, 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 (e) 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 failure of an attachment spring (spring), which could cause loss of the tail

rotor hub fairing (fairing), damage to the tail rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight with fairing, part number (P/N) 360A33-1079-01, installed, that has modification 365A07-64B20 incorporated but is not marked with an "X" after the part number:

(1) Remove the six fairing attachment bolts (bolts), then remove the fairing from the helicopter.

(2) Inspect for broken springs, especially in the rounded sections at the rotor hub groove (Point A, Figure 1).

BILLING CODE 4910-13-U

FIGURE 1
CORRECT INSTALLATION

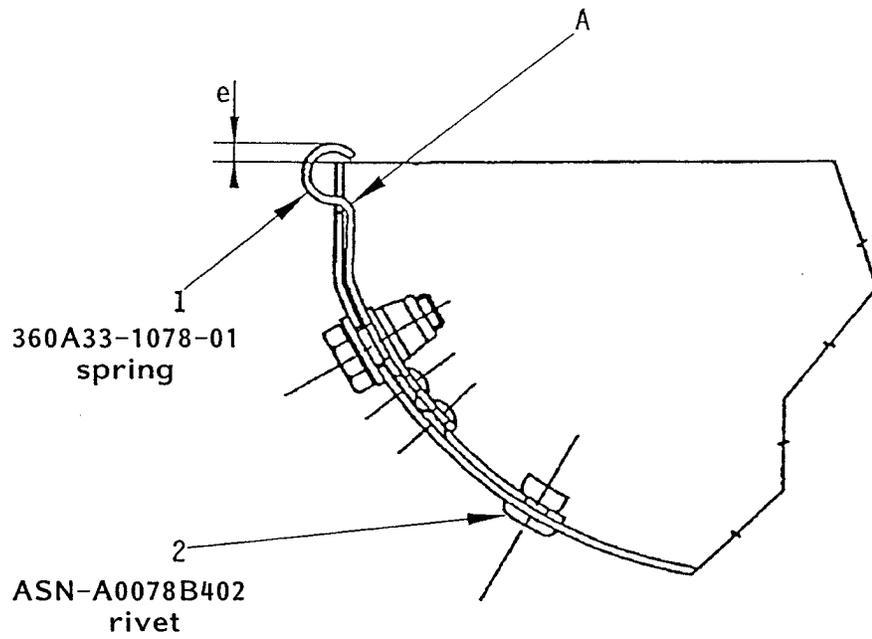
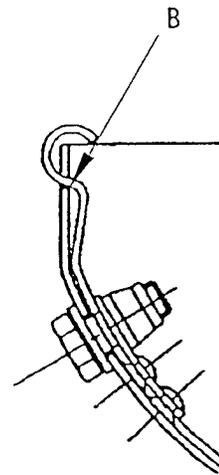


FIGURE 2
INCORRECT INSTALLATION



(3) If any broken springs are discovered, replace them with airworthy springs using the procedure specified in paragraph (b) of this AD.

(4) Lubricate the threads with NATO 156 oil, then reinstall the six bolts, torqued to 0.4–0.5 m.daN (35.3–44.2 in.-lbs.).

(5) Inspect for interference between the spring and the fairing (Point B, Figure 2), and replace any spring that exhibits such interference in accordance with the procedure specified in paragraph (b) of this AD.

(6) Measure the outward axial protrusion (Dimension e, Figure 1), for each spring. If the protrusion dimension obtained from the measurement required by paragraph (a)(6) of this AD is less than 1mm (0.039-inches), or greater than 2.7mm (0.106 inches), either

(i) replace the spring with an airworthy spring before further flight or,

(ii) inspect the out-of-tolerance spring(s) in accordance with paragraph (a)(2) before the first flight of each day until each spring is replaced with an airworthy spring. Any out-of-tolerance spring must be replaced with an airworthy spring within 25 hours time-in-service (TIS).

(b) Replace a broken or out-of-tolerance spring as follows:

(1) Remove the spring attachment rivet.

(2) Temporarily install an airworthy spring, P/N 360A33-1078-01, and verify that the axial protrusion (Dimension e, Figure 1) is within tolerance and that no interference (see Figure 2) exists.

(3) Permanently secure the new spring to the fairing with one ASN-A0078B402 rivet, coated with Mastinox 6856KD150-2, and installed with the rivet head on the outside of the fairing (see Figure 1).

(4) Mark an "X" after the fairing part number using indelible ink after completing all inspections and spring replacements, as required.

(c) Reinstall the fairing.

(d) If one or more springs are replaced, rebalance the tail rotor head.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(f) Special flight permits will not be issued.

(g) This amendment becomes effective on December 14, 1998.

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 95-107-039(B)R1 and AD 95-112-040(B), both dated June 7, 1995, and AD 95-108-018(B), dated May 24, 1995.

Issued in Fort Worth, Texas, on November 19, 1998.

Eric Bries,

*Acting Manager, Rotorcraft Directorate,
Aircraft Certification Service.*

[FR Doc. 98-31589 Filed 11-25-98; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 742 and 744

[Docket No. 98-1019261-8261-01]

RIN 0694-AB73

Correction to: India and Pakistan Sanctions and Other Measures

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule; correction.

SUMMARY: On November 19, 1998, (63 FR 64322) the Bureau of Export Administration published an interim rule revising the Export Administration Regulations (EAR) to codify sanctions against India and Pakistan by setting forth a licensing policy of denial for exports and reexports of items controlled for nuclear nonproliferation and missile technology reasons to India and Pakistan, with limited exceptions. This licensing policy was adopted in practice in existing regulations in June 1998. This rule also contained certain discretionary measures. BXA added to the Entities List set forth in the EAR certain Indian and Pakistani government, parastatal, and private entities determined to be involved in nuclear or missile activities. In addition, Indian and Pakistani military entities were added to the Entity List in order to supplement the sanctions. BXA adopted a licensing policy of a presumption of denial with respect to items specifically listed on the Commerce Control List to listed Indian and Pakistani military entities, with limited exceptions.

This document corrects an inadvertent error in codification related to the Entity List, specifically the entity Wah Munitions Plant.

EFFECTIVE DATE: This correction is effective November 27, 1998.

FOR FURTHER INFORMATION CONTACT: Sharron Cook, Regulatory Policy Division, Bureau of Export Administration, Telephone: (202) 482-2440.

SUPPLEMENTARY INFORMATION: In the interim rule of November 19, 1998 (63 FR 64322), FR Doc. 98-1019261-8261-01, make the following corrections to

Supplement No. 4 to part 744, Entity List:

PART 744—[CORRECTED]

Supplement No. 4 [Corrected]

1. On page 64341, in the third column of the Entity List table, in the row for Wah Munitions Plant, a.k.a. Explosives Factory, Pakistan Ordnance Factories (POF), correct the phrase, "For all items subject to the EAR having a classification other than EAR99." to read "For all items subject to the EAR."

Dated: November 23, 1998.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 98-31666 Filed 11-25-98; 8:45 am]

BILLING CODE 3510-33-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 522

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the change of sponsor for one approved abbreviated new animal drug application (ANADA) from American Veterinary Products, Inc., to Veterinary Research Associates, Inc.

EFFECTIVE DATE: November 27, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV-102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-0213.

SUPPLEMENTARY INFORMATION: American Veterinary Products, Inc., 749 South Lemay, suite A3-231, Fort Collins, CO 80524, has informed FDA that it has transferred the ownership of, and all rights and interests in, the approved ANADA 200-073 (ketamine hydrochloride) to Veterinary Research Associates, Inc., 20 Old Dock Rd., Yaphank, NY 11980. Accordingly, the agency is amending the regulations in 21 CFR 522.1222a. The agency is also amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) by removing American Veterinary Products, Inc., because the firm is no longer the sponsor of any approved ANADA's, and by alphabetically adding a new listing for Veterinary Research Associates, Inc.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 522

Animal drugs.
Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to

the Center for Veterinary Medicine, 21 CFR parts 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by removing the entry for "American Veterinary

Products, Inc.," and by alphabetically adding an entry for "Veterinary Research Associates, Inc.," and in the table in paragraph (c)(2) by removing the entry for "045984" and by numerically adding an entry for "064408" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *
(c) * * *
(1) * * *

Firm name and address	Drug labeler code
* * * Veterinary Research Associates, Inc., 20 Old Dock Rd., Yaphank, NY 11980 * * *	* * * 064408 * * *

(2) * * *

Drug labeler code	Firm name and address
* * * 064408 * * *	* * * Veterinary Research Associates, Inc., 20 Old Dock Rd., Yaphank, NY 11980 * * *

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 522 continues to read as follows:

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

§ 522.1222a [Amended]

4. Section 522.1222a *Ketamine hydrochloride injection* is amended in paragraph (c) by removing the phrase "045984, 059130, and 061690" and adding in its place "059130, 061690, and 064408".

Dated: October 29, 1998.

Margaret Ann Miller,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.
[FR Doc. 98-31574 Filed 11-25-98; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs For Use In Animal Feeds; Chlortetracycline, Salinomycin, and Roxarsone

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two abbreviated new animal drug applications (ANADA's) filed by Alpharma Inc. The ANADA's provide for using approved chlortetracycline, salinomycin, and roxarsone Type A medicated articles to make Type C medicated broiler chicken feeds used for prevention of coccidiosis and as an aid in the reduction of mortality due to *Escherichia coli* infections.

EFFECTIVE DATE: November 27, 1998.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV-102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20852, 301-827-0209.

SUPPLEMENTARY INFORMATION: Alpharma Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, is sponsor of ANADA's 200-259 and 200-260 that provide for combining approved ChlorMax™ (50, 65, or 70 grams per pound (g/lb) chlortetracycline), Sacox® or Bio-Cox® (30 or 60 g/lb salinomycin sodium), and 3-Nitro® (10, 20, or 50 percent roxarsone) Type A medicated articles to make Type C medicated broiler feeds containing chlortetracycline 500 grams per ton (g/t), salinomycin 40 to 60 g/t, and roxarsone 45.4 g/t. The Type C medicated feed is used for the prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*, including some field strains of *E. tenella* that are more susceptible to roxarsone combined with salinomycin than salinomycin alone, and as an aid in the reduction of mortality due to *E.*

coli infections susceptible to such treatment.

Alpharma Inc.'s ANADA 200-259 is approved as a generic copy of Hoechst-Roussel's ANADA 200-091. Alpharma Inc.'s ANADA 200-260 is approved as a generic copy of Roche Vitamins, Inc.'s NADA 140-867. Alpharma Inc.'s ANADA's 200-259 and 200-260 are approved as of September 21, 1998, and 21 CFR 558.550(a)(3) is added and paragraph (d)(1)(xv) is amended to reflect the approvals. The basis for approval is discussed in the freedom of information summaries.

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

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

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

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

2. Section 558.550 is amended by revising paragraph (a) and the last sentence in paragraph (d)(1)(xv)(c) to read as follows:

§ 558.550 Salinomycin.

(a) *Approvals.* Type A medicated articles containing 30 or 60 grams of salinomycin activity per pound (as salinomycin sodium biomass) as follows:

(1) To 063238 in § 510.600(c) of this chapter for use as in paragraph (d) of this section.

(2) To 012799 for use as in paragraphs (d)(1)(i), (d)(1)(iii) through (d)(1)(xvi), and (d)(3)(i) through (d)(3)(iii) of this section.

(3) To 046573 for use as in paragraph (d)(1)(xv) of this section.

(d) * * * * *
(1) * * * * *
(xv) * * * * *
(c) * * * Chlortetracycline as provided by Nos. 046573 and 063238 and roxarsone as provided by No. 046573 in § 510.600(c) of this chapter.

* * * * *

Dated: November 12, 1998.

Stephen F. Sundlof,
Director, Center for Veterinary Medicine.
[FR Doc. 98-31575 Filed 11-25-98; 8:45 am]
BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Chlortetracycline

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Roche Vitamins, Inc. The supplemental NADA provides for a zero-day withdrawal period for use of 500 grams per ton (g/t) chlortetracycline (CTC) Type C medicated chicken feeds.

EFFECTIVE DATE: November 27, 1998.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV-102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-0212.

SUPPLEMENTARY INFORMATION: Roche Vitamins, Inc., 45 Waterview Blvd., Parsippany, NJ 07054-1298, filed supplemental NADA 48-761 that provides for use of Aureomycin® (CTC) Type A medicated articles to make 500 g/t CTC Type C chicken feeds. The 500 g/t CTC Type C chicken feeds are used for 5 days for reduction of mortality due to CTC susceptible *Escherichia coli* infections. The supplement provides for reducing the 24-hour withdrawal period to a zero-day slaughter withdrawal period. The supplemental NADA is approved as of October 26, 1998, and the regulations in 21 CFR 558.128(d)(1)(viii) are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part

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

The agency has determined under 21 CFR 25.33(a)(3) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

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

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

§ 558.128 [Amended]

2. Section 558.128 *Chlortetracycline* is amended in the table in paragraph (d)(1) in the entry for "(viii) 500 g/ton" under the column "Limitations" by removing the phrase "; withdraw 24 h prior to slaughter".

Dated: November 16, 1998.

Andrew J. Beaulieu,
Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.
[FR Doc. 98-31572 Filed 11-25-98; 8:45 am]
BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 807

[Docket No. 98N-0520]

Medical Devices; Establishment Registration and Device Listing for Manufacturers and Distributors of Devices; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a direct final rule that appeared in the

Federal Register of September 29, 1998 (63 FR 51825). The document amended certain regulations governing establishment registration and device listing by domestic distributors. The document was published with an error. This document corrects that error.

EFFECTIVE DATE: February 11, 1999.

FOR FURTHER INFORMATION CONTACT: Walter W. Morgenstern, Center for Devices and Radiological Health (HFZ-305), Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850, 301-594-4699.

SUPPLEMENTARY INFORMATION: In FR Docs. 98-25796 appearing on page 51825 in the **Federal Register** of September 29, 1998, the following correction is made:

On page 51826, in the third column, amendatory paragraph four is corrected to read:

4. Section 807.20 is amended by revising paragraph (a)(4), by removing paragraph (c), by redesignating paragraph (d) as paragraph (c), and by adding paragraph (c)(3) to read as follows:

* * * * *

Dated: November 19, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98-31569 Filed 11-25-98; 8:45 am]

BILLING CODE 4160-01-F

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 251

[Docket No. RM 98-4 CARP]

Digital Performance Right in Sound Recordings and Ephemeral Recordings

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule and initiation of voluntary negotiation period.

SUMMARY: The Copyright Office is initiating the six-month voluntary negotiation periods, as required by the Digital Millennium Copyright Act of 1998, for negotiating terms and rates for two compulsory licenses, which in one case, allows public performances of sound recordings by means of eligible nonsubscription transmissions and by new subscription services, and in the second instance, allows the making of an ephemeral phonorecord of a sound recording in furtherance of making a permitted public performance of the sound recording. In addition, the Office is adopting procedural regulations to

implement the Digital Millennium Copyright Act of 1998.

EFFECTIVE DATES: The effective date of the regulation is December 28, 1998. The effective date of the initiation of the six-month voluntary negotiation periods is November 27, 1998.

ADDRESSES: Copies of voluntary license agreements and petitions, if sent by mail, should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. If hand delivered, they should be brought to: Office of the General Counsel, James Madison Memorial Building, Room LM-403, First and Independence Avenue, SE, Washington, DC 20559-6000.

FOR FURTHER INFORMATION: David O. Carson, General Counsel, or Tanya M. Sandros, Attorney Advisor, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone (202) 707-8380 or Telefax (202) 707-8366.

SUPPLEMENTARY INFORMATION: On October 28, 1998, the President signed into law the "Digital Millennium Copyright Act of 1998" ("DMCA" or "Act"). Public Law 105-304. Among other things, the DMCA amends sections 112 and 114 of the Copyright Act, title 17 of the United States Code, to create a new license, governing the making of an ephemeral recording of a sound recording, and to expand another to facilitate the public performance of sound recordings by means of certain audio transmissions. See 17 U.S.C. 112(e)(1) and 114(d)(2). In amending these sections, Congress sought to "first, further a stated objective of Congress when it passed the Digital Performance Right in Sound Recordings Act of 1995 (DPRA) to ensure that recording artists and record companies will be protected as new technologies affect the ways in which their creative works are used; and second, to create fair and efficient licensing mechanisms that address the complex issues facing copyright owners and copyright users as a result of the rapid growth of digital audio services." H.R. Conf. Rep. No. 105-796, at 79-80 (1998).

In enacting the Digital Performance Right in Sound Recordings Act of 1995 (DPRA), Pub. L. 104-39, Congress created an exclusive right for copyright owners of sound recordings, subject to certain limitations, to perform publicly the sound recordings by means of certain digital audio transmissions. Among the limitations on the performance was the creation of a new compulsory license for nonexempt, noninteractive, digital subscription transmissions. The DMCA expands this

license to allow a nonexempt eligible nonsubscription transmission and a nonexempt transmission by a preexisting satellite digital audio radio service to perform publicly a sound recording in accordance with the terms and rates of the statutory license. 17 U.S.C. 114(a).

An "eligible nonsubscription transmission" is a noninteractive, digital audio transmission which, as the name implies, does not require a subscription for receiving the transmission. The transmission must also be made as part of a service that provides audio programming consisting in whole or in part of performances of sound recordings which purpose is to provide audio or entertainment programming, but not to sell, advertise, or promote particular goods or services. A "preexisting satellite digital audio radio service" is a subscription digital audio radio service that received a satellite digital audio radio service license issued by the Federal Communications Commission on or before July 31, 1998. See 17 U.S.C. 114(j)(6) and (10). Only two known entities, CD Radio and American Mobile Radio Corporation, qualify under the statutory definition as preexisting satellite digital audio radio services.

In addition to expanding the current 114 license, the DMCA creates a new statutory license for the making of an "ephemeral recording" of a sound recording by certain transmitting organizations. The new statutory license allows entities that transmit performances of sound recordings to business establishments, pursuant to the limitations set forth in section 114(d)(1)(C)(iv), to make an ephemeral recording of a sound recording for purposes of a later transmission. The new license also provides a means by which a transmitting entity with a statutory license under section 114(f) can make more than the one phonorecord specified in section 112(a). 17 U.S.C. 112(e).

Determination of Reasonable Terms and Rates

The statutory scheme for establishing reasonable terms and rates is the same for both licenses. The terms and rates for the two new statutory licenses may be determined by voluntary agreement among the affected parties, or if necessary, through compulsory arbitration conducted pursuant to Chapter 8 of the Copyright Act. Because the DMCA does not establish reasonable rates and terms for either the new section 112 or the expanded section 114 license, the statute requires the Librarian of Congress to initiate a

voluntary negotiation period, the first phase in the rate setting process, within 30 days of enactment for the purpose of determining reasonable terms and rates for each license. See 17 U.S.C. 112(e)(4) and 114(f)(2)(A).

If the affected parties are able to negotiate an industry-wide agreement, then it will not be necessary for the parties to participate in an arbitration proceeding. In such cases, the Librarian of Congress will follow current rate regulation procedures and notify the public of the proposed agreement in a notice and comment proceeding. If no party with a substantial interest and an intent to participate in an arbitration proceeding files a comment opposing the negotiated rates and terms, the Librarian will adopt the proposed terms and rates without convening a copyright arbitration royalty panel. 37 CFR 251.63(b). If, however, no industry-wide agreement is reached, or only certain parties negotiate license agreements, then those copyright owners and users relying upon one or both of the statutory licenses shall be bound by the terms and rates established through the arbitration process.

Arbitration proceedings are initiated upon the filing of a petition for ratemaking with the Librarian of Congress during the 60 days immediately following the six month negotiation period. Arbitration cannot take place, however, unless a party files a petition even if the parties fail to negotiate a voluntary license agreement. 17 U.S.C. 112(e)(5) and 114(f)(1)(B).

The rates and terms established shall be effective during the period beginning on the effective date of the enactment of the DMCA and ending on December 31, 2000, or upon agreement by the affected parties, another mutually acceptable date. 17 U.S.C. 112(e)(5) and 114(f)(2)(A).

Initiation of Voluntary Negotiations

Pursuant to sections 112(e)(4) and 114(f)(2)(A), the Copyright Office of the Library of Congress is initiating the six-month voluntary negotiation periods for determining reasonable rates and terms for the statutory licenses permitting the public performance of a sound recording by means of certain digital transmissions and the making of a phonorecord in furtherance of these public performances. The negotiation period shall run from November 27, 1998, to May 27, 1999. Parties who negotiate a voluntary license agreement during this period are encouraged to submit two copies of the agreement to the Copyright Office at the above-listed address within 30 days of its execution.

Petitions

In the absence of a license agreement negotiated under 17 U.S.C. 112(e)(4) or 114(f)(2)(A), those copyright owners of sound recordings and entities availing themselves of the statutory licenses are subject to arbitration upon the filing of a petition by a party with a significant interest in establishing reasonable terms and rates for the statutory licenses. Petitions must be filed in accordance with 17 U.S.C. 803(a)(1) and may be filed anytime during the sixty-day period beginning six months after the publication of this document in the **Federal Register**. See also 37 CFR 251.61. Parties should submit petitions to the Copyright Office at the address listed in this notice. The petitioner must deliver an original and five copies to the Office.

Amendment of CARP Rules To Reflect Passage of the Digital Millennium Copyright Act of 1998

The DMCA creates two new compulsory licenses governing the public performance of certain audio transmissions and the making of ephemeral recordings to facilitate the transmission of certain public performances. In both instances, the reasonable rates and terms for the statutory license may be determined by a CARP, when voluntary negotiations prove unsuccessful. Therefore, the Copyright Office is amending its regulations to reflect the additional rate setting responsibilities of the Office and the CARP.

Section 553(b)(3)(A) of the Administrative Procedure Act, 5 U.S.C., states that general notice of proposed rulemaking is not required for rules of agency organization or practice. Since the Office finds that the following final regulations are rules of agency organization, procedure, or practice, no notice of proposed rulemaking is required.

List of Subjects in 37 CFR Part 251

Administrative practice and procedures, Hearing and appeal procedures.

For the reasons set forth in the preamble, the Copyright Office and the Library of Congress amend 37 CFR part 251 as follows:

PART 251—COPYRIGHT ARBITRATION ROYALTY PANEL RULES OF PROCEDURE

1. The authority citation for part 251 continues to read as follows:

Authority: 17 U.S.C. 801–803.

2. In § 251.2, redesignate paragraphs (b) through (g) as (c) through (h),

respectively, and add new paragraph (b) and revise newly redesignated paragraph (c) to read as follows:

§ 251.2 Purpose of Copyright Arbitration Royalty Panels

* * * * *

(b) To make determinations concerning royalty rates and terms for making ephemeral recordings, 17 U.S.C. 112(e);

(c) To make determinations concerning royalty rates and terms for the public performance of sound recordings by certain digital audio transmissions, 17 U.S.C. 114;

* * * * *

§ 251.58 [Amended]

3. In § 251.58, paragraph (c) is amended by adding the number “112,” after the number “111,”.

§ 251.60 [Amended]

4. Section 251.60 is amended by removing the word “subscription” and adding in its place the phrase “the making of ephemeral recordings (17 U.S.C. 112), certain” after the term “(17 U.S.C. 111),”.

5. In § 251.61, paragraph (a) is revised to read as follows:

§ 251.61 Commencement of adjustment proceedings

(a) In the case of cable, ephemeral recordings, certain digital audio transmissions, phonorecords, digital phonorecord deliveries, and coin-operated phonorecord players (jukeboxes), rate adjustment proceedings shall commence with the filing of a petition by an interested party according to the following schedule:

(1) Cable: During 1995, and each subsequent fifth calendar year.

(2) Ephemeral Recordings: During a 60-day period prescribed by the Librarian in 1999, 2000, and at 2-year intervals thereafter, or as otherwise agreed to by the parties.

(3) Digital Audio Transmissions: For preexisting digital subscription transmission services and preexisting satellite digital audio radio services:

(i) During a 60-day period commencing on July 1, 2001 and at 5-year intervals thereafter, or

(ii) During a 60-day period prescribed by the Librarian in a proceeding to set reasonable terms and rates for a new type of subscription digital audio transmission service; and for an eligible nonsubscription service or a new subscription service:

(A) During a 60-day period prescribed by the Librarian in 1999,

(B) During a 60-day period commencing on July 1, 2000, and at 2-year intervals thereafter,

(C) During a 60-day period prescribed by the Librarian in a proceeding to set reasonable terms and rates for a new type of eligible nonsubscription service or new subscription service, or

(D) As otherwise agreed to by the parties.

(4) Phonorecords: During 1997 and each subsequent tenth calendar year.

(5) Digital Phonorecord Deliveries: During 1997 and each subsequent fifth calendar year, or as otherwise agreed to by the parties.

(6) Coin-operated phonorecord players (jukeboxes): Within one year of the expiration or termination of a negotiated license authorized by 17 U.S.C. 116.

* * * * *

§ 251.62 [Amended]

6. In § 251.62, paragraph (a) is amended by removing the word "subscription" and adding in its place the phrase "ephemeral recordings, certain" after the word "cable,".

Dated: November 18, 1998.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 98-31657 Filed 11-25-98; 8:45 am]

BILLING CODE 1410-33-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NY29-1-187a; FRL-6193-5]

Approval and Promulgation of Implementation Plans; New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is promulgating a correction to the State Implementation Plan (SIP) for the State of New York regarding the State's general prohibition on air pollution. EPA has determined that this rule was erroneously incorporated into the SIP. EPA is removing this rule from the approved New York SIP because the rule does not have a reasonable connection to the national ambient air quality standards (NAAQS) and related air quality goals of the Clean Air Act. The intended effect of this correction to the SIP is to make the SIP consistent with the requirements of the Clean Air Act, as amended in 1990 ("the Act"), regarding EPA action

on SIP submittals and SIPs for national primary and secondary ambient air quality standards.

EFFECTIVE DATE: This direct final rule is effective on January 26, 1999 without further notice, unless EPA receives adverse comment by December 28, 1998. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: All comments should be addressed to: Ronald Borsellino, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 290 Broadway, New York, New York 10007-1866.

Copies of the documents relevant to this action are available for inspection during normal business hours at the following address:

Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866.

FOR FURTHER INFORMATION CONTACT:

Henry Feingersh, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th floor, New York, New York 10007-1866, (212) 637-4249.

SUPPLEMENTARY INFORMATION:

I. Correction to SIP

EPA has determined that Part 211.2 of Title 6 of the New York Code of Rules and Regulations (NYCRR), which was approved in 1984 as part of the SIP, does not have a reasonable connection to the NAAQS and related air quality goals of the Clean Air Act and is not properly part of the SIP.

Part 211.2 is a general prohibition against air pollution. Such a general provision is not designed to control NAAQS pollutants such that EPA could rely on it as a NAAQS attainment and maintenance strategy. After it came to the attention of EPA that Part 211.2 was not properly part of the SIP, EPA in turn brought the matter to the attention of the New York State Department of Environmental Conservation (NYSDEC). NYSDEC shared EPA's understanding that Part 211.2 was improperly approved into the SIP.

EPA, pursuant to section 110(k)(6) of the Act, is correcting the SIP since Part 211.2 is not reasonably related to the NAAQS-related air quality goals of the Act. Section 110(k)(6) of the amended Act provides: "Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification or reclassification was in

error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise any such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and the public." It should be noted that section 110(k)(6) has also been used by EPA to delete an improperly approved odor provision from the Wyoming SIP. 61 FR 47058 (1996).

Since the State of New York's Part 211.2 has no reasonable connection to the NAAQS-related air quality goals of the Act, EPA has found that the approval of this State rule was in error. The State has reached the same conclusion and concurs with EPA's decision that Part 211.2 was submitted and approved in error and should be removed from the approved SIP. Consequently, EPA is removing 6 NYCRR Part 211.2 from the approved New York SIP, pursuant to section 110(k)(6) of the Act.

II. EPA Final Rulemaking Action

EPA is removing 6 NYCRR Part 211.2 of the New York air quality Administrative Rules from the approved New York SIP pursuant to section 110(k)(6) of the Act.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective January 26, 1999 without further notice unless the Agency receives relevant adverse comments by December 28, 1998.

If EPA receives such comments, then EPA will publish a timely withdrawal of the final rule informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this action will be effective on January 26, 1999 and no further action will be taken on the proposed rule.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.)

12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

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, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to 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 officials 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 does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. 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 final 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).

F. 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 costs to state, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 26, 1999. 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, Intgovernmental relations, Reporting and recordkeeping.

Dated: November 16, 1998.
William J. Muszynski,
Acting Regional Administrator, Region 2.
 Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart HH—New York

2. Section 52.1679 is amended by revising the entry for “Part 211, General Prohibitions” to read as follows:

§ 52.1679 EPA-approved New York State regulations.

New York State regulation	State effective date	Latest EPA approval date	Comments
Part 211, General Prohibitions	8/11/83	November 27, 1998 [citation of this document].	Section 211.2 has been removed from the approved plan.

[FR Doc. 98-31542 Filed 11-25-98; 8:45 am]
 BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 055-1055; FRL-6134-3]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: The EPA is taking final action to approve the State Implementation Plan (SIP) revisions submitted by the state of Missouri to broaden the current visible emissions rule exceptions to include smoke-generating devices. This revision would allow smoke generators to be used for military and other types of training when operated under applicable requirements.

DATES: This rule is effective on December 28, 1998.

ADDRESSES: Comment may be addressed to Kim Johnson, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

Copies of the state submittal are available at the following address for inspection during normal business hours: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the Environmental Protection Agency, Air & Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Kim Johnson at (913) 551-7975.

SUPPLEMENTARY INFORMATION:

I. Background

This amendment broadens the current rule exceptions to include smoke-generating devices in general when a required permit or a written determination that a permit is not required has been issued. The amendment defines a smoke-generating device as a specialized piece of equipment which is not an integral part of a commercial, industrial or manufacturing process and whose sole purpose is the creation and dispersion of fine solid or liquid particles in a gaseous medium. This revision would allow smoke generators to be used for military training at such facilities as Fort Leonard Wood as long as such facilities operate in accordance with applicable permit requirements.

No comments were received in response to the public comment period regarding this rule action.

For more background information the reader is referred to the proposal for this rulemaking published on May 7, 1998, at 63 FR 25191.

II. Final Action

The EPA is taking final action to approve, as a revision to the SIP, the amendment to Rule 10 CSR 10-3.080, “Restriction of Emission of Visible Air Contaminants,” submitted by the state of Missouri on July 10, 1996.

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

factors and in relation to relevant statutory and regulatory requirements.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 entitled “Regulatory Planning and Review.”

B. Executive Order 12875

Under Executive Order 12875, the EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments or the EPA consults with those governments. If the EPA complies by consulting, Executive Order 12875 requires the EPA to provide to the OMB a description of the extent of the EPA’s prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires the EPA to develop an effective process permitting elected officials and other representatives of state, local and tribal governments “to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.”

Today’s rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of

section 1(a) of Executive Order 12875 does not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084 the 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 or the EPA consults with those governments. If the EPA complies by consulting, Executive Order 13084 requires the EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of the 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 the EPA to develop an effective process permitting elected officials 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 does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act 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 final 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 (CAA) do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not 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 CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

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

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

additional costs to state, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The 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 U.S. Comptroller General prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 26, 1999. 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: July 23, 1998.

Dennis Grams,

Regional Administrator, Region VII.

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

PART 52—[AMENDED]

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

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

Subpart AA—Missouri

2. Section 52.1320 is amended by adding paragraph (c)(109) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(109) This State Implementation Plan (SIP) revision submitted by the state of Missouri on July 10, 1996, broadens the current rule exceptions to include smoke-generating devices. This revision would allow smoke generators to be used for military and other types of training when operated under applicable requirements.

(i) Incorporation by reference.

(A) Regulation 10 CSR 10-3.080, "Restriction of Emission of Visible Air Contaminants," effective on May 30, 1996.

[FR Doc. 98-31541 Filed 11-25-98; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 409, 410, 411, 413, 424, 483, and 489

[HCFA-1913-N2]

RIN 0938-A147

Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities; Reopening of Comment Period

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of reopening of comment period for interim final rule.

SUMMARY: We published an interim final rule with comment period in the **Federal Register** on May 12, 1998 (63 FR 26252). That interim final rule implements provisions in section 4432 of the Balanced Budget Act of 1997 related to Medicare payment for skilled nursing facility services. Those include the implementation of a Medicare prospective payment system for skilled nursing facilities, consolidated billing, and a number of related changes.

A document published on July 13, 1998 extended the comment period for the May 12, 1998 interim final rule until September 11, 1998. This document reopens and extends the comment period for an additional 30 days after the date of publication of this notice. The document also clarifies the explanation of the Federal rates.

DATES: The comment period is reopened and extended to 5 p.m. on December 28, 1998.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department

of Health and Human Services, Attention: HCFA-1913-IFC, P.O. Box 26688, Baltimore, MD 21207-0488.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses: Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, or Room C5-09-26, Central Building, 7500 Security Boulevard, Baltimore, MD 21244-1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA-1913-IFC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309-G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690-7890). For comments that relate to information collection requirements, mail a copy of comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

FOR FURTHER INFORMATION CONTACT:

Laurence Wilson, (410) 786-4603 (for general information).

John Davis, (410) 786-0008 (for information related to the Federal rates).

Dana Burley, (410) 786-4547 (for information related to the case-mix classification methodology).

Steve Raitzyk, (410) 786-4599 (for information related to the facility-specific transition payment rates).

Bill Ullman, (410) 786-5667 (for information related to consolidated billing and related provisions).

SUPPLEMENTARY INFORMATION: On May 12, 1998, we issued an interim final rule with comment period in the **Federal Register** (63 FR 26252) that implements provisions in section 4432 of the Balanced Budget Act of 1997 related to Medicare payment for skilled nursing facility services. Those include the implementation of a Medicare prospective payment system for skilled nursing facilities, consolidated billing, and a number of related changes. We indicated that comments would be considered if we received them by July 13, 1998.

Because of the complexity and scope of the interim final rule and because numerous members of the industry and professional associations requested

more time to analyze the potential consequences of the rule, we published a notice on July 13, 1998, which extended the comment period until September 11, 1998.

Because of further requests from industry and professional associations to extend the comment period, we have decided to reopen and extend the comment period. This document announces the reopening and extension of the public comment period to December 28, 1998.

Additionally, because of a request from industry and professional associations, we are clarifying our explanation of the Federal rates. Paragraph A.3.a in section II of the May 12, 1998 interim final rule on the prospective payment system for skilled nursing facilities describes the cost data used in the development of the Federal rates. This paragraph indicates that, in developing the per diem costs of skilled nursing facilities, the cost data (including the estimate of Part B costs) are separated into components based on their relationship to the case-mix indices described earlier in the rule. This is done to facilitate standardization of the Federal rates and the application of the case-mix adjustment. This paragraph goes on to detail that costs related to nursing (excluding nurse management) and social service salaries (including benefits) and total costs (after allocation of overhead expenses) of non-therapy ancillary services are grouped into the component related to the nursing case-mix index. As indicated in the rule, this component of cost was related to the "nursing component" of the Federal rates detailed in Tables 2.A, 2.B, 2.E, and 2.F.

Members of the public requested that we publish information in the **Federal Register** concerning this area of the rate-setting process. Specifically, members of the public requested information on the proportion of non-therapy ancillaries to nursing and social services costs included in the nursing component of the rates enumerated in the tables cited above. Accordingly, we have determined the approximate percentage of non-therapy ancillary costs and nursing and social services salary costs (including benefits) included in this component of the Federal rate. For the Federal rates associated with urban areas (Tables 2.A and 2.E), 43.4 percent of the nursing component is related to non-therapy ancillary costs (including Part B non-therapy ancillary services) and 56.6 percent is related to nursing and social services salary costs. For the Federal rates associated with rural areas (Tables 2.B and 2.F), 42.7 percent of the nursing component is related to non-

therapy ancillary costs (including Part B non-therapy ancillary services) and 57.3 percent is related to nursing and social services salary costs. We invite comments on this or other aspects of the May 12, 1998 interim final rule.

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).
(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: October 20, 1998.

Nancy-Ann Min DeParle,
Administrator, Health Care Financing Administration.

Dated: November 23, 1998.

Donna E. Shalala,
Secretary.

[FR Doc. 98-31694 Filed 11-25-98; 8:45 am]

BILLING CODE 4120-01-P

Proposed Rules

Federal Register

Vol. 63, No. 228

Friday, November 27, 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.

NORTHEAST DAIRY COMPACT COMMISSION

7 CFR Chapter XIII

Over-Order Price Regulation

AGENCY: Northeast Dairy Compact Commission.

ACTION: Notice of Proposed Rulemaking Proceedings.

SUMMARY: The Northeast Dairy Compact Commission is seeking testimony and comments on specific subjects and issues related to: Whether to amend the formula for distribution of monies from the producer-settlement fund, including whether to adopt a cap on the amount of milk, per producer, eligible for the Compact Over-order producer price; whether additional supply management policies and provisions should be incorporated into the Over-order Price Regulation; whether organic milk should be exempted from the Compact Over-order Price Regulation; and whether the amount of, or method for determining, the administrative assessment should be amended.

DATES: See **SUPPLEMENTARY INFORMATION** section for public hearing dates and filing dates for pre-filed testimony and written comments and exhibits.

ADDRESSES: Mail, or deliver, pre-filed testimony, comments and exhibits to: Northeast Dairy Compact Commission, 43 State Street, P.O. Box 1058, Montpelier, Vermont 05601. See **SUPPLEMENTARY INFORMATION** section for public hearing locations.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Becker, Executive Director, Northeast Dairy Compact Commission at the above address or by telephone at (802) 229-1941, or by facsimile at (802) 229-2028.

SUPPLEMENTARY INFORMATION:

I. Public Hearing Dates, Times and Locations; Filing Dates for Written Comments

The public hearing dates and locations are:

1. December 11, 1998, 9:00 a.m. to 12:00 p.m., at the Holiday Inn at Boxborough Woods, Parade Room, 242 Adams Place, Boxborough, MA, public hearing on administrative assessment.

2. December 11, 1998, 1:00 p.m. to 4:00 p.m., at the Holiday Inn at Boxborough Woods, Parade Room, 242 Adams Place, Boxborough, MA public hearing on income distribution and supply management.

3. December 16, 1998, 9:00 to 12:00 p.m., at the Tuck Library Building, Chubb Auditorium, 30 Park Street, Concord, NH public hearing on organic milk.

4. Pre-filed testimony is encouraged and may be submitted to the Northeast Dairy Compact Commission at the address in the **ADDRESSES** section by 12:00 p.m. December 7, 1998.

5. Written comments and exhibits may be submitted until 5:00 p.m. December 31, 1998.

II. Background

The Northeast Dairy Compact Commission initially promulgated an Over-order Price Regulation on May 30, 1997.¹ The regulation was subsequently amended generally and extended on November 25, 1997.² Over the past year, the Commission also has amended specific provisions of the Over-order Price Regulation.³ The Commission is now seeking testimony and comment on specific subjects and issues related to (1) whether to amend the formula for distribution of monies from the producer-settlement fund, including whether to adopt a cap on the amount of milk, per producer, eligible for the Compact Over-order producer price; (2) whether additional supply management policies and provisions should be incorporated into the Over-order Price Regulation; (3) whether organic milk should be exempted from the Compact Over-order Price Regulation; and (4) whether the amount of, or method for determining, the administrative assessment should be amended.

¹ 62 FR 29626 (May 30, 1997).

² 62 FR 62810 (November 25, 1997).

³ 63 FR 10104 (Feb. 27, 1998); 63 FR 46385 (Sept. 1, 1998); and the most recent amendment is published elsewhere in this issue of the **Federal Register**.

III. Statement of Subjects and Issues

(1) Income Distribution From the Producer-Settlement Fund

The Massachusetts delegation to the Compact Commission petitioned the Commission to consider a policy change that would alter the income distribution provisions of the current Over-order Price Regulation by placing a cap on the amount of milk, per producer, that would be eligible to receive the Compact Over-order producer price.

(2) Supply Management Policies

Article IV, Section 9(f) of the Compact requires the Commission to "take such action as necessary and feasible to ensure that the over-order price does not create an incentive for producers to generate additional supplies of milk." The Commission's Committee on Regulations and Rulemaking previously held five public meetings to receive informal public comment on various supply management proposals that are consistent with the Commission's Section 9(f) responsibilities. The Commission also recently promulgated a regulation, effective January 1, 1999, that will limit the payment of the Compact Over-order producer price to milk disposed of within the Compact regulated area, with a seasonally adjusted allowance for diverted and transferred milk.⁴ The Commission now seeks formal public comment on whether any additional supply management policies and provisions should be incorporated into the Over-order Price Regulation.

(3) Organic Milk

Organic milk handlers have petitioned the Commission to consider exempting organic milk from the Compact Over-order Price Regulation.

(4) Administrative Assessment

The Commission determined that it would benefit from comments and testimony regarding whether the amount of, or method for determining, the administrative assessment should be amended. The current administrative assessment regulation was promulgated with the initial price regulation on May 30, 1997.⁵ The November 25, 1997 extension of the price regulation

⁴ As published elsewhere in this issue of the **Federal Register**.

⁵ 62 FR 29626, codified at (7 CFR 1308.1).

maintained the administrative assessment.⁶ In addition to comments on the specific proposals, discussed below, to address the identified subjects and issues, the Commission also would welcome comments, suggestions, and recommendations for other policies or methods for addressing the issues of income distribution, supply management, organic milk and the administrative assessment.

IV. Specific Proposals

The Commission seeks comment and analysis of the following proposals. (A comparison chart of the producer payments under the current price regulation and the impact of the main income distribution proposals, discussed at sections 1 and 2 below, is provided at Table 1 to facilitate

comment and analysis of the various proposals.) The Commission specifically requests comments regarding the effectiveness of each of these proposals in light of the Commission's mission to assure the continued viability of dairy farming in the northeast, and to assure consumers of an adequate, local supply of pure and wholesome milk.

1. The Massachusetts Cap Proposal

This proposal would limit the milk eligible for the Compact Over-order producer price to up to 95,000 pounds of a producer's monthly milk production, or 1.14 million pounds per year. This proposal would not provide any Compact Over-order producer price for milk produced in excess of the cap.

2. Split Pool Proposal

A split pool also would address the income distribution aspects of the Over-order Price Regulation. Under this proposal, a certain percentage of the total value of the monthly producer pool would be divided equally among all qualified farms supplying the New England market, regardless of farm size. The balance of the pool would be paid out on a per hundredweight basis, as it is under the current regulation. For example, the pool could be divided to distribute the first 55% of the pool on a per farm basis and distribute the remaining 45% of the pool on a per hundredweight basis. An alternate proposal would be to distribute the first 25% of the pool on a per farm basis and distribute the remaining 75% on a per hundredweight basis.

TABLE 1.—COMPARISON OF VARIOUS PROPOSALS
[July 1998]

No. of cows	Lbs.	Actual compact	95,000 CAP	55%/45% split (dollars)	25%/75% split (dollars)
12	20,000	238	422	986	577
18	30,000	357	633	1,037	665
29	50,000	595	1,055	1,139	841
41	70,000	833	1,477	1,241	1,017
56	95,000	1,131	2,005	1,369	1,237
58	100,000	1,190	2,005	1,394	1,281
64	110,000	1,309	2,005	1,445	1,369
70	120,000	1,428	2,005	1,496	1,457
76	130,000	1,547	2,005	1,547	1,539
82	140,000	1,666	2,005	1,598	1,633
88	150,000	1,785	2,005	1,649	1,721
94	160,000	1,904	2,005	1,700	1,809
99	170,000	2,023	2,005	1,751	1,897
105	180,000	2,142	2,005	1,802	1,985
111	190,000	2,261	2,005	1,853	2,073
117	200,000	2,380	2,005	1,904	2,161
123	210,000	2,499	2,005	1,955	2,249
129	220,000	2,618	2,005	2,006	2,337
135	230,000	2,737	2,005	2,057	2,425
146	250,000	2,975	2,005	2,159	2,601
175	300,000	3,570	2,005	2,414	3,041
205	350,000	4,165	2,005	2,669	3,481
234	400,000	4,760	2,005	2,924	3,921
264	450,000	5,355	2,005	3,179	4,361
292	500,000	5,950	2,005	3,434	4,801
351	600,000	7,140	2,005	3,944	5,681
400	700,000	8,330	2,005	4,454	6,561

3. Proposal To Cap the Largest Producers

This proposal would set a cap on the amount of milk, per producer, eligible for the Over-order producer price, but at a level much higher than under the Massachusetts proposal discussed in section 1 above. Under this proposal, the cap for all farms producing more than 600,000 pounds per month would be set at the 1998 production level.

4. Refund/Assessment Option

This proposal would establish an assessment on all milk during the year at some percentage of each month's producer pool. The assessment would be held in escrow and returned to eligible producers at some frequency, e.g. annually, semi-annually or quarterly. Producers would be eligible for a refund from the assessment only if they document that they did not increase production during the relevant time period. The Commission would

welcome comments regarding the level to set the assessment percentage to ensure an effective supply management result.

5. Exemption of Organic Milk From the Compact Over-Order Price Regulation

This proposal would exempt organic milk handlers from the Compact Over-order Obligation and exclude organic milk producers from the producer pool.

⁶62 FR 62810 (Nov. 25, 1997).

6. Amendment of the Administrative Assessment Regulation

The current administrative assessment regulation, 7 CFR 1308.1, establishes a set rate of 3.2 cents per hundredweight of fluid milk as determined under 7 CFR 1306. This assessment is due monthly from all handlers regulated under the Over-order price regulation. The Commission seeks testimony and comments on whether the amount of the administrative assessment, or the method for determining the administrative assessment, should be amended.

Official Notice of Technical, Scientific or Other Matters

Pursuant to the Commission regulations, 7 CFR 1361.5(g)(5), the Commission hereby gives public notice that it may take official notice, at the public hearings on December 11 and December 16, 1998, or afterward, of relevant facts, statistics, data, conclusions, and other information provided by or through the United States Department of Agriculture, including, but not limited to, matters reported by the National Agricultural Statistics Service, the Market Administrators, the Economic Research Service, the Agricultural Marketing Service and information, data and statistics developed and maintained by the Departments of Agriculture of the States or Commonwealth within the Compact regulated area.

Request for Pre-filed Testimony and Written Comments

Pursuant to the Commission rules, 7 CFR 1361.4, any person may participate in the rulemaking proceeding independent of the hearing process by submitting written comments or exhibits to the Commission. Comments and exhibits may be submitted at any time before 5:00 p.m. on December 31, 1998. Comments and exhibits will be made part of the record of the rulemaking proceeding only if they identify the author's name, address and occupation, and if they include a sworn notarized statement indicating that the comment and/or exhibit is presented based upon the author's personal knowledge and belief. Facsimile copies will be accepted up until the 5:00 p.m. deadline, but the original must then be sent by ordinary mail.

The Commission is requesting pre-filed testimony from any interested person. Pre-filed testimony must include the name, address and occupation of the witness and a sworn notarized statement indicating that the testimony is presented based upon the

author's personal knowledge and belief. Pre-filed testimony must be received in the Commission office no later than 12:00 p.m. December 7, 1998 to ensure distribution to Commission members prior to the public hearings.

Pre-filed testimony, comments and exhibits should be sent to: Northeast Dairy Compact Commission, 43 State Street, P.O. Box 1058, Montpelier, Vermont 05601 or by facsimile to (802) 229-2028.

Dated: November 19, 1998.

Dixie L. Henry,
General Counsel.

[FR Doc. 98-31588 Filed 11-25-98; 8:45 am]

BILLING CODE 1650-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98-ASO-18]

Proposed Amendment of Class E Airspace; Carrollton, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class E airspace at Carrollton, GA. The Non-Directional Beacon (NDB) or Global Positioning System (GPS) Runway (RWY) 34 and the Localizer (LOC) RWY 34 Standard Instrument Approach Procedures (SIAP's) have been amended to the West Georgia Regional Airport. The outbound course from the Carrollton NDB for the NDB or GPS RWY 34 SIAP will change from the 168 degree bearing to the 167 degree bearing and the inbound course will change from the 348 degree bearing to the 347 degree bearing. The outbound course from the Carrollton NDB for the LOC RWY 34 SIAP will change from the 165 degree bearing to the 166 degree bearing and the inbound course will change from the 345 degree bearing to the 346 degree bearing. As a result, the length of the Class E airspace extension south of the NDB would be reduced from 9 to 7 miles and the width of the airspace extension would be increased from 6 to 7 miles.

DATES: Comments must be received on or before December 28, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 98-ASO-18, Manager, Airspace Branch, ASO-520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305-5627.

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) 305-5627.

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-18." 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 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 amend Class E airspace at Carrollton, GA. The NDB or GPS RWY 34 and the LOC RWY 34 SIAP's have been amended to the West Georgia Regional Airport. As a result, the length of the Class E airspace extension south of the NDB would be reduced from 9 to 7 miles and the width of the airspace extension would be increased from 6 to 7 miles. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 The Class E 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., 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 feet or More Above the Surface of the Earth.

* * * * *

ASO GA E5 Carrollton, GA [Revised]

West Georgia Regional Airport
(Lat. 33°37'51" N, long. 85°09'08" W)

That airspace extending upward from 700 feet or more above the surface of the earth within a 6.4-mile radius of West Georgia Regional Airport and within 3.5 miles from the east side of the 166 degree bearing from the Carrollton NDB, extending west to a point 3.5 miles on the west side of the 167 degree bearing from the Carrollton NDB, extending from the 6.4-mile radius to 7 miles south of the NDB.

* * * * *

Issued in College Park, Georgia, on November 16, 1998.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 98-31648 Filed 11-25-98; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 807

[Docket No. 98N-0520]

Medical Devices; Establishment Registration and Device Listing for Manufacturers and Distributors of Devices; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule that appeared in the **Federal Register** of September 29, 1998 (63 FR 51874). The document proposed to amend certain regulations governing establishment registration and device listing by domestic distributors. The document was published with an error. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Walter W. Morgenstern, Center for Devices and Radiological Health (HFZ-

305), Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20857, 301-594-4699.

SUPPLEMENTARY INFORMATION: In FR Doc. 98-25797 appearing on page 51874 in the **Federal Register** of September 29, 1998, the following correction is made:

On page 51875, in the third column, amendatory paragraph four is corrected to read:

4. Section 807.20 is amended by revising paragraph (a)(4), by removing paragraph (c), by redesignating paragraph (d) as paragraph (c), and by adding paragraph (c)(3) to read as follows:

* * * * *

Dated: November 19, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98-31570 Filed 11-25-98; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-115446-97]

RIN 1545-AV68

Termination of Puerto Rico and Possession Tax Credit; New Lines of Business Prohibited; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations that provide guidance regarding the addition of a substantial new line of business by a possessions corporation that is an existing credit claimant.

DATES: The public hearing originally scheduled for Tuesday, December 1, 1998, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Michael L. Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622-7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on Wednesday, August 19, 1998 (63 FR 44416), announced that a public hearing was scheduled for Tuesday, December 1, 1998, at 10 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of

the public hearing is proposed regulations under section 936 of the Internal Revenue Code. The public comment period for these proposed regulations expired on Tuesday, November 17, 1998.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of November 18, 1998, no one has requested to speak. Therefore, the public hearing scheduled for Tuesday, December 1, 1998, is cancelled.

Michael L. Slaughter,

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

[FR Doc. 98-31667 Filed 11-25-98; 8:45 am]

BILLING CODE 4830-01-P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 98-7A]

Notice and Recordkeeping for Making and Distributing Phonorecords

AGENCY: Copyright Office, Library of Congress.

ACTION: Reopening of reply comment period.

SUMMARY: The Copyright Office of the Library of Congress is reopening the reply comment period on the requirements by which copyright owners shall receive reasonable notice of the use of their works in the making and distribution of phonorecords.

DATES: Comment period is reopened to December 11, 1998.

ADDRESSES: If sent by mail, an original and ten copies of the reply comments should be addressed to: David O. Carson, General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. If hand delivered, an original and ten copies of the reply comments should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room LM-403, First and Independence Avenue, S.E., Washington, D.C. 20559-6000.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Attorney Advisor, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. Telephone (202) 707-8380 or Telefax (202) 707-8366.

SUPPLEMENTARY INFORMATION: On September 4, 1998, the Copyright Office published a notice of inquiry seeking comments on the requirements by which copyright owners shall receive reasonable notice of the use of their works in the making and distribution of phonorecords. 63 FR 47215 (September 4, 1998). The Digital Performance Right in Sound Recordings Act of 1995, Pub. L. 104-39 (1995), requires the Librarian of Congress to establish these regulations to ensure proper payment to copyright owners for the use of their works. 17 U.S.C. 115(c)(3)(D). Comments were timely filed by the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and the National Music Publishers' Association, Inc. (NMPA) and the Recording Industry Association of America, Inc. (RIAA). Reply comments were due to be filed on November 18, 1998.

The Office, however, has decided to reopen the deadline for filing reply comments by a period of two weeks beginning from the date of publication of this notice. The Office takes this action in response to a request to reopen the reply comment period by two weeks to December 2, 1998. It is argued in the request that the complexity of the issues involved in the adoption of notice and recordkeeping procedures for the making and distribution of phonorecords merits additional time in which to file reply comments. The Office agrees with this analysis and thus grants the request to reopen the reply comment period. The Office sets the reopened deadline for filing reply comments two weeks from publication of this notice in the **Federal Register** in order to afford all interested parties sufficient time in which to file their reply comments.

Dated: November 23, 1998.

David O. Carson,

General Counsel.

[FR Doc. 98-31659 Filed 11-25-98; 8:45 am]

BILLING CODE 1410-31-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NY29-1-187b; FRL-6193-4]

Approval and Promulgation of Implementation Plans; New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Environmental Protection Agency (EPA) is proposing to correct the State Implementation Plan (SIP) for the State of New York regarding the State's general prohibition on air pollution pursuant to section 110(k)(6) of the Clean Air Act, as amended in 1990.

In the final rules section of this **Federal Register**, the EPA is approving the correction as a direct final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving the correction is set forth in the direct final rule. The direct final rule will become effective without further notice unless the Agency receives relevant adverse written comment on this rule. Should the Agency receive such comment, it will publish a document informing the public that the direct final rule did not take effect and such public comment received will be addressed in a subsequent final rule based on this proposed rule. If no adverse comments are received, the direct final rule will take effect on the date stated in that document and no further activity will be taken on this proposed rule. EPA does not plan to institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments must be received on or before December 28, 1998.

ADDRESSES: All comments should be addressed to: Ronald J. Borsellino, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 290 Broadway, New York, New York 10007-1866.

Copies of the documents relevant to this action are available at the following address for inspection during normal business hours: Environmental Protection Agency, Region II Office, 290 Broadway, 25th Floor, New York, New York 10007-1866.

FOR FURTHER INFORMATION CONTACT: Henry Feingersh, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4249.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final Rule of the same title which is located in the Rules Section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Reporting and recordkeeping.

Dated: November 16, 1998.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 98-31543 Filed 11-25-98; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 98-182, RM-9222; FCC 98-251]

1998 Biennial Regulatory Review—Private Land Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes several amendments to the Commission's Rules as part of its 1998 biennial review of regulations. Additionally, this document addresses certain rules regarding extended implementation periods for public safety licensees, and an *ex parte* filing in the Commission's Refarming Proceeding, PR Docket No. 92-235, regarding trunking on frequencies in the bands between 150 and 512 MHz. This document proposes various rule changes applicable to the Private Land Mobile Radio Services that will either simplify and upgrade part 90 and/or be deregulatory in nature. The proposed rules will reduce the regulatory burden on licensees, and will promote more efficient and flexible use of the private land mobile radio frequency spectrum.

DATES: Comments are due January 4, 1999, and reply comments are due January 22, 1999.

ADDRESSES: Federal Communications Commission, Office of the Secretary, Room 222, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Gene Thomson, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418-0680.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, ("Notice"), WT Docket No. 98-182, FCC 98-251, adopted September 30, 1998, and released October 20, 1998. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, Room 246, 1919 M Street N.W. Washington, D.C. The complete text may be purchased from the Commission's copy contractor, ITS, Inc., 1231 20th St. N.W., Washington, D.C.

20036, telephone (202) 857-3800. The complete (but unofficial) text is also available on the Commission's Internet site at <<http://www.fcc.gov/Bureaus/Wireless/Notices/1998/index.html>> under the file name "fcc98251.txt" in ASCII text and "fcc98251.wp" in Word Perfect format.

Synopsis of the Notice of Proposed Rule Making

1. The Commission has released a *Notice of Proposed Rule Making* that proposes several amendments to the part 90 Private Land Mobile Radio Services rules. This action is part of our 1998 biennial review of regulations pursuant to Section 11 of the Communications Act of 1934, as amended. Section 11 requires us to review all our regulations applicable to providers of telecommunications service and determine whether any rule is no longer in the public interest as a result of meaningful economic competition between providers of telecommunications service, and whether such regulations should be deleted or modified. However, we believe it is appropriate to review all of our regulations relating to administering wireless services, not just those pertaining to providers of a telecommunications service, to determine which regulations can be streamlined or eliminated. A comprehensive review of part 90 of the Commission's Rules determined which regulations were either not in the public interest or were obsolete, overly complex, required editorial change, or redundant in nature.

2. The document proposes:

- a. to amend 47 CFR 90.35(c)(60) to indicate that, in addition to permitting the use of the listed frequencies at any location for low power, non-voice operation, voice operation will be permitted when the frequencies are used specifically for cargo handling purposes.
- b. to amend 47 CFR 90.149(a) to provide that licenses for stations authorized under part 90 will be issued for a term not to exceed ten years from the date of initial issuance or renewal.
- c. to amend 47 CFR 90.155 to permit any public safety applicant to seek extended implementation authorization pursuant to the provisions of 47 CFR 90.629.

- d. to amend 47 CFR 90.175(i)(14), to require that applicants for any of the fifteen 220 MHz public safety channels set forth in 47 CFR 90.719(c) and 90.720, submit their applications to a public safety frequency coordinator for frequency coordination prior to

submission of the applications to the Commission.

e. to amend 47 CFR 90.179 to provide that a radio facility authorized to a public safety licensee may be shared with a Federal government entity on a cost-shared, non-profit basis.

3. Additionally, the document requests comments on: (1) An *ex parte* filing in the Commission's Refarming Proceeding, PR Docket No. 92-235, regarding trunking on frequencies in the bands between 150 and 512 MHz; (2) the Land Mobile Communications Council's suggestion that decentralized trunking systems be designated as such on the licensees' authorizations, and whether two separate authorizations are needed for "hybrid" trunked systems; (3) whether the licensing requirement can be eliminated for certain part 90 frequencies and; (4) the concept of Adjacent Channel Coupled Power as proposed by Motorola, Inc. as an alternative approach to emission masks for limiting out-of-band emissions. The document proposes these rule changes applicable to the Private Land Mobile Radio Services that will either simplify and upgrade part 90 and/or be deregulatory in nature. The document also invites commenters to submit information on the costs and benefits of the rules at issue in this proceeding and of the Commission's proposed modifications. The document does not address the part 90 Commercial Radio Services.

Administrative Matters

Initial Regulatory Flexibility Analysis

4. As required by the Regulatory Flexibility Act ("RFA"), the Commission has prepared this present Initial Regulatory Flexibility Analysis ("IRFA") of the possible significant economic impact on small entities by the policies and rules proposed in this *Notice of Proposed Rule Making* ("Notice"). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on this Notice. The Commission will send a copy of the Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 603(a).

A. Need For, and Objectives Of, the Proposed Rules

5. Although not required by statute, we initiate this proceeding in conjunction with the Commission's 1998 biennial regulatory under Section 11 of the Communications Act of 1934, 47 U.S.C. 161. Section 11 requires us to

review all our regulations applicable to providers of telecommunications service and determine whether any rule is no longer in the public interest as a result of meaningful economic competition between providers of telecommunications service, and whether such regulations should be deleted or modified. As part of our biennial review of regulations required under Section 11, however, we believe it is appropriate to review all of our regulations relating to administering wireless services, not just those pertaining to providers of a telecommunications service, to determine which regulations can be streamlined or eliminated. Therefore, to streamline part 90 of the rules and reduce regulatory requirements, the Commission proposes to amend part 90 of its rules to: (1) Modify the language of specific rules to eliminate the confusions that applicants have had, which in many cases, has caused additional effort on the part of the applicant and resultant delays in application processing; (2) extend all five-year license terms to ten years, thus reducing the licensee's burden and costs for license renewal; (3) for stations with an eight-month construction period, increase the time in which a station must be placed in operation from eight to twelve months; (4) provide extended implementation periods for public safety licensees under identical parameters regardless of the operating frequency band and; (5) permit public safety licensees with excess communications capacity to provide communications service to the Federal Government on a non-profit, cost-shared basis. We believe these changes will encourage growth of land mobile systems and enhance telecommunications offerings for consumers, producers and new entrants.

B. Legal Basis

6. Authority for issuance of this *Notice of Proposed Rulemaking* is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

7. Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions. 5 U.S.C. 601(6). The RFA, 5 U.S.C. 601(3), generally defines the term "small business" as having the same meaning as "small business concern" under the Small Business Act, 15 U.S.C. 632. A small business concern is one which: (1) Is independently

owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration ("SBA"). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the SBA and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**."

8. Depending upon individual circumstances, the various proposed rules will apply to only certain businesses and local government entities that operate radio systems for their own internal use in the Private Land Mobile Radio (PLMR) services. PLMR systems serve an essential role in a vast range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories. Because of the vast array of PLMR users, the Commission has not developed nor would it be possible to develop a definition of small entities specifically applicable to PLMR users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area.

9. We note that the Commission's 1994 Annual Report indicates that at the end of fiscal year 1994, there were approximately 292,000 stations and 5.4 million transmitters operating just in the 800 and 900 MHz and 24 GHz bands. Further, because any entity engaged in a business activity is eligible to hold a PLMR license, these proposed rules could potentially impact every small business in the U.S.

10. The RFA also includes small governmental entities as a part of the regulatory flexibility analysis. The definition of a small governmental entity is one with a population of less than 50,000. There are 85,006 governmental entities in the nation. This number includes such entities as states, counties, cities, utility districts, and school districts. There are no figures available on what portion of this number has populations of fewer than 50,000. However, this number includes 38,978 counties, cities, and towns, and of those, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we

estimate that 96 percent, or 81,600 are small entities that may be affected by our proposed rules. Therefore in this IRFA, we seek comment on the number of small businesses which could be impacted by the proposed rule changes.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

11. No new reporting, recordkeeping, or other compliance requirements would be imposed on applicants or licensees as a result of the actions proposed in this rulemaking proceeding.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

12. Many of our proposed rules will result in economic benefits to small business and local government entities. We believe that there would be several public interest benefits gained by extending the license term for all part 90 licensees to ten years. First, there would be an economic benefit to new applicants in that their licensing costs would effectively be lowered. Under the Commission's current license fee structure, a part 90 licensee with a ten-year authorization has an economic advantage over a licensee with a five-year license in that it enjoys a longer license term at less cost. Second, under our proposal, existing five-year licenses would receive a ten-year renewal period upon expiration of the five-year license, thus halving the licensee's long-term renewal costs.

13. Regarding the proposal to increase the time in which a station must be placed in operation from eight to twelve months, we envision that this change in the regulatory treatment of PLMR stations would reduce the necessity for a licensee to request an extension of the time to construct, and thus would eliminate the costs necessary to make such a request.

14. The distinction between systems operating above and below 800 MHz is about to change because recently adopted rules will lead to the availability of new narrowband equipment and increase the possibility of using trunked equipment. This will, in turn, lead to larger, more complex public safety systems. Our proposal to permit "slow growth" extended implementation periods under the same parameters for systems operating below and above 800 MHz will enable faster system planning and implementation, resulting in reduced costs to licensees.

15. Permitting a public safety licensee to share its station with a Federal government entity, is on a non-profit, cost-sharing basis would be beneficial to

both parties. It would lower the operational costs of the public safety system in that the public safety licensee would obtain cost-sharing benefits from the Federal agency, and it would enable the Federal agency to obtain needed communications at a lower cost than if the Federal agency had to implement its own communications system.

16. We seek comments on these tentative conclusions.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

17. None.

Ordering Clauses

18. It is ordered that, pursuant to Sections 4(i), 4(j), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r) and 403, notice is hereby given of proposed amendments to part 90 of the Commission's Rules, 47 CFR part 90, in accordance with the proposals, discussions, and statement of issues in this Notice of Proposed Rulemaking.

19. It is further ordered that the Petition for Rulemaking submitted by the Association of Public-Safety Communications Officials-International, Inc. is granted to the extent indicated in the Notice of Proposed Rulemaking.

20. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 90

Communications equipment, Radio. Federal Communications Commission. Magalie Roman Salas, Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 90 as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4, 303, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, and 332, unless otherwise noted.

2. Section 90.1 is amended by revising paragraph (b) to read as follows:

§ 90.1 Basis and purpose.

* * * * *

(b) Purpose. This part states the conditions under which radio communications systems may be licensed and used in the Public Safety Pool, Industrial/Land Transportation Pool, and the Radiolocation Radio Service. These rules do not govern radio systems employed by agencies of the Federal Government.

3. Section 90.35 is amended by revising paragraph (c)(60)(i) to read as follows:

§ 90.35 Industrial/Business Pool.

* * * * *

(c) * * *

(60) (i) Frequencies subject to this limitation may be used for voice or non-voice communications when utilized for cargo handling from a dock, or a cargo handling facility, to a vessel alongside. Any number of the frequencies may be authorized to one licensee for the purpose. Mobile relay stations may be temporarily installed at or in the vicinity of a dock or cargo handling facility and used when a vessel is alongside the dock or cargo handling facility.

* * * * *

4. Section 90.149 is amended by revising paragraph (a) to read as follows:

§ 90.149 License term.

(a) Licenses for stations authorized under this part will be issued for a term not to exceed ten (10) years from the date of the original issuance, modification, or renewal.

* * * * *

5. Section 90.155 is revised to read as follows:

§ 90.155 Time in which station must be placed in operation.

(a) All stations authorized under this part, except as provided in §§ 90.629, 90.665, and 90.685, must be placed in operation within twelve (12) months from the date of grant or the authorization cancels automatically and must be returned to the Commission.

(b) A local government entity in the Public Safety Pool, applying for any frequency in this part, may also seek extended implementation authorization pursuant to § 90.629.

(c) For purposes of this section, a base station is not considered to be placed in operation unless at least one associated mobile station is also placed in operation. See also §§ 90.633(d) and 90.631(f).

(d) Multilateration LMS systems authorized in accordance with § 90.353 must be constructed and placed in operation within twelve (12) months from the date of grant or the authorization cancels automatically and

must be returned to the Commission. MTA-licensed multilateration LMS systems will be considered constructed and placed in operation if such systems construct a sufficient number of base stations that utilize multilateration technology (see paragraph (e) of this section) to provide multilateration location service to a substantial portion of at least one BTA in the MTA.

(e) A multilateration LMS station will be considered constructed and placed in operation if it is built in accordance with its authorized parameters and is regularly interacting with one or more other stations to provide location service, using multilateration technology, to one or more mobile units. Specifically, LMS multilateration stations will only be considered constructed and placed in operation if they are part of a system that can interrogate a mobile, receive the response at 3 or more sites, compute the location from the time of arrival of the responses and transmit the location either back to the mobile or to a subscriber's fixed site.

(f) For purposes of this section, a station licensed to provide commercial mobile radio service is not considered to have commenced service unless it provides service to at least one unaffiliated party.

(g) Application for extension of time to commence service may be made on FCC Form 600. Extensions of time must be filed prior to the expiration of the construction period. Extensions will be granted only if the licensee shows that the failure to commence service is due to causes beyond its control. No extensions will be granted for delays caused by lack of financing, lack of site availability, for the assignment or transfer of control of an authorization, or for failure to timely order equipment. If the licensee orders equipment within 90 days of the license grant, a presumption of due diligence is created.

(h) An application for modification of an authorization (under construction) at the existing location does not extend the initial construction period. If additional time to commence service is required, a request for such additional time must be submitted on FCC Form 600, either separately or in conjunction with the submission of the FCC Form 600 requesting modification.

§ 90.167 [Removed]

6. Section 90.167 is removed.

7. Section 90.175 is amended by revising paragraph (i)(14) to read as follows:

§ 90.175 Frequency coordination requirements.

* * * * *

(i) * * *

(14) Except for applications for the frequencies set forth in §§ 90.719(c) and 90.720, applications for frequencies in the 220–222 MHz band.

* * * * *

8. Section 90.177 is amended by revising the second sentence of paragraph (d)(2) to read as follows:

§ 90.177 Protection of certain radio receiving locations.

* * * * *

(d) * * *

(2) * * * Prospective applicants should communicate with: Chief, Compliance and Information Bureau, Federal Communications Commission, Washington, D.C. 20554.

* * * * *

9. Section 90.179 is amended by adding paragraph (h) to read as follows:

§ 90.179 Shared use of radio stations.

* * * * *

(h) Licensees authorized to operate radio systems on Public Safety Pool frequencies designated in § 90.20 may share their facilities with Federal Government entities on a non-profit, cost-shared basis. Such a sharing arrangement is subject to the provisions of paragraphs (b), (d), and (e) of this section.

10. Section 90.187 is amended by adding paragraph (d) to read as follows:

§ 90.187 Trunking in the bands between 150 and 512 MHz.

* * * * *

(d) The maximum number of frequency pairs that may be assigned at any one time for the operation of a trunked radio station (class of station YG or YW) is ten.

11. Section 90.421 is revised to read as follows:

§ 90.421 Operation of mobile station units not under the control of the licensee.

Mobile stations, as defined in § 90.7 include vehicular-mounted and hand-held units. Such units may be operated by persons other than the licensee, as provided for below, when necessary for the licensee to meet its requirements in connection with the activities for which it is licensed. If the number of such units, together with units operated by the licensee, exceeds the number of mobile units authorized to the licensee, license modification is required. The licensee is responsible for taking necessary precautions to prevent unauthorized operation of such units not under its control.

(a) *Public Safety Pool.* (1) Mobile units licensed in the Public Safety Pool may be installed in any vehicle which in an emergency would require cooperation and coordination with the licensee, and in any vehicle used in the performance, under contract, of official activities of the licensee. This provision does not permit the installation of radio units in non-emergency vehicles that are not performing governmental functions under contract but with which the licensee might wish to communicate.

(2) Mobile units licensed under § 90.20(a)(2)(iii) may be installed in a vehicle or be hand-carried for use by any person with whom cooperation or coordinations is required for medical services activities.

(b) *Industrial/Business Pool.* Mobile units licensed in the Industrial/Business Pool may be installed in vehicles of persons furnishing under contract to the licensee and for the duration of the contract, a facility or service directly related to the activities of the licensee.

(c) In addition to the above, frequencies assigned to licensees in the Private Land Mobile Radio Services may be installed in the facilities of those who assist the licensee in emergencies and with whom the licensee must communicate in situations involving imminent safety to life or property.

12. Section 90.629 is amended by revising paragraphs (a)(1) and (a)(2) and adding paragraph (f) to read as follows:

§ 90.629 Extended implementation period.

* * * * *

(a) * * *

(1) The proposed system will require longer than twelve (12) months to construct and place in operation because of its purpose, size, or complexity; or

(2) The proposed system is to be part of a coordinated or integrated wide-area system which will require more than twelve (12) months to plan, approve, fund, purchase, construct, and place in operation; or

* * * * *

(f) Pursuant to § 90.155(b), the provisions of this section shall apply to local government entities applying for any frequency in the Public Safety Pool.

[FR Doc. 98–31608 Filed 11–25–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[I.D. 111698A]

New England Fishery Management Council; Public Meeting

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

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 2-day public meeting to consider actions affecting New England fisheries in the exclusive economic zone.

DATES: The meeting will be held on Wednesday, December 9, 1998, at 9:00 a.m. and on Thursday, December 10, 1998, at 8:30 a.m.

ADDRESSES: The meeting will be held at the Sheraton Colonial Hotel, 427 Walnut Street, Wakefield, MA 01880; telephone (781) 245–9300. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036; telephone: (781) 231–0422.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (781) 231–0422.

SUPPLEMENTARY INFORMATION:**Wednesday, December 9, 1998**

The meeting will begin with reports on recent activities from the Council Chairman, Executive Director, the NMFS Acting Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, and representatives of the Coast Guard, the Atlantic States Marine Fisheries Commission, and the U.S. Fish and Wildlife Service. Following reports, the Chairman of the Herring Committee will ask for approval of draft regulations and other documents associated with the submission of the Fishery Management Plan (FMP) for the Atlantic Herring Fishery to NMFS. After a noon break, the Council intends to seek approval of management measures and draft regulations for Amendment 12 to the Northeast Multispecies FMP (for whiting, offshore hake, and red hake). As part of the whiting discussion, the Council also will resolve issues relative to meeting the plan objectives, the Sustainable Fisheries Act requirements, and provide an update on document

preparation and submission of the final amendment to NMFS. The Wednesday agenda will conclude with the Multispecies Monitoring Committee (MSMC) Annual Report. Information presented will include projected groundfish landings through April 1999, target total allowable catches for the 1999–2000 fishing year, and options for reaching or maintaining fishing mortality objectives that achieve rebuilding for the principal groundfish species.

Thursday, December 10, 1998

The Council will make a number of decisions at this meeting based on information presented in the MSMC Report. These include action on Framework Adjustments 26 and 27 to the Northeast Multispecies FMP. The Council intends to approve final action on Framework Adjustment 26, which contains measures to protect cod, prior

to the May 1 start of the 1999 fishing year. Alternatives under consideration include an increase in the size and/or duration of the existing Gulf of Maine groundfish closed areas, the possible addition of areas to conserve the Georges Bank cod stock, and a modification to the Gulf of Maine cod trip limit “running clock” feature. The Council also intends to approve initial action on Framework Adjustment 27 to the Northeast Multispecies FMP. Framework Adjustment 27 would contain measures that meet the 1999 fishing year rebuilding plan objectives and might include area closures, trip limits, adjustments to days-at-sea or gear/mesh modifications. This Council meeting will conclude after any other outstanding business has been addressed.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance

with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: November 20, 1998.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 98–31651 Filed 11–25–98; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 63, No. 228

Friday, November 27, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Tongass National Forest Timber Demand Considerations; Alaska

AGENCY: Forest Service, USDA.

ACTION: Notice of availability; request for comments.

SUMMARY: The Tongass Timber Reform Act of 1990 requires the Secretary to seek to provide a supply of timber that meets the annual market demand for timber from the Tongass as well as the market demand for timber from the Tongass for each planning cycle. The draft procedures for considering market demand in planning annual timber sale offerings are now available for public review and comment.

DATES: Comments must be received in writing on or before January 11, 1999.

ADDRESSES: Single copies of the draft procedures may be obtained by writing the Regional Forester, Alaska Region, Forest Service, USDA, PO Box 21628, Juneau, Alaska 99802-1628. Send written comments on the draft procedures to the same address. The document is also posted on the internet at ww.fs.fed.us/r10/issues.htm.

FOR FURTHER INFORMATION CONTACT: Frederick L. Norbury or Kathleen S. Morse, Ecosystem Planning and Budgeting Staff, Alaska Region, Forest Service, USDA, PO Box 21628, Juneau, Alaska 99802-1728, (907) 586-8886/8809.

SUPPLEMENTARY INFORMATION: The draft procedures estimate the volume of timber likely to be purchased from the Tongass National Forest in the coming year based on observations of industry behavior in prior years. The industry draws its annual raw material supply from an accumulated inventory of timber volume under contract, sometimes called the "buffer stock". This inventory must be large enough to keep mills operating at a steady rate

while new sales are prepared for offer and harvest. Historically, the Forest Service has attempted to allow the industry to hold the equivalent of two to three years worth of raw material as volume under contract. The draft procedures essentially suggest a similar approach but defined this inventory requirement in more analytical terms.

The draft procedures assume that, at a minimum, the industry will want to maintain its existing timber inventory and will purchase timber to replace that harvested in a given year. If the existing timber inventory is lower than the desired, the industry may want to purchase more timber than is processed in order to build up inventory. By comparing the current inventory with an estimate of the desired inventory and factoring in projected annual harvest, the Forest Service can develop a range of expected timber purchases for any given year. The volume offered will be adjusted to fall within the most current estimate.

Dated: November 20, 1998.

James A. Caplan,

Acting Regional Forester, Alaska Region.

[FR Doc. 98-31609 Filed 11-25-98; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-549-502]

Notice of Extension of Time Limit for Antidumping Duty Administrative Review of Certain Welded Carbon Steel Pipes and Tubes From Thailand

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 27, 1998.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results of the antidumping duty administrative review of the antidumping order on certain welded carbon steel pipes and tubes from Thailand, covering the period March 1, 1997 through February 28, 1998.

FOR FURTHER INFORMATION CONTACT: John Totaro or Abdelali Elouaradia, AD/CVD Enforcement Office 7, Import Administration, International Trade Administration, U.S. Department of

Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone (202) 482-1374 or 482-2243, respectively.

SUPPLEMENTARY INFORMATION: Under section 751(a)(3)(A) of the Tariff Act, as amended (the Act), the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. In the instant case, the Department has determined that it is not practicable to complete the review within the statutory time limit. See Memorandum from Roland L. MacDonald to Robert S. LaRussa (November 9, 1998).

Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for the preliminary results until March 31, 1999.

Dated: November 19, 1998.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 98-31660 Filed 11-25-98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101598A]

Marine Mammals

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

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that PRBO International Biological Research, 4990 Shoreline Highway, Stinson Beach, CA 94970-9701, has been issued an amendment to scientific research permit No. 939.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS,

1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713-2289); and

Regional Administrator, Southwest Regional Office, NMFS, NOAA, 501

West Ocean Boulevard, Suite 4200,
Long Beach, CA 90802-4213 (562/980-
4001).

FOR FURTHER INFORMATION CONTACT:
Jeannie Drevenak, 301/713-2289.

SUPPLEMENTARY INFORMATION: On August 11, 1998, notice was published in the **Federal Register** (63 FR 42828) that an amendment of permit No. 939, issued December 12, 1994 (59 FR 65016), had been requested by the above-named organization. The requested amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Dated: November 3, 1998.

Ann D. Terbush,

*Chief, Permits and Documentation Division,
Office of Protected Resources, National
Marine Fisheries Service.*

[FR Doc. 98-31652 Filed 11-25-98; 8:45 am]

BILLING CODE 3510-22-F

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 99-05 ; Low Dose Research Program—Scientific, Regulatory, and Societal Issues

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Biological and Environmental Research (OBER) of the Office of Science (SC), U.S. Department of Energy (DOE), hereby announces its interest in receiving applications to address, analyze, and anticipate scientific, regulatory, and societal issues and opportunities arising from advances in low dose research and from current and planned regulatory policy. This may include research to summarize (1) the state-of-the-art of low dose research, (2) research and technology developments that support needs of the low dose research program, and (3) information needs and risk policy development strategies of regulatory agencies responsible for developing low dose radiation exposure standards. Research summaries should be submitted for publication in the peer-reviewed literature so they are broadly available to scientists, regulators, and the public. Information can be made broadly available through the development and use of a web site or other educational materials. Applications can also include the organization of studies, conferences, or workshops that identify and clarify, on

an ongoing basis, the most urgent issues for the low dose research program and for the use of information developed in the program for risk assessment.

DATES: Potential applicants are encouraged to submit a brief preapplication. All preapplications, referencing Program Notice 99-05, should be received by DOE by 4:30 p.m., e.s.t., December 14, 1998. A response to the preapplications discussing the potential program relevance of a formal application generally will be communicated within 7 days of receipt.

The deadline for receipt of formal applications is 4:30 p.m., e.s.t., January 18, 1999, in order to be accepted for merit review and to permit timely consideration for award in FY 1999.

ADDRESSES: Preapplications, referencing Program Notice 99-05, should be sent by E-mail to

joanne.corcoran@oer.doe.gov; however, preapplications will also be accepted if mailed to the following address: Ms. Joanne Corcoran, Office of Biological and Environmental Research, SC-72, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874-1290.

Formal applications, referencing Program Notice 99-05, should be sent to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC-64, 19901 Germantown Road, Germantown, MD 20874-1290, ATTN: Program Notice 99-05. This address must be used when submitting applications by U.S. Postal Service Express, any commercial mail delivery service, or when hand carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. David Thomassen, telephone: (301) 903-9817, Office of Biological and Environmental Research, SC-72, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874-1290. The full text of Program Notice 99-05 is available via the Internet using the following web site address: <http://www.er.doe.gov/production/grants/grants.html>.

SUPPLEMENTARY INFORMATION:

Background

Current standards for occupational and residential exposures to radiation and chemicals are based on linear, no-threshold models of risk that drive regulatory decisions and estimations of cancer risk. Linear, no-threshold models assume that risk is always proportional to dose, that there is no risk only when there is no dose, and that even a single molecule or radiation induced ionization can cause cancer or disease. However, the scientific basis for these

assumptions is limited and uncertain at very low doses and dose rates.

Much scientific evidence suggests that the risks from exposure to low doses or low dose-rates of radiation and chemicals may be better described by a non-linear, dose-response relationship. This evidence includes long term human and animal studies and research at the cellular and molecular level on the DNA repair capabilities of cells and tissues, 'bystander' effects associated with low dose exposures, the effects of exposure-induced gene expression, the effects of a cell's micro environment on its response to low dose exposures, and studies of the multi-step nature of cancer development. A more definitive understanding of the biological responses induced by low dose, low dose-rate exposures is needed to clarify the role played by these and other cell responses and capabilities in determining risk.

The low dose research program focuses on quantifying and understanding the mechanisms of molecular and cellular responses to low dose, low dose-rate exposures to radiation to improve the scientific underpinning for estimating risks from these exposures. The goal of this research program is the development of scientifically defensible tools and approaches for determining risk that are widely used, accepted, and understood.

Applicant Qualifications and Capabilities

Applicants should demonstrate knowledge of radiation biology, relevant literature, risk modeling strategies and needs, federal regulatory policy and policy development, and public concerns over exposure to radiation. Applicants should demonstrate their understanding of the needs for and the uses of the types of scientific information likely to be developed in the low dose research program. They should demonstrate understanding of previous epidemiologic and experimental studies involving low dose, low dose-rate exposures to radiation. Finally, interested applicants should demonstrate knowledgeability of research opportunities and capabilities at National Laboratories, universities, and industry in the area of molecular and cellular responses to low dose, low dose-rate exposures.

Program Funding

It is anticipated that up to \$300,000 will be available for grant awards during FY 1999, contingent on availability of appropriated funds. Multiple year funding is expected, contingent on availability of appropriated funds,

progress of research, and programmatic needs. It is anticipated that a single award will be made.

Preapplications

A brief preapplication may be submitted. The preapplication should identify on the cover sheet the institution, Principal Investigator name, address, telephone, fax and E-mail address, title of the project, and the field of scientific research. The preapplication should consist of a two to three page narrative describing the research project objectives and methods of accomplishment. These will be reviewed relative to the scope and research needs of the DOE Low Dose Research Program.

Preapplications are strongly encouraged but not required prior to submission of a full application. Please note that notification of a successful preapplication is not an indication that an award will be made in response to the formal application.

Applications will be subjected to scientific merit review (peer review) and will be evaluated against the following evaluation criteria listed in descending order of importance as codified at 10 CFR 605.10(d):

1. Scientific and/or Technical Merit of the Project,
2. Appropriateness of the Proposed Method or Approach,
3. Competency of Applicant's Personnel and Adequacy of Proposed Resources,
4. Reasonableness and Appropriateness of the Proposed Budget.

The evaluation will include program policy factors such as the relevance of the proposed research to the terms of the announcement and an agency's programmatic needs. Note, external peer reviewers are selected with regard to both their scientific expertise and the absence of conflict-of-interest issues. Non-federal reviewers may be used, and submission of an application constitutes agreement that this is acceptable to the investigator(s) and the submitting institution.

Information about the development and submission of applications, eligibility, limitations, evaluation, selection process, and other policies and procedures may be found in 10 CFR part 605, and in the Application Guide for the Office of Science Financial Assistance Program. Electronic access to the Guide and required forms is made available via the World Wide Web at: <http://www.er.doe.gov/production/grants/grants.html>. The Project Description must be 25 pages or less, exclusive of attachments. The

application must contain an abstract or project summary, letters of intent from collaborators, and short curriculum vitae consistent with NIH guidelines.

The Office of Science, as part of its grant regulations, requires at 10 CFR 605.11(b) that a recipient receiving a grant to perform research involving recombinant DNA molecules and/or organisms and viruses containing recombinant DNA molecules shall comply with the National Institutes of Health "Guidelines for Research Involving Recombinant DNA Molecules", which is available via the world wide web at: http://www.niehs.nih.gov/odhsb/biosafe/nih/nih97_1.html, (59 FR 34496, July 5, 1994), or such later revision of those guidelines as may be published in the **Federal Register**.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR part 605.

Issued in Washington, DC, on November 18, 1998.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 98-31653 Filed 11-25-98; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Privacy Act of 1974; Deletion of Privacy Act Systems of Records

AGENCY: Department of Energy.

ACTION: Notification of deletion of Department of Energy Privacy Act Systems of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Department of Energy is deleting from the agency's inventory of systems of records, record systems that are obsolete and the information is no longer collected, maintained or retrieved by name or personal identifier and, therefore, not Privacy Act record systems.

EFFECTIVE DATE: November 27, 1998.

FOR FURTHER INFORMATION CONTACT: Abel Lopez, Director, Freedom of Information Act and Privacy Act Division, HR-73, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-5955.

SUPPLEMENTARY INFORMATION: After reviewing the Department's Privacy Act Systems of Records, the following records systems were identified for deletion:

- DOE-10
System name: Office of General

Counsel Time and Accountability Reports.

- DOE-15
System name: Payroll and Pay Related Data for Employees of Terminated Contractors.
- DOE-32
System name: Government Motor Vehicle Operator Records.
- DOE-39
System name: Labor Standards Complaints & Grievances.
- DOE-42
System name: Personnel Security Clearance Index.
- DOE-49
System name: Security Correspondence File.
- DOE-67
System name: Participants in Experiments, Studies, and Surveys.
- DOE-79
System name: Clinch River Breeder Reactor Plant Work Force Survey.

Issued in Washington, DC, on November 6, 1998.

Rick T. Farrell,

Director of Human Resources and Administration.

[FR Doc. 98-31654 Filed 11-25-98; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99-71-001]

Caprock Pipeline Co.; Notice of Tariff Filing

November 23, 1998.

Take notice that on November 18, 1998, Caprock Pipeline Co. (Caprock), tendered for filing to become a part of Caprock's FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets, to be effective November 2, 1998:

Substitute Fifth Revised Sheet No. 29A
Substitute Third Revised Sheet No. 37
Substitute First Revised Sheet No. 37A
Substitute Second Revised Sheet No. 38
Substitute First Revised Sheet No. 38A
Substitute First Revised Sheet No. 39

Caprock states that this filing is being submitted in compliance with the Letter Order dated November 3, 1998 (Letter Order), in Docket No. RP99-71-000.

Caprock states that copies of the filing were served upon all affected firm customers of Caprock and applicable state agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C.

20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98-31619 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99-6-001]

Chandeleur Pipe Line Company; Notice of Compliance Filing

November 23, 1998.

Take notice that on November 18, 1998, Chandeleur Pipe Line Company (Chandeleur), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the revised tariff sheets hereto in compliance with the Commission's Order No. 597-H issued July 15, 1998 in the above-referenced docket, Tariff Sheet Nos. 29, 66A, 67, 67A and 69 to be effective November 2, 1998 in order to implement the GISB Standards adopted under Order No. 587-H.

Chandeleur states that it is serving copies of the filing to its customers, State Commissions and interested parties.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98-31618 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99-74-000]

CNG Transmission Corporation; Notice of Application for Abandonment

November 23, 1998.

Take notice that on November 13, 1998, CNG Transmission Corporation (CNG) 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP99-74-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to partially abandon by sale to the People's Natural Gas Company, (Peoples) certain certificated natural gas facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, CNG proposes to abandon by sale to Peoples approximately 4200 feet of pipeline, known as TLNG-461, and located in Beaver County, Pennsylvania. CNG states that CNG purchased TLNG-461 (42.3 miles of 14 inch pipe) from Laurel Pipeline Company in 1986 but did not use TLNG-461 from 1986 through 1990. CNG also states that in 1990, CNG placed 9.1 miles of TLNG-461 in-service pursuant to 18 CFR Section 157.208, and reported the in-service as part of the annual report filing for CNG in Docket No. CP82-537 filed on February 20, 1992.

CNG asserts that currently it is not utilizing this section of TLNG-461 and it has no customers located on, or downstream of this section of TLNG-461.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 14, 1998, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 175.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to

jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for CNG to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98-31613 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96-389-003]

Columbia Gulf Transmission Company; Notice of Negotiated Rate Filing

November 23, 1998.

Take notice that on November 18, 1998, Columbia Gulf Transmission Company (Columbia Gulf), tendered for filing to the Commission the following contract for disclosure of a recently negotiated rate transaction:

ITS-2 Service Agreement No. 61641 between Columbia Gulf Transmission Company and Entergy Louisiana Inc., dated October 7, 1998

Amendment to ITS-2 Service Agreement No. 61641 between Columbia Gulf Transmission Company and Entergy Louisiana Inc., dated October 20, 1998

Columbia Gulf requests an effective date of December 1, 1998, for the negotiated rate agreement and amendment.

Columbia Gulf states that copies of the filing have been served on all parties on the official service list created by the Secretary in this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be

filed on or before December 1, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 98-31616 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99-629-000]

El Segundo Power, LLC; Notice of Filing

November 23, 1998.

Take notice that on November 16, 1998, El Segundo Power, LLC, tendered for filing a Summary of Activity for market-based transactions for the quarter ended September 30, 1998.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before December 4, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 98-31614 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA99-3-000]

John B. Fleeger, Thomas H. Fleeger, and Mary Jean Blanton Trust; Notice of Petition for Adjustment

November 23, 1998.

Take notice that on October 28, 1998, John B. Fleeger filed a petition for

adjustment in Docket No. SA99-3-000, pursuant to Section 502(c) of the Natural Gas Policy Act of 1978, on behalf of himself, including his 1/3 interest in the Many States Oil Company (Many States), the Mary Jean Blanton Trust (Mary Jean Blanton, Trustee), including the trust's 1/3 interest in Many States, and Thomas H. Fleeger, including his 1/3 interest in Many States. Applicants request relief from paying Kansas ad valorem tax refunds to Williams Gas Pipelines Central, Inc., (Williams). Applicants state that they were notified by Helmerich & Payne, Inc., that they owe refunds to Williams. Applicants' petition indicates that, with interest computed to July 7, 1998, each owes approximately \$36,483.75 to Williams. Applicants' petition is on file with the Commission and open to public inspection.

Applicants contend that paying these refunds will cause them economic harm. Applicants state that they obtained their respective interests, which is less than 15%, from their father many years ago. Applicants further state that they are not oil people by education or upbringing, that Thomas H. Fleeger's financial condition is very bad, and that they each rely on the income from these wells to differing degrees. Applicants add that the wells associated with the subject refund amount have not been money-makers.

Any person desiring to be heard or to make any protest with reference to said petition should, on or before 15 days after the date of publication in the **Federal Register** of this notice, file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211, 385.1105, and 385.1106). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 98-31624 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99-74-001]

KN Interstate Gas Transmission Co.; Notice of Tariff Filing

November 23, 1998.

Take notice that on November 18, 1998, KN Interstate Gas Transmission Co. (KNI), tendered for filing to become a part of KNI's FERC Gas Tariff, the following revised tariff sheet(s) to be effective November 2, 1998:

Third Revised Volume No. 1-A

Substitute Second Revised Sheet No. 20
Substitute Second Revised Sheet No. 21
Substitute First Revised Sheet No. 22
Substitute First Revised Sheet No. 22A
Substitute Original Sheet No. 22B
Substitute Second Revised Sheet No. 47
Substitute Second Revised Sheet No. 48
Substitute Second Revised Sheet No. 49
Substitute First Revised Sheet No. 49A
Substitute First Revised Sheet No. 49B
Substitute Second Revised Sheet No. 104
Substitute Second Revised Sheet No. 105
Substitute Second Revised Sheet No. 106
Substitute First Revised Sheet No. 106A
Substitute First Revised Sheet No. 106B
Substitute Second Revised Sheet No. 126
Substitute Second Revised Sheet No. 127
Substitute Second Revised Sheet No. 129
Substitute First Revised Sheet No. 129A
Substitute Second Revised Sheet No. 130

Third Revised Volume No. 1-B

1st Revised Third Revised Sheet No. 6
Substitute Fourth Revised Sheet No. 89A

First Revised Volume No. 1-C

Substitute First Revised Sheet No. 16A
Substitute Second Revised Sheet No. 17
Substitute First Revised Sheet No. 17A
Substitute First Revised Sheet No. 17B
Substitute Original Sheet No. 17C
Substitute Second Revised Sheet No. 43
Substitute First Revised Sheet No. 43A
Substitute First Revised Sheet No. 43B
Substitute Original Sheet No. 43C
Substitute Original Sheet No. 43D

First Revised Sheet No. 1-D

Substitute Second Revised Sheet No. 6
Substitute Fourth Revised Sheet No. 71A

KNI States that this filing is being submitted in compliance with the Letter Order dated November 3, 1998 (Letter Order), in Docket No. RP99-74-000.

KNI states that copies of the filing were served upon all affected firm customers of KNI and applicable state agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be

filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98-31622 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99-73-001]

KN Wattenberg Transmission Limited Liability Co.; Notice of Tariff Filing

November 23, 1998.

Take notice that on November 18, 1998, KN Wattenberg Transmission Limited Liability Co. (KNW), tendered for filing to become a part of KNW's FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets to be effective November 2, 1998:

Substitute First Revised Sheet No. 19
Substitute First Revised Sheet No. 20
Substitute Original Sheet No. 20A
Substitute Original Sheet No. 20B
Substitute First Revised Sheet No. 21
Substitute First Revised Sheet No. 33
Substitute First Revised Sheet No. 34
Substitute Original Sheet No. 34A
Substitute Original Sheet No. 34B
Substitute First Revised Sheet No. 42
Substitute Second Revised Sheet No. 67

KNW states that this filing is being submitted in compliance with the Letter Order dated November 3, 1998 (Letter Order), in Docket No. RP99-73-000.

KNW states that copies of the filing were served upon all affected firm customers of KNW and applicable state agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98-31621 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99-630-000]

Long Beach Generation LLC; Notice of Filing

November 23, 1998.

Take notice that on November 16, 1998, Long Beach Generation LLC filed a Summary of Activity for market-based transactions for the quarter ending September 30, 1998.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 4, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98-31615 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99-151-000]

Northwest Alaskan Pipeline Company; Notice of Tariff Changes

November 23, 1998.

Take notice that on November 17, 1998, Northwest Alaskan Pipeline

Company (Northwest Alaskan), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, Forth-Third Revised Sheet No. 5, with an effective date of January 1, 1999.

Northwest Alaskan states that it is submitting Forty-Third Revised Sheet No. 5, reflecting a decrease in total demand charges for Canadian gas purchased by Northwest Alaskan from Pan-Alberta Gas Ltd. (Pan-Alberta) and resold to Pan-Alberta Gas (U.S.), Inc. (PAG-US) under Rate Schedules X-1, and PIT under Rate Schedule X-4. Northwest Alaskan states that Forty-Third Revised Sheet No. 5, reflects an increase in total demand charges for Canadian gas resold to PAG-US under Rate Schedules X-2 and X-3.

Northwest Alaskan states that it is submitting Forty-Third Revised Sheet No. 5, pursuant to the provisions of the amended purchase agreements Northwest Alaskan and PAG-US and PIT, and pursuant to Rate Schedules X-1, X-2, X-3 and X-4, which provide for Northwest Alaskan to file 45 days prior to the commencement of the next demand charge period (January 1, 1999 through June 30, 1999) the demand charges and demand charge adjustments which Northwest Alaskan will charge during the period.

Northwest Alaskan states that a copy of this filing has been served on Northwest Alaskan's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98-31623 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. CP99-69-000]

Northwest Pipeline Corporation; Notice of Request Under Blanket Authorization

November 20, 1998.

Take notice that on November 12, 1998, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP99-69-000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to abandon, by sale to The Washington Water Power Company (Washington Water) an approximate 2.782 mile section of its Klamath Falls Lateral, located in Klamath County, Oregon. Northwest makes such request under its blanket certificate issued in Docket No. CP82-433-000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission.

Northwest states that the section of the lateral proposed for abandonment is an 8-inch line that extends from Northwest's existing Klamath Falls Meter Station at Lateral Milepost 14.84 to the terminus block valve interconnection with Washington Water's distribution system at Lateral Milepost 17.64. It is averred that Washington Water, as agent for Northwest, operates the subject portion of the lateral and desires to assume ownership of such line segment.

Northwest has agreed to sell that portion of the Klamath Falls Lateral and the accompanying rights-of-way to Washington Water for \$1,000,000, pursuant to a Facilities Sales Agreement dated August 1, 1998. It is stated that the facility is fully depreciated and that the sales price will cover Northwest's estimated cost of administering the sale and assigning the rights-of-way to Washington Water. It is indicated that Washington Water will operate the subject facilities as part of its distribution system, and that no abandonment of transportation service will occur as a result of the sale of the subject facilities.

Northwest indicates that the purchase of the portion of the Klamath Falls Lateral downstream of Northwest's meter station will enhance Washington Water's flexibility in providing local distribution service at various points along that section of lateral. It is further averred that, other than re-designating

the location of Northwest's Klamath Falls delivery point from the terminus of the lateral to the outlet of the meter station, no changes in transportation service agreement obligations will result from the proposed sale.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,*Acting Secretary.*

[FR Doc. 98-31590 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. CP99-71-000]

ONG Transmission Company and ONEOK Gas Transportation, L.L.C.; Notice of Application

November 20, 1998.

Take notice that on November 12, 1998, ONG Transmission Company (ONG) and ONEOK Gas Transportation, L.L.C. (OGT), 100 West Fifth Street, P.O. Box 22089, Tulsa, Oklahoma 74121, filed in Docket No. CP99-71-000 a joint application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act for permission and approval for ONG to abandon to certain services and receipt points and for OGT to acquire authorization to perform the abandoned services, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ONG and OGT state that; (1) ONG would abandon and transfer to OGT, its limited jurisdiction certificate authorizing the transportation of gas for Coastal States Gas Transmission Company (Coastal) as authorized in 1987 and transferred to ONG in 1991, (2) OGT would acquire the subject authorization and perform the transportation services previously

performed by ONG, (3) OGT would abandon certain receipt points as no gas has been received through such points in years, and (4) OGT would abandon such service upon the expiration of the applicable contract September 30, 1999.

Any person desiring to be heard or any person desiring to make any protest with reference to said application should on or before December 11, 1998, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An Intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered, a person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally

whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for ONG and OGT to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98-31591 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA99-4-000]

Questa Energy Corporation; Notice of Petition for Adjustment

November 23, 1998.

Take notice that on November 4, 1998, Questa Energy Corporation (Questa), filed a petition for adjustment in Docket No. SA99-4-000, pursuant to Section 502(c) of the Natural Gas Policy Act of 1978, requesting to be relieved from having to pay Kansas ad valorem tax refunds on the Edwards #1 well to Northern Natural Gas Company (Northern). Questa is the successor-in-interest to Enertec Corporation (Enertec) and Oakwood Resources, Inc., (Oakwood) in the Edwards #1 well. Northern's May 18, 1998, Refund Report shows that the refund previously attributable to Enertec is \$151.28, and that the refund previously attributable to Oakwood is \$1,244.56. Questa's petition is on file with the Commission and open to public inspection.

Questa states that it acquired the Enertec and Oakwood working interests, effective June 1, 1986, and that the Edwards #1 well is a marginal gas well that was under consideration to be plugged when Questa acquired it.

According to Questa, both Enertec and Oakwood are bankrupt and dissolved. Questa asserts that it did not profit from the alleged unlawful gas price and was not aware of the potential refund obligation when it acquired Enertec and Oakwood's working interests. Questa contends that it would suffer a special hardship if it is required to step into the shoes of Enertec and Oakwood and pay a refund obligation on their behalf, for a marginal gas well, when Questa has no way to recover those refunds from Enertec and Oakwood, the entities that actually benefited from the over-collections.

Any person desiring to be heard or to make any protest with reference to said petition should, on or before 15 days after the date of publication in the **Federal Register** of this notice, file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211, 385.1105, and 385.1106). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98-31625 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA99-2-000]

Suerte Oil Company; Notice of Petition for Staff Adjustment

November 20, 1998.

Take notice that on November 2, 1998, Suerte Oil Company (Suerte), P.O. Box 725, Howard, Kansas 67349 filed in Docket No. SA99-2-000 a petition for adjustment pursuant to Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), requesting to be relieved of its obligation to make Kansas ad valorem tax refunds, as required by the Commission's September 10, 1997 order in Docket No. RP97-369-000 *et al.*¹

¹ See 80 FERC ¶ 61,264 (1997); order denying rehearing issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

Suerte's petition is on file with the Commission and open to public inspection.

The Commission's September 10, 1997 order on remand from the D.C. Circuit Court of Appeals² directed first sellers under the NGPA to make Kansas ad valorem tax refunds, with interest, for the period from 1983 to 1988.

Suerte indicates that Colorado Interstate Gas Company (CIG) paid Suerte a total of \$683.54 in Kansas ad valorem tax reimbursements on the Hines lease. Of this amount, Suerte's portion was \$598.10. The remaining \$85.44 was the royalty owners' portion. Suerte refunded the \$598.10 to CIG, but not \$1,438.80 now due in interest. Suerte states that 22 royalty owners are involved in this lease and it would be impossible to collect the money from all of them since some are deceased and others didn't pay their taxes before the law went into effect and Suerte had to deduct it from their royalty payments.

Suerte states that this well has been shut-in since January, 1996 and will be plugged later at an approximate cost of \$5,000-\$10,000, making it impossible to pay-off the interest payment through well revenues.

Suerte requests the Commission to waive the payment of the \$1,438.80 in interest and the royalty owners' portion (\$85.44) on the basis that the payment of such refunds would prove to be an economic hardship for Suerte.

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211, 385.1105, and 385.1106). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing must file a motion to intervene in accordance with the Commission's Rules.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98-31595 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-M

² *Public Service Company of Colorado v. FERC*, 91 F.3d 1478 (D.C. 1996) cert. denied, Nos. 96-954 and 96-1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997) (Public Service).

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. RP99-72-001]

TCP Gathering Company; Notice of Tariff Filing

November 23, 1998.

Take notice that on November 18, 1998, TCP Gathering Co. (TCP), tendered for filing to become a part of TCP's FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets to be effective November 2, 1998:

Substitute Second Revised Sheet No. 18A
Substitute First Revised Sheet No. 18B
Substitute Original Sheet No. 18C
Substitute Original Sheet No. 18D
Substitute Third Revised Sheet No. 46
Substitute Original Sheet No. 46A
Substitute Third Revised Sheet No. 47
Substitute Second Revised Sheet No. 47A
Substitute Original Sheet No. 47B
Substitute Second Revised Sheet No. 60
Substitute Third Revised Sheet No. 103A

TCP states that this filing is being submitted in compliance with the Letter Order dated November 3, 1998 (Letter Order), in Docket No. RP99-72-000.

TCP states that copies of the filing were served upon all affected firm customers of TCP and applicable state agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,*Acting Secretary.*

[FR Doc. 98-31620 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket Nos. TX94-4-000 and TX94-4-002]

Tex-La Electric Cooperative of Texas, Inc.; Notice of Filing

November 23, 1998.

Take notice that on November 17, 1998, Texas Utilities Electric Company and Southwestern Electric Service Company (collectively TU), tendered for filing on behalf of TU and Tex-La Electric Cooperative of Texas, Inc., an Offer of Settlement.

Copies of the filing were served on all parties on the official service list in Docket Nos. TX94-4-000 and TX94-4-002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before December 17, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,*Acting Secretary.*

[FR Doc. 98-31626 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. RP98-425-002]

Texas Gas Transmission Corporation; Notice of Filing of Tariff Sheets

November 23, 1998.

Take notice that on November 18, 1998, Texas Gas Transmission Corporation (Texas Gas), tendered for filing, as part of its FERC Gas Tariff, First Revised Volume No. 1:

Second Substitute Second Revised Sheet No. 206C

Second Substitute Ninth Revised Sheet No. 207

Texas Gas states that the instant filing revises specific tariff sheets filed on

November 10, 1998 in the same docket listed above. The revised tariff sheets simply correct mistakes of an omission of previously approved time lines and the deletion of GISB Standards 1.3.2(v) and (vi). The instant tariff sheets continue to reflect those revisions filed in the November 10, 1998, filing in order to comply with the Commission's directives in the October 29, 1998, Order which conditionally accepted Texas Gas's September 30, 1998, filing to comply with the Commission's Order No. 587-H.

Texas Gas states that copies of the tariff sheets are being served upon Texas Gas's jurisdictional customers and interested state commissions, and all parties on the official service list in Docket No. RP98-425.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,*Acting Secretary.*

[FR Doc. 98-31617 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. RP99-152-000]

Trailblazer Pipeline Company; Notice of Petition for Waiver

November 20, 1998.

Take notice that on November 18, 1998, Trailblazer Pipeline Company (Trailblazer) filed, pursuant to Rule 207 of the Commission's Rule of Practice and Procedure, to seek a limited waiver of the capacity release policies and regulations of the Federal Energy Regulatory Commission (Commission), codified at 18 CFR 284.243. Specifically, Trailblazer requests waiver of said regulations to allow replacement shippers, taking release of firm capacity from Trailblazer's Rate Schedule T shippers, to exercise the right of first refusal in the original contracts, under specified circumstances.

In support of its petition, Trailblazer states that it is a project-financed pipeline, the construction of which was authorized in Opinion No. 138.¹ Because of the constraints of the project financing loan agreement, Trailblazer is subject to limitations in dealing with the shippers that "backstopped" the system by entering into firm long-term contracts for firm capacity. Absent the consent of the lenders, the original Rate Schedule T shippers cannot be supplanted by new shippers and this limitation extends to the acquisition of firm capacity through permanent capacity releases.

Trailblazer states that the Rate Schedule T shippers on Trailblazer have now entered into what are in effect permanent capacity releases (releases at the maximum rate for the remaining term of the T Agreement) covering all of the firm capacity that remains dedicated under the Rate Schedule T Agreements. A summary of these releases is set out at Appendix A to the petition.

Trailblazer states the Commission has already granted a waiver to allow the release of capacity held by shippers under Rate Schedule T. Trailblazer now requests a further waiver of Commission Regulations and policies, so that the replacement shippers taking what are in effect permanent releases of Rate Schedule T capacity would be able to exercise the right of first refusal set out at Section 21.2 of the General Terms and Conditions in Trailblazer's Tariff with respect to the firm capacity covered by the Rate Schedule T release agreement. The waiver would be limited to situations where the shipper is paying the applicable maximum rate for the remaining term of the underlying (released) Rate Schedule T contract pursuant to a long-term release Agreement (one year or longer).

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before November 30, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98-31594 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-290-000]

Viking Gas Transmission Company; Notice of Informal Settlement Conference

November 20, 1998.

Take notice that an informal settlement conference in this proceeding will be convened on Wednesday, December 2, 1998, at 10:00 a.m., continuing on Thursday, December 3, 1998, at 10:00 a.m., at the office of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Arnold H. Meltz at (202) 208-2161 or John P. Roddy at (202) 208-0053.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98-31593 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER96-1663-045, et al.]

California Power Exchange Corporation, et al.; Electric Rate and Corporate Regulation Filings

November 17, 1998.

Take notice that the following filings have been made with the Commission:

1. California Power Exchange Corporation

[Docket No. ER96-1663-045]

Take notice that on November 12, 1998, the California Power Exchange Corporation (PX), tendered a

compliance filing required by the October 27, 1998, order in the above-referenced docket. The compliance filing consists of clean versions of tariff pages that were previously provided to the Commission in redlined form and accepted for filing in the October 27th order.

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Montana Power Company, Kohler Company, WKE Station Two Inc., PG&E Power Services Company, Louisville Gas and Electric Company, Kentucky Utilities

[Docket Nos. ER97-449-001; ER95-1018-006; ER98-1278-003; ER94-1394-017; ER99-490-000; and ER99-489-000]

Take notice that the following informational filings have been made with the Commission and are available for public inspection and copying in the Commission's Public Reference Room:

On November 2, 1998, Montana Power Company filed certain information as required by a Commission order issued in Docket No. ER97-449-000.

On November 2, 1998, Kohler Company filed certain information as required by a Commission order issued in Docket No. ER95-1018-000.

On November 2, 1998, WKE Station Two Inc. filed certain information as required by a Commission order issued in Docket No. ER98-1278-000.

On November 2, 1998, PG&E Power Services Company filed certain information as required by a Commission order issued in Docket No. ER94-1394-000.

On November 2, 1998, Louisville Gas and Electric Company filed certain information as required by a Commission order issued in Docket No. ER92-533-000.

On November 2, 1998, Kentucky Utilities filed certain information as required by a Commission order issued in Docket No. ER95-854-000.

3. GPU Advanced Resources, Inc.; GPU Advanced Resources, Inc.; South Carolina Electric and Gas Company; Western Kentucky Energy Corp.; CLECO Corporation; Millennium Power Partners, L.P.; Logan Generating Company, L.P.; Duke Energy Moss Landing, LLC

[Docket Nos. ER97-3666-006; ER97-3666-007; ER99-512-000; ER98-1279-003; ER96-2677-004; ER98-830-003; ER95-1007-011; and ER98-3418-003]

Take notice that the following informational filings have been made with the Commission and are available

¹ 18 FERC ¶ 61,244, *rehearing denied*, 19 FERC ¶ 61,116 (1982).

for public inspection and copying in the Commission's Public Reference Room:

On November 2, 1998, GPU Advanced Resources, Inc. filed certain information as required by a Commission order issued in Docket No. ER97-3666-000.

On November 2, 1998, South Carolina Electric and Gas Company filed certain information as required by a Commission order issued in Docket No. ER98-1085-000.

On November 2, 1998, Western Kentucky Energy Corp. filed certain information as required by a Commission order issued in Docket No. ER98-1279-000.

On November 2, 1998, CLECO Corporation filed certain information as required by a Commission order issued in Docket No. ER96-2677-000.

On November 2, 1998, Millennium Power Partners, L.P. filed certain information as required by a Commission order issued in Docket No. ER98-830-000.

On November 2, 1998, Logan Generating Company, L.P. filed certain information as required by a Commission order issued in Docket No. ER95-1007-000.

On November 2, 1998, Duke Energy Moss Landing filed certain information as required by a Commission order issued in Docket No. ER98-3418-000.

4. OGE Energy Resources, Inc.; Western Kentucky Energy Corp.; Resource Energy Services Company, LLC; Gelber Group, Inc.; VTEC Energy Inc.; Oxbow Power Marketing, Inc.

[Docket Nos. ER97-4345-007; ER98-1279-001; ER97-828-003; ER96-1933-006; ER95-1855-011; and ER96-1196-008]

Take notice that the following informational filings have been made with the Commission and are available for public inspection and copying in the Commission's Public Reference Room:

On November 2, 1998, OGE Energy Resources, Inc. filed certain information as required by a Commission order issued in Docket No. ER97-4345-000.

On November 2, 1998, Western Kentucky Energy Corp. filed certain information as required by a Commission order issued in Docket No. ER98-1279-000.

On November 2, 1998, Resource Energy Services Company, LLC. filed certain information as required by a Commission order issued in Docket No. ER97-828-000.

On November 2, 1998, Gelber Group, Inc. filed certain information as required by a Commission order issued in Docket No. ER96-1933-000.

On November 2, 1998, VTEC Energy Inc. filed certain information as required

by a Commission order issued in Docket No. ER95-1855-000.

On November 2, 1998, Oxbow Power Marketing, Inc. filed certain information as required by a Commission order issued in Docket No. ER96-1196-000.

5. Panda Power Corporation; Duke Energy Oakland, LLC; Duke Energy Moss Landing; Duke Energy Morro Bay, LLC; Duke Energy Trading and Marketing, LLC; Duke/Louis Dreyfus, L.L.C.; Duke Energy Oakland, LLC

[Docket Nos. ER98-447-003; ER98-3416-003; ER98-2680-001; ER98-2681-001; ER96-2921-011; ER96-108-015; and ER98-2682-001]

Take notice that the following informational filings have been made with the Commission and are available for public inspection and copying in the Commission's Public Reference Room:

On November 2, 1998, Panda Power Corporation filed certain information as required by a Commission order issued in Docket No. ER98-447-000.

On November 2, 1998, Duke Energy Oakland, LLC filed certain information as required by a Commission order issued in Docket No. ER98-3416-000.

On November 2, 1998, Duke Energy Moss Landing filed certain information as required by a Commission order issued in Docket No. ER98-2680-000.

On November 2, 1998, Duke Energy Morro Bay, LLC filed certain information as required by a Commission order issued in Docket No. ER98-2681-000.

On November 2, 1998, Duke Energy Trading and Marketing, LLC filed certain information as required by a Commission order in Docket No. ER96-2921-000.

On November 2, 1998, Duke/Louis Dreyfus, L.L.C. filed certain information as required by a Commission order in Docket No. ER96-108-000.

On November 2, 1998, Duke Energy Oakland, LLC filed certain information as required by a Commission order in Docket No. ER98-2682-000.

6. TransCanada Power Marketing Ltd.; Lambda Energy Marketing Company; Great Western Power Cooperatives Company; Pacific Energy & Development Corporation; California Polar Power Brokers, LLC; Energy2, Inc.

[Docket Nos. ER98-564-001; ER94-1672-015; ER98-1722-001; ER98-1824-003; ER98-701-001; and ER96-3086-007]

Take notice that the following informational filings have been made with the Commission and are available for public inspection and copying in the Commission's Public Reference Room:

On November 2, 1998, TransCanada Power Marketing Ltd. filed certain information as required by a Commission order issued in Docket No. ER98-564-000.

On November 2, 1998, Lambda Energy Marketing Company filed certain information as required by a Commission order issued in Docket No. ER94-1672-000.

On November 2, 1998, Great Western Power Cooperatives Company filed certain information as required by a Commission order issued in Docket No. ER98-1722-000.

On November 2, 1998, Pacific Energy & Development Corporation filed certain information as required by a Commission order issued in Docket No. ER98-1824-000.

On November 2, 1998, California Polar Power Brokers, LLC filed certain information as required by a Commission order issued in Docket No. ER98-701-000.

On November 2, 1998, Energy2, Inc. filed certain information as required by a Commission order issued in Docket No. ER96-3086-000.

7. Southern California Edison Company

[Docket No. ER98-2843-001]

Take notice that on November 12, 1998, Southern California Edison Company (SCE), tendered a compliance filing to the Commission's October 28, 1998, order issued in the above referenced docket number.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. AES Redondo Beach, L.L.C.; AES Huntington Beach, L.L.C.; AES Alamito, L.L.C.

[Docket Nos. ER98-2843-003; ER98-2844-003; and ER98-2883-003]

Take notice that on November 12, 1998, AES Alamitos, L.L.C., AES Huntington Beach, L.L.C., and AES Redondo Beach, L.L.C., filed amended rate schedules in compliance with the Commission's order issued in the above referenced dockets on October 28, 1998.

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. El Segundo Power, LLC

[Docket No. ER98-2971-004]

Take notice that on November 12, 1998, El Segundo Power, LLC (El Segundo), tendered for filing revisions to its Rate Schedule FERC No. 1,

pursuant to the Commission's Order of October 28, 1998 in AES Redondo Beach, et al., 85 FERC ¶ 61,123 (1998), which required public utility suppliers to file amendments to their rate schedules under which they sell energy at market-based rates to include Replacement Reserve Service as a separate product.

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Long Beach Generation LLC

[Docket No. ER98-2972-004]

Take notice that on November 12, 1998, Long Beach Generation LLC (Long Beach), tendered for filing revisions to its Rate Schedule FERC No. 1, pursuant to the Commission's Order of October 28, 1998 in AES Redondo Beach, et al., 85 FERC ¶ 61,123 (1998), which required public utility suppliers to file amendments to their rate schedules under which they sell energy at market-based rates to include Replacement Reserve Service as a separate product.

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. People's Electric Corporation; Energy2, Inc.; Environmental Resources Trust Inc.; Bonneville Fuels Management Corporation; DTE-CoEnergy, L.L.C.; Amerada Hess Corporation; Working Assets Green Power

[Docket Nos. ER98-3719-001; ER96-3086-007; ER98-3233-001; ER96-659-011; ER97-3835-004; ER97-2153-001; and ER96-2914-006]

Take notice that the following informational filings have been made with the Commission and are available for public inspection and copying in the Commission's Public Reference Room:

On November 2, 1998, People's Electric Corporation filed certain information as required by a Commission order issued in Docket No. ER98-3719-000.

On November 2, 1998, Energy2, Inc. filed certain information as required by a Commission order issued in Docket No. ER96-3086-000.

On November 2, 1998, Environmental Resources Trust, Inc. filed certain information as required by a Commission order issued in Docket No. ER98-3233-000.

On November 2, 1998, Bonneville Fuels Management Corporation filed certain information as required by a Commission order issued in Docket No. ER96-659-000.

On November 2, 1998, DTE-CoEnergy L.L.C. filed certain information as

required by a Commission order issued in Docket No. ER97-3835-000.

On November 2, 1998, Amerada Hess Corporation filed certain information as required by a Commission order issued in Docket No. ER97-2153-000.

On November 2, 1998, Working Assets Green Power filed certain information as required by a Commission order issued in Docket No. ER96-2914-000.

12. Consumers Energy Company

[Docket No. ER98-4421-001]

Take notice that on November 12, 1998, Consumers Energy Company tendered for filing a compliance filing of its Market-Based Power Sales Tariff revised to implement the directives contained in the Federal Energy Regulatory Commission's order issued October 28, 1998, in this proceeding.

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Sempra Energy Trading Corp.

[Docket No. ER98-4497-001]

Take notice that on November 12, 1998, Sempra Energy Trading Corp. (SET), tendered for filing a compliance filing pursuant to the Commission's order of October 28, 1998 in Docket No. ER98-4497-000. Sempra Energy Trading Corporation, 85 FERC ¶61,122 (1998).

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. San Diego Gas & Electric Company

[Docket No. ER98-4498-001]

Take notice that on November 12, 1998, San Diego Gas & Electric Company (SDG&E), tendered for filing a compliance filing pursuant to the Commission's order issued October 28, 1998 in Docket No. ER98-4498-000. Sempra Energy Trading Corporation, 85 FERC ¶ 61,122 (1998).

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Virginia Electric and Power Company

[Docket No. ER99-573-000]

Take notice that on November 12, 1998, Virginia Electric and Power Company (Virginia Power), tendered for filing the Generation Imbalance Service Agreement between Virginia Electric and Power Company and North Carolina Electric Membership Corporation.

Virginia Power requests an effective date for this agreement of November 2, 1998. The term of this agreement shall be 39 days from the effective date unless extended by mutual consent.

Copies of the filing were served upon North Carolina Electric Membership Corporation, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Arizona Public Service Company

[Docket No. ER99-574-000]

Take notice that on November 12, 1998, Arizona Public Service Company (APS), tendered for filing in compliance of the Commission's Order dated October 28, 1998, in Docket No. ER98-2843-001, *et al.*, a revised FERC Electric Tariff, Original Volume No. 3 (Market Rate Tariff No. 1) to allow sales to the California Independent System Operator Corporation and its suppliers and market participants of Replacement Reserve Service and the following ancillary services: Regulation and Frequency Response, Energy Imbalance, Operating Reserve—Spinning Reserve, and Operating Reserve—Supplemental Reserve.

Copies of this filing have been served on the Arizona Corporation Commission, and all parties on the Commission's official service list of this docket.

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Public Service Company of New Mexico

[Docket No. ER99-575-000]

Take notice that on November 12, 1998, Public Service Company of New Mexico (PNM), tendered for filing executed service agreements, for electric power and energy sales at negotiated rates under the terms of PNM's Power and Energy Sales Tariff, with Public Service Company of Colorado (dated October 26, 1998), Glendale Water & Power (dated November 6, 1998), and Merchant Energy Group of the Americas, Inc. (dated November 6, 1998). PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to Public Service Company of Colorado, Glendale Water & Power, Merchant Energy Group of the Americas, Inc., and to the New Mexico Public Utility Commission.

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. PJM Interconnection, L.L.C.

[Docket No. ER99-576-000]

Take notice that on November 12, 1998, PJM Interconnection, L.L.C. (PJM),

tendered for filing executed service agreements for Non-Firm Point-to-Point and Firm Point-to-Point Transmission Service with H.Q. Energy Services (U.S.), Inc; Merchant Energy Group of the Americas, Inc., under PJM's Open Access Tariff.

Copies of this filing were served upon the parties to the service agreements.

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Northeast Utilities Service Company

[Docket No. ER99-577-000]

Take notice that on November 12, 1998, Northeast Utilities Service Company (NUSCO), tendered for filing a Service Agreement with Georgetown Municipal Light Department (Georgetown) under the NU System Companies' System Power Sales/Exchange Tariff No. 6.

NUSCO states that a copy of this filing has been mailed to Georgetown.

NUSCO requests that the Service Agreement become effective on November 1, 1998.

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Wisconsin Electric Power Company

[Docket No. ER99-578-000]

Take notice that on November 12, 1998, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an electric service agreement under its Market Rate Sales Tariff (FERC Electric Tariff, Original Volume No. 8) with Northern Indiana Public Service Company.

Wisconsin Electric respectfully requests an effective date of November 10, 1998, to allow for economic transactions.

Copies of the filing have been served on Northern Indiana Public Service Company, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Pacific Gas and Electric Company

[Docket No. ER99-579-000]

Take notice that on November 12, 1998, Pacific Gas and Electric Company (PG&E), tendered for filing an amended Appendix IV to its Transmission Owner Tariff.

PG&E is filing this amendment in compliance with the Commission's October 28, 1998, "Order on Rehearing, Granting Clarification, Establishing Further Procedures, Providing Guidance and Dismissing Complaint" (Order) (in Docket No. ER98-2843-001, *et al.*)

Copies of this filing have been served upon the California Public Utilities Commission, and all other parties listed in the official Service Lists compiled by the Federal Energy Regulatory Commission in Docket Nos. ER97-2358-000 and ER98-2843-001, *et al.*

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Southwestern Public Service Company

[Docket No. ER99-580-000]

Take notice that on November 12, 1998, New Century Services, Inc., on behalf of Southwestern Public Service Company (Southwestern) tendered for filing an executed umbrella service agreement between Southwestern and Energy Transfer Group, LLC under Southwestern's Rate Schedule for the Sale, Assignment, or Transfer of Transmission Rights.

Southwestern requests that this service agreement become effective on October 30, 1998. Consistent with the Commission's policy, this requested effective date is appropriate because Southwestern filed this umbrella service agreement within 30 days of it being executed.

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Business Discount Plan, Inc.

[Docket No. ER99-581-000]

Take notice that on November 12, 1998, Business Discount Plan, Inc. (BDP), petitioned the Commission for acceptance of BDP Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

BDP intends to engage in wholesale electric power and energy purchases and sales as marketer. BDP is not in the business of generating or transmitting electric power. BDP is a California Corporation engaged in the resale of telecommunications services.

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. The Washington Water Power Company

[Docket No. ER99-582-000]

Take notice that on November 12, 1998, The Washington Water Power Company (WWP), tendered for filing three additional service schedules, Schedules F, G, and H, to WWP's FERC Electric Tariff, Second Revised Volume No. 9, pursuant to section 35.12 of the

Commission's Regulations, 18 CFR 35.12. Schedules F, G, and H set forth the parameters for selling Spinning Reserve Service, Non-Spinning Reserve Service, and Replacement Reserve Service, respectively, to the California Independent System Operator. WWP proposes to offer all three services at market-based rates, pursuant to the Commission's order in *AES Redondo Beach, L.L.C.*, 85 FERC ¶ 61,123 (Oct. 28, 1998), and WWP's market-based rate authority, granted in Docket No. ER97-7-000.

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. Duke Energy Trading and Marketing, L.L.C

[Docket No. ER99-583-000]

Take notice that on November 12, 1998, Duke Energy Trading and Marketing, L.L.C. (DETM), tendered for filing an amended rate schedule in compliance with the Commission's October 28, 1998 order, 85 FERC ¶ 61,123 (1998). DETM amended its Rate Schedule FERC No. 1, which governs DETM's sales of energy and capacity at market-based rates.

The amended rate schedule reflects the Commission's directive to jurisdictional suppliers of energy in the California market to amend their rate schedules to include the sales of ancillary services. DETM has limited the sales of ancillary services to either the California Independent System Operator Corporation (California ISO) or others that self-supply ancillary services to the California ISO. DETM has informed the Commission that DETM will not commence the sales of ancillary services until the Commission acts upon this compliance filing.

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. Duquesne Light Company

[Docket No. ER99-584-000]

Take notice that on November 12, 1998, Duquesne Light Company (DLC), tendered for filing a Service Agreement for Retail Network Integration Transmission Service and a Network Operating Agreement for Retail Network Integration Transmission Service dated November 11, 1998 with First Energy Services Corp., under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement and Network Operating Agreement adds First Energy Services Corp., as a customer under the Tariff.

DLC requests an effective date of January 1, 1999, for the Service Agreement.

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

27. Enron Power Marketing, Inc.

[Docket No. ER99-596-000]

Take notice that on November 12, 1998, Enron Power Marketing, Inc. (EPMI), tendered for filing an amendment to its FERC Electric Service Tariff Rate Schedule No. 1.

The proposed changes allow EPMI to sell Ancillary Services and Replacement Reserve Services at market-based rates to the California Independent System Operator Corporation, pursuant to the order of the Federal Energy Regulatory Commission in AES Redondo Beach, L.L.C., 85 FERC ¶ 61,123 (1998).

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

28. New England Power Pool

[Docket No. OA97-237-000]

Take notice that on November 12, 1998, the New England Power Pool (NEPOOL), Executive Committee tendered for filing materials related to its filing on December 31, 1996 in the captioned dockets. These materials identify a reduced Schedule 1—Scheduling, System Control and Dispatch Service rate surcharge that is to be in effect in accordance with the NEPOOL Open Access Transmission Tariff for the period January 1, 1999 through May 31, 1999.

The NEPOOL Executive Committee states that copies of these materials were sent to all persons identified in the Commission's official service lists for the captioned dockets, the New England state governors and regulatory commissions, and the NEPOOL participants.

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the

Commission and are available for public inspection.

David P. Boergers,
Secretary.

[FR Doc. 98-31612 Filed 11-25-98; 8:45 am]
BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98-3853-001, et al.]

New England Power Pool, et al.; Electric Rate and Corporate Regulation Filings

November 18, 1998.

Take notice that the following filings have been made with the Commission:

1. New England Power Pool

[Docket No. ER98-3853-001]

Take notice that on November 13, 1998, the New England Power Pool (NEPOOL), Executive Committee submitted the Thirty-Ninth Agreement Amending New England Power Pool Agreement and related materials, in compliance with the Commission's order in New England Power Pool, 85 FERC ¶ 61,141 (October 29, 1998) (Order Conditionally Accepting Compliance Filing, as Modified, and Accepting in Part, and Rejecting in Part, Proposed Tariff Changes, as Modified).

The NEPOOL Executive Committee states that copies of these materials were sent to all entities on the service list in Docket No. ER98-3853-000, the participants in the New England Power Pool, and the New England state governors and regulatory commissions.

Comment date: December 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Symmetry Device Research, Inc.

[Docket No. ER96-2524-003]

TransAlta Energy Marketing (U.S.) Inc.

[Docket No. ER98-3184-001]

Duke Energy Morro Bay, LLC

[Docket No. ER98-3417-003]

Take notice that the following informational filings have been made with the Commission and are available for public inspection and copying in the Commission's Public Reference Room:

On October 29, 1998, Semmetry Device Research, Inc. filed certain information as required by a Commission order issued in Docket No. ER96-2524-000.

On October 30, 1998, TransAlta Energy Marketing (U.S.) Inc. filed certain information as required by a

Commission order issued in Docket No. ER98-3184-000.

On November 2, 1998, Duke Energy Morro Bay, LLC filed certain information as required by a Commission order issued in Docket No. ER98-3417-000.

3. Niagara Mohawk Power Corp.

[Docket Nos. ER98-4635-000, ER98-4630-000, ER98-4631-000, ER99-76-000 thru ER99-158-000, ER99-194-000 and ER99-195-000]

Take notice that on November 13, 1998, Niagara Mohawk Power Corporation tendered for filing proposed changes in its proposed Scheduling and Balancing Services Tariff. The proposed changes would provide clarification as to the entities to which the Tariff applies and as to the calculation of charges under the Tariff, and would make adjustments for generation facilities providing frequency control service.

These proposed changes are intended to clarify and improve the proposed Scheduling and Balancing Services Tariff.

Copies of the filing were served upon Niagara Mohawk's OATT customers, all generators in Niagara Mohawk's control area, all entities that have intervened in the referenced dockets, and the New York Public Service Commission.

Comment date: December 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Entergy Services, Inc.

[Docket No. ER99-169-000]

Take notice that on November 13, 1998 Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing an amendment to its quarterly reports for short-term transactions under Rate Schedule SP.

Comment date: December 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Entergy Services, Inc.

[Docket No. ER99-419-000]

Take notice that on November 13, 1998 Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing an amendment to its quarterly report for short-term transactions under

Rate Schedule SP during the third quarter of 1998.

Comment date: December 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Virginia Electric and Power Company

[Docket No. ER99-585-000]

Take notice that on November 13, 1998, Virginia Electric and Power Company (Virginia Power) tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service with Entergy Power Marketing Corp. under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreement, Virginia Power will provide firm point-to-point service to the Transmission Customer under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of November 13, 1998, the date of filing the Service Agreement.

Copies of the filing were served upon Entergy Power Marketing Corp., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: December 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. PJM Interconnection, L.L.C.

[Docket No. ER99-586-000]

Take notice that on November 13, 1998, PJM Interconnection, L.L.C. (PJM) tendered for filing two signature pages of parties to the Reliability Assurance Agreement among Load Serving Entities in the PJM Control Area (RAA) and an amended Schedule 17 listing the parties to the RAA.

PJM states that it served a copy of its filing on all parties to the RAA, including each of the parties for which a signature page is being tendered with this filing, and each of the state regulatory commissions within the PJM Control Area.

Comment date: December 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Arizona Public Service Company

[Docket No. ER99-587-000]

Take notice that on November 13, 1998, Arizona Public Service Company (APS) tendered for filing a Service Agreement under APS' FERC Electric Tariff, Original Volume No. 3 for service to the Public Service Company of New Mexico (PNM).

A copy of this filing has been served on the Arizona Corporation Commission and the Public Service Company of New Mexico.

Comment date: December 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. The Washington Water Power Company

[Docket No. ER99-588-000]

Take notice that on November 13, 1998, The Washington Water Power Company (WWP) tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements for Short-Term Firm and Non-Firm Point-To-Point Transmission Service under WWP's Open Access Transmission Tariff—FERC Electric Tariff, Volume No. 8 with Constellation Power Source, Inc. and PacifiCorp Power Marketing, Inc.

WWP requests the Service Agreements be given respective effective dates of October 14, 1998 and October 16, 1998.

Comment date: December 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Central Hudson Gas & Electric Corporation

[Docket No. ER99-589-000]

Take notice that on November 13, 1998, Central Hudson Gas & Electric Corporation (CHG&E) tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations (18 CFR 35.12), a Service Agreement for Non-firm Point-to-Point Transmission Service between CHG&E and Merchant Energy Group of the Americas, Inc. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume 1 (Transmission Tariff) filed in compliance with the Commission's Order 888 in Docket No. RM95-8-000 and RM94-7-001 and amended in compliance with Commission Order dated May 28, 1997.

CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11 and make the effective date of the Service Agreement October 26, 1998.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: December 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Southern California Edison Company

[Docket No. ER99-590-000]

Take notice that on November 13, 1998, Southern California Edison Company (SCE) tendered for filing the First Amendment to the District-Edison

1987 Service and Interchange Agreement (Amendment) between SCE and The Metropolitan Water District of Southern California.

The Amendment establishes a new methodology for pricing Edison Purchased Power and valuing Exchange Energy based on the California Power Exchange's market clearing price.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: December 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Central Hudson Gas & Electric Corporation

[Docket No. ER99-591-000]

Take notice that on November 13, 1998, Central Hudson Gas & Electric Corporation (CHG&E), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations (18 CFR 35.12), a Service Agreement Non-firm Point-To-Point Transmission Service between CHG&E and West Penn Power (dba Allegheny Energy). The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume 1 (Transmission Tariff) filed in compliance with the Commission's Order 888 in Docket No. RM95-8-000 and RM94-7-001 and amended in compliance with Commission Order dated May 28, 1997.

CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11 and make the effective date of the agreement October 12, 1998.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: December 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Niagara Mohawk Power Corporation

[Docket No. ER99-592-000]

Take notice that on November 13, 1998, Niagara Mohawk Power Corporation (NMPC) tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and North American Energy, Inc. This Transmission Service Agreement specifies that North American Energy, Inc. has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96-194-000. This Tariff, filed with FERC on July 9, 1996, will allow

NMPC and North American Energy, Inc. to enter into separately scheduled transactions under which NMPC will provide transmission service for North American Energy, Inc. as the parties may mutually agree.

NMPC requests an effective date of October 30, 1998.

NMPC has served copies of the filing upon the New York State Public Service Commission and North American Energy, Inc.

Comment date: December 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Tampa Electric Company

[Docket No. OA97-461-002]

Take notice that on November 13, 1998, Tampa Electric Company (Tampa Electric) submitted a filing in compliance with the Commission's Order on Standards of Conduct, issued on October 16, 1998, in Ameren Services Co., *et al.*, 85 FERC ¶61,068.

A copy of the compliance filing has been served on each person designated on the official service list in Docket No. OA97-461-000 and the Florida Public Service Commission.

Comment date: December 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98-31611 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98-1163-003, *et al.*]

Southwest Power Pool, Inc., *et al.*; Electric Rate and Corporate Regulation Filings

November 19, 1998.

Take notice that the following filings have been made with the Commission:

1. Southwest Power Pool, Inc.

[Docket No. ER98-1163-003]

Take notice that on November 12, 1998, Southwest Power Pool, Inc., tendered for filing a revised version of Tariff Sheet No. 52, to its November 4, 1998, compliance filing in Docket No. ER98-1163-003.

Comment date: December 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. American Electric Power Service Corporation

[Docket No. ER98-4339-000]

Take notice that on November 16, 1998, American Electric Power Service Corporation (AEPSC), tendered for filing an amendment to its filing in Docket ER98-4339-000. The Power Sales Tariff was accepted for filing effective October 10, 1997 and has been designated AEP Operating Companies' FERC Electric Tariff Original Volume No. 5. AEPSC had no transactions with Texas Utilities Electric Company prior July 23, 1998.

AEPSC respectfully requests to amend the initially requested effective date of July 21, 1998 to July 23, 1998, for a service agreement with Texas Utilities Electric Company under the Wholesale Market Tariff of the AEP Operating Companies (Power Sales Tariff).

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: December 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Washington Water Power

[Docket No. ER99-470-000]

Take notice that on November 3, 1998, Washington Water Power filed an amended summary of activity for the quarter ending September 30, 1998, under Washington Water Power's FERC Electric Tariff Original Volume No. 9.

Comment date: December 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Public Service Electric and Gas Company

[Docket No. ER99-485-000]

Take notice that on November 2, 1998, Public Service Electric and Gas Company (PSE&G) filed a summary of transactions made during the third quarter of calendar year 1998 under PSE&G'S Market Based Rate Tariff, Original Volume No. 6, accepted by the Commission in Docket No. ER97-837-000.

Comment date: December 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Ameren Services Company

[Docket No. ER99-517-000]

Take notice that on November 3, 1998, Ameren Services Company filed its quarterly report detailing sale transactions undertaken for the quarter ending September 30, 1998 pursuant to the Commission order issued on August 3, 1998 in Docket No. ER98-3285-000.

Comment date: December 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Central Vermont Public Service Corporation

[Docket No. ER99-521-000]

Take notice that on November 4, 1998, Central Vermont Public Service Corporation filed a quarterly report of short-term transactions under Central Vermont's Market Rate Sales Tariff, Original Volume No. 8. This tariff was made effective May 27, 1998 by orders issued May 15, 1998 and June 30, 1998 in Docket No. ER98-2329-000.

Comment date: December 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Northeast Utilities Service Company

[Docket No. ER99-593-000]

Take notice that on November 16, 1998, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement with Constellation Power Source under the NU System Companies' Sale for Resale, Tariff No. 7. NUSCO states that a copy of this filing has been mailed to the Constellation Power Source.

NUSCO requests that the Service Agreement become effective October 30, 1998.

Comment date: December 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Peco Energy Company

[Docket No. ER99-594-000]

Take notice that on November 16, 1998, PECO Energy Company (PECO), tendered for filing a Service Agreement

dated March 5, 1998, with Merchant Energy Group of the Americas, Inc., (Merchant Energy) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds Merchant Energy as a customer under the Tariff.

PECO requests an effective date of November 12, 1998, for the Service Agreement.

PECO states that copies of this filing have been supplied to Merchant Energy and to the Pennsylvania Public Utility Commission.

Comment date: December 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. The Montana Power Company

[Docket No. ER99-595-000]

Take notice that on November 16, 1998, The Montana Power Company (Montana) tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 an unexecuted Network Integration Transmission Service Agreement and Network Operating Agreement with Ballard Petroleum LLC (Ballard) under Montana's FERC Electric Tariff, Second Revised Volume No. 5 (Open Access Transmission Tariff).

A copy of the filing was served upon Ballard.

Comment date: December 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. New England Power Company

[Docket No. ER99-597-000]

Take notice that on November 13, 1998, New England Power Company (NEP), tendered for filing an amendment to NEP's Code of Conduct governing the relationships between NEP and its affiliates.

Copies of this filing have been served on regulatory agencies in Massachusetts, Rhode Island and New Hampshire.

Comment date: December 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Louisville Gas and Electric Company, Kentucky Utilities Company

[Docket No. ER99-598-000]

Take notice that on November 16, 1998 Louisville Gas and Electric Company/Kentucky Utilities (LG&E/KU), tendered for filing an executed Service Agreement for Firm Point-To-Point Transmission Service between LG&E/KU and NorAm Energy Services, Inc., under LG&E/KU's Open Access Transmission Tariff.

Comment date: December 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Louisville Gas and Electric Company, Kentucky Utilities Company

[Docket No. ER99-599-000]

Take notice that on November 16, 1998, Louisville Gas and Electric Company/Kentucky Utilities (LG&E/KU), tendered for filing an executed Service Agreement for Non-Firm Point-To-Point Transmission Service between LG&E/KU and Southwestern Public Service Company under LG&E/KU's Open Access Transmission Tariff.

Comment date: December 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Louisville Gas and Electric Company, Kentucky Utilities Company

[Docket No. ER99-600-000]

Take notice that on November 16, 1998, Louisville Gas and Electric Company/Kentucky Utilities (LG&E/KU), tendered for filing an executed Service Agreement for Non-Firm Point-To-Point Transmission Service between LG&E/KU and TransAlta Energy Marketing (U.S.), Inc., under LG&E/KU's Open Access Transmission Tariff.

Comment date: December 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Louisville Gas and Electric Company, Kentucky Utilities Company

[Docket No. ER99-601-000]

Take notice that on November 16, 1998, Louisville Gas and Electric Company/Kentucky Utilities (LG&E/KU), tendered for filing an executed Service Agreement for Firm Point-To-Point Transmission Service between LG&E/KU and Southwestern Public Service Company under LG&E/KU's Open Access Transmission Tariff.

Comment date: December 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Wisconsin Electric Power Company

[Docket No. ER99-602-000]

Take notice that on November 16, 1998, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a Short-Term Firm Transmission Service Agreement and a Non-Firm Transmission Service Agreement between itself and Strategic Energy Ltd., (SEL). The Transmission Service Agreements allow SEL to receive transmission services under Wisconsin Energy Corporation Operating Companies' FERC Electric Tariff, Volume No. 1.

Wisconsin Electric requests an effective date coincident with its filing and waiver of the Commission's notice requirements in order to allow for economic transactions as they appear.

Copies of the filing have been served on SEL, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: December 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. The Washington Water Power Company

[Docket No. ER99-603-000]

Take notice that on November 16, 1998, The Washington Water Power Company (WWP), tendered for filing, pursuant to Section 35.12 of the Commission's Regulations, 18 CFR 35.12, a new FERC Electric Tariff volume, under which WWP proposes to offer Dynamic Capacity and Energy Service, Spinning Reserve Service, and Non-Spinning Reserve Service at cost-based rates. WWP proposes to offer the three services only in conjunction with transactions in which the customer is not receiving basic transmission service from WWP under WWP's open access transmission tariff.

WWP requests that the Commission waive its notice requirements and accept for filing the tariff and service schedules to be effective November 16, 1998.

Comment date: December 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Ameren Services Company, as agent for Union Electric Company and Central Illinois Public Service Company

[Docket No. ER99-604-000]

Take notice that on November 16, 1998, Ameren Services Company (Ameren), as agent for Union Electric Company and Central Illinois Public Service Company (collectively identified as the Ameren Companies), tendered for filing a proposed First Revised Sheet No. 2, to the Market Based Rate Power Sales Tariff (the Tariff) of the Ameren Companies. Ameren states that the change is being made to remove restrictions on the delivery points for delivery of capacity and/or energy sold under the Tariff.

Ameren has asked that the revision be permitted to become effective on November 17, 1998.

Comment date: December 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Entergy Services, Inc.

[Docket No. ER99-605-000]

Take notice that on November 16, 1998, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc.,

Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement and a Short-Term Firm Point-to-Point Transportation Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and PanCanadian Energy Services, Inc.

Comment date: December 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Entergy Services, Inc.

[Docket No. ER99-606-000]

Take notice that on November 16, 1998, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc. (EAI), Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Fifth Amendment to the Power Agreement between EAI and the City of North Little Rock, Arkansas dated October 20, 1998.

Comment date: December 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Entergy Services, Inc.

[Docket No. ER99-607-000]

Take notice that on November 16, 1998, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies), tendered for filing a Short-Term Firm Point-to-Point Transportation Agreement between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Enron Power Marketing, Inc.

Comment date: December 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Entergy Services, Inc.

[Docket No. ER99-608-000]

Take notice that on November 16, 1998, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement and a Short-Term Firm Point-to-Point Transportation Agreement between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Proliance Energy, LLC.

Comment date: December 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Ameren Services Company Central Illinois Public Service Company Union Electric Company

[Docket Nos. OA97-270-001 and OA97-510-000]

Take notice that on November 16, 1998, Ameren Services Company tendered for filing a compliance filing revising Ameren's Standards of Conduct to conform to the Commission's order issued on October 16, 1998 in Ameren Services Company, 85 FERC ¶ 61,068.

Comment date: December 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98-31610 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene, Protests, and Comments

November 20, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

- a. *Type of Application:* Preliminary Permit.
- b. *Project No.:* 11620-000
- c. *Date filed:* October 5, 1998
- d. *Applicant:* Kacie Lake Hydro, Inc.
- e. *Name of Project:* Kacie Lake Hydroelectric.

f. *Location:* On an unnamed stream, near the City of Unalaksa, Alaska. The project is on federal lands under the control of the U.S. Fish and Wildlife Service.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)-825(r).

h. *Applicant Contact:* Mr. Steven Marmon, Kacie Lake Hydro, Inc., 625 Cornwall Avenue, Bellingham, WA 98225, (360) 738-9999.

i. *FERC Contact:* Any questions on this notice should be addressed to Surender M. Yepuri, E-mail address, surender.yepuri@ferc.fed.us, or telephone (202) 219-2847.

j. *Deadline for filing motions to intervene and protest:* 60 days from issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project.

Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the relating to the merits of an issue that may affect the responsibilities of the particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The project would consist of the existing Kacie Lake and the following new facilities: (1) A dam at the outflow of the existing lake, which will raise the lake's water surface (diameter to be determined in the range of 60 to 90 inches); (3) a 80-foot-long, 65-foot-wide concrete powerhouse with an installed capacity of 6 megawatts; (4) a tailrace; (5) a 25-kV, 22-mile-long transmission line connecting the project to the existing distribution system; and (6) other appurtenances.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208-1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208-2222 for assistance. A copy is also available for inspection and reproduction at the address in item (h) above.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified

comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified

comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98-31592 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-5497-4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared November 09, 1998 Through November 13, 1998 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564-7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1998 (62 FR 17856).

Draft EISs

ERP No. D-AFS-L82016-ID Rating LO, Sandpoint Noxious Weed Control Project, Implementation, Proposing to control noxious weeds on 46 sites, Idaho Panhandle National Forests, Sandpoint Ranger District, Bonner County, ID.

Summary: Review of the Draft EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. D-DOI-J31026-UT Rating EO2, Spanish Fork Canyon—Nephi Irrigation System (SFN) System), Construction and Operation, Bonneville Unit, Central Utah Project, Central Utah Water Conservancy District, Utah, Salt Lake and Juab Counties, UT.

Summary: EPA expressed environmental objections about potential adverse impacts to water quality, and on the basis of the incomplete alternatives analysis contained in the DEIS, EPA recommends that the draft EIS be revised and re-issued.

ERP No. D-NPS-A61319-00 Rating LO, Oregon, California, Moron Pioneer and Pony Express National Historic Trails, Implementation, Comprehensive Management and Use Plan, OR, CA, MO, IA, IL, KS, NB, CO, WY, ID, WA, UT and NV.

Summary: EPA expressed lack of objections.

ERP No. D-NPS-L61221-AK Rating LO, Sitka National Historical Park, General Management Plan, Implementation, City and Borough of Sitka, AK.

Summary: EPA used a screening tool to conduct a limited review of this action. Based upon the screen, EPA does foresee having any environmental objections to the proposed project. Therefore, EPA will not be conducting a detailed review.

Final EISs

ERP No. F-BLM-J39027-CO, Plateau Creek Pipeline Replacement Project, Operation and Maintenance, Ute Water Conservancy District, Right-of-Way Permit, Mesa County, CO.

Summary: EPA continued to express concerns that the Final EIS did not address indirect effects as they relate to non-jurisdictional wetland and that the purpose and need statement does not reflect the actual purpose and need for the increase in capacity of the project.

ERP No. F-BLM-L65298-AK, Northeast National Petroleum Reserve-Alaska (NPR-A), Integrate Activity Plan, Multiple-Use Management, for Land within the North Slope Borough, AK.

Summary: Review of the Final EIS was not deemed necessary. No formal

comment letter was sent to the preparing agency.

Dated: November 23, 1998.

Joe Montgomery,

*Environmental Protection Specialist,
Office of Federal Activities.*

[FR Doc. 98-31661 Filed 11-25-98; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION
AGENCY**

[ER-FRL-5497-3]

**Environmental Impact Statements;
Notice of Availability**

Responsible Agency: Office of Federal Activities, General Information (202) 564-7167 or (202) 564-7153.

Weekly receipt of Environmental Impact Statements

Filed November 16, 1998 Through November 20, 1998

Pursuant to 40 CFR 1506.9

EIS No. 980473, DRAFT EIS, BOP, WV, Ohio and Tyler Counties Federal Correctional Facility, Construction and Operation, Three Possible Sites: Wheeling-Ohio County Airport Industrial Park, Fort Henry and Iver Flats, Ohio and Tyler Counties, WV, Due: January 11, 1999, Contact: David J. Dorworth (202) 514-6470.

EIS No. 980474, DRAFT EIS, FHW, CA, US-7 Expressway Project, Construction between CA-98 to Interstate 8, Improve Access to the new Calexico East Port of Entry, Funding and COE Section 404 Permit, Imperial County, CA, Due: January 19, 1999, Contact: C. Glen Clinton (916) 498-5037.

EIS No. 980475, FINAL EIS, FHW, MI, US-2/141 Alternate Highway, Construction in the vicinity of City of Iron Mountain, Funding, NPDES Permit and COE Section 404 Permit, Dickinson County, MI, Due: December 28, 1998, Contact: James Kirschensteiner (517) 377-1880.

EIS No. 980476, DRAFT SUPPLEMENT, AFS, CO, Lakewood Raw Water Pipeline for Continued Operation, Maintenance, Reconstruction and/or Replacement, Updated and New Information for the Arapaho and Roosevelt National Forests and Pawnee National Grassland, Application for Easement, in the City of Boulder, CO, Due: January 11, 1999, Contact: Jean A. Thomas (970) 498-1267.

EIS No. 980477, FINAL EIS, FHW, PA, US 222 Corridor Design Location Study, Improvements from Breingsville to the I-78 Interchange, Funding, Lower and Upper Macungie

Township, Lehigh County, PA, Due: December 28, 1998, Contact: Ronald W. Carmichael (717) 221-3461.

EIS No. 980478, FINAL EIS, NOA, MS, Grand Bay National Estuarine Research Reserve (NERR), Designation, To Conduct Research, Educational Project and Construction, East of the City of Biloxi, Jackson County, MS, Due: December 28, 1998, Contact: Jeffery R. Benoit (301) 713-3155.

EIS No. 980479, FINAL EIS, FHW, PA, PA-0119 South Transportation Improvement Project, Between Blairsville and Homer City, Funding, NPDESs Permit and COE Section 404 Permit, Indiana County, PA, Due: December 30, 1998, Contact: Ronald W. Carmichael (717) 221-3461.

EIS No. 980480, DRAFT SUPPLEMENT, FAA, IN, Indianapolis International Airport Master Plan Development, Updated and New Information on Establishing New Air Traffic Procedures to Restore, Construction and Operation, Runway 5L/23R Parallel to existing Runway 14/32 and connecting to Runways 5R/23L and 5L/23R, Airport Layout Plan Approval, Funding and Section 404, Due: January 11, 1999, Contact: Wally Welter (847) 294-8091.

Amended Notices

EIS No. 980393, DRAFT SUPPLEMENT, AFS, CO, Telluride Ski Area Expansion Project, Implementation, New/Additional Information, Special-Use-Permit and COE Section 404 Permit, Grand Mesa Uncompahgre and Gunnion National Forests, Norwood Ranger District, San Miguel County, CO, Due: December 08, 1998, Contact: Arthur Bauer (970) 327-4261. Published FR 10-09-98—Review Period extended.

EIS No. 980438, DRAFT SUPPLEMENT, FHW, CA, CA-1 Improvement, Carmel River Bridge to CA-1/Pacific Grove (Route 68) Interchange, Updated and Additional Information, Funding Section 404 Permit, Monterey County, CA, Due: December 21, 1998, Contact: John R. Schultz (916) 498-5041. The notice for the above DSEIS should have appeared in the 11/13/98 **Federal Register**. The 30-day Comment Period is Calculated from 11/13/98.

EIS No. 980454, FINAL EIS, NPS, UT, Capitol Reef National Park, Implementation, General Management Plan, Development Concept Plan, Emery, Garfield, Sevier and Wayne Counties, UT, Due: December 14, 1998, Contact: Charles V. Lundy (435) 425-3791. Published FR 11-13-98. The notice for the above FEIS should have appeared in the 11/13/98

Federal Register. The 30-day Comment Period is Calculated from 11-13-98.

EIS No. 980462, FINAL EIS, BOP, PA, Greater Scranton Area, United States Penitentiary (USP) Construction and Operation, Site Selection, Lackawanna and Wayne Counties, PA, Due: December 21, 1998, Contact: David J. Dorworth (202) 514-6470.

The notice for the above FEIS should have appeared in the 11/20/98 **Federal Register**. The 30-day Comment Period is Calculated from 11-20-98.

Dated: November 23, 1998.

Joe Montgomery,

Environmental Protection Specialist, Office of Federal Activities

[FR Doc. 98-31662 Filed 11-25-98; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION
AGENCY**

[OPP-00572; FRL-6048-6]

**State FIFRA Issues Research and
Evaluation Group (SFIREG); Open
Meeting**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) will hold a 2-day meeting, December 7 and 8, 1998. This notice announces the location and times for this meeting and sets forth the tentative agenda topics. The meetings are open to the public.

DATES: The SFIREG will meet on Monday, December 7, 1998, from 8:30 a.m. to 5:00 p.m. and Tuesday, December 8, 1998, from 8:30 a.m. to 12:00 noon.

ADDRESSES: The meeting will be held at: The Key Bridge Marriott, 1401 Lee Highway, Rosslyn, VA 22209.

FOR FURTHER INFORMATION CONTACT: By mail: Elaine Y. Lyon, Field and External Affairs Division, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 1921 Jefferson Davis Highway, Arlington, VA 22202, Crystal Mall 2 (CM #2); (703) 305-5306; fax (703) 308-1850; e-mail: lyon.elaine@epa.gov.

SUPPLEMENTARY INFORMATION: The tentative agenda of the SFIREG includes the following.

1. Food Quality Protection Act implementation update:

(a) Minor use coordination on Registration Eligibility Decisions vs. Tolerance reassessments.

(b) Clarification of EPA - FDA jurisdiction (amendment to Federal Food, Drug and Cosmetic Act).

(c) Tolerance Reassessment Advisory Committee update.

(d) Status of consumer bulletin.

(e) Section 18 rule.

2. Pesticide Regulatory Education Program courses for 1999.

3. Field Data Plan.

4. Methyl Parathion Long Term Strategy.

5. Outreach to Health Care Providers.

6. FIFRA 25(b)

7. Aluminum and Magnesium Phosphide RED.

8. Rodenticide Stakeholder Meeting.

9. Consumer Labeling Initiative:

(a) Draft recommendations.

(b) Pesticide disposal instructions.

10. Office of Pesticide Programs Update.

11. Office of Enforcement and Compliance Assurance Update.

12. Committee Reports and Issue Papers.

13. SFIREG Issues Update Report.

List of Subjects

Environmental protection.

Dated: November 23, 1998.

Jay Ellenberger,

Acting Director, Field and External Affairs Division.

[FR Doc. 98-31776 Filed 11-24-98; 1:25 pm]

BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6194-2]

Proposed Implementation Guidance for the Revised Ozone and Particulate Matter (PM) National Ambient Air Quality Standards (NAAQS) and Regional Haze Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that the EPA has issued proposed guidance for public review and comment on implementation of the Clean Air Act requirements for the revised 8-hour ozone (62 FR 38856, July 18, 1997) and PM (62 FR 38652, July 18, 1997) NAAQS. This proposed guidance supplements the proposed guidance previously issued on August 14, 1998 (63 FR 45060, August 24, 1998). On July 16, 1997 (62 FR 38421, July 18, 1997), President Clinton issued a

memorandum to EPA Administrator Browner on implementation of the revised standards for ozone and PM. In that memorandum, the President laid out a plan on how these new standards are to be implemented. This proposed guidance reflects the Presidential Memorandum.

DATES: The EPA is establishing a 30-day comment period, ending on December 28, 1998.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6101), Attention: Docket No. A-95-38, Category IV-I, U.S. Environmental Protection Agency, 401 M Street SW, Room M-1500, Washington, DC 20460, telephone (202) 260-7548, between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. Comments and data may also be submitted electronically by following the instructions under **SUPPLEMENTARY INFORMATION** of this document. No confidential business information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: For general questions on the document or for specific questions and comments on the ozone portion of this guidance, contact Mr. John Silvasi, U.S. EPA, MD-15, Research Triangle Park, NC 27711, telephone (919) 541-5666, e-mail address "silvasi.john@epa.gov"; for specific questions and comments on the PM portion of this guidance, contact Mr. Larry Wallace, U.S. EPA, MD-15, Research Triangle Park, NC 27711, telephone (919) 541-0906, e-mail address "wallace.larry@epa.gov"; and for specific questions and comments on the regional haze portion of this guidance, contact Mr. Rich Damberg, U.S. EPA, MD-15, Research Triangle Park, NC 27711, telephone (919) 541-5592, e-mail address "damberg.rich@epa.gov".

SUPPLEMENTARY INFORMATION: The purpose of this guidance is to set forth EPA's current views on the issues identified above. These issues will be addressed in future rulemakings as appropriate, e.g., actions approving or disapproving SIP submittals. In those rulemakings, EPA plans to propose to take a particular action based in whole or in part on its views of the relevant issues, and the public will have an opportunity to comment on EPA's interpretations during the rulemakings. When EPA issues final rules based on its views at that time, those views will be binding on the States, the public, and EPA as a matter of law.

Electronic Availability—A World Wide Web (WWW) site has been developed for overview information on the NAAQS and the ozone, PM, and regional haze implementation process. The Uniform Resource Location (URL) for the home page of the web site is <http://ttnwww.rtpnc.epa.gov/implement>. The proposed implementation guidance can be accessed through this web site in a table entitled "Major Action Items to Reinvent Ozone and PM NAAQS and Regional Haze Implementation." The URL for the table is <http://ttnwww.rtpnc.epa.gov/implement/actions.htm>. For assistance with these web sites, the TTN Helpline is (919) 541-5384. For those persons without electronic capability, a copy of the proposed implementation guidance may be obtained from Ms. Tricia Crabtree, U.S. EPA, MD-15, Air Quality Strategies and Standards Division, Research Triangle Park, NC 27711, telephone (919) 541-5688.

The official record for this proposed guidance, as well as the public version, has been established under docket number A-95-38 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. The official proposed rulemaking record is located at the address in **ADDRESSES** at the beginning of this document. Electronic comments can be sent directly to EPA at: A-and-R-Docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect file format or ASCII file format. All comments and data in electronic form must be identified by the docket number A-95-38. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

Dated: November 19, 1998.

Anna B. Duncan,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 98-31668 Filed 11-25-98; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE AND TIME: Tuesday, December 1, 1998 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C. Matters concerning participation in civil actions or proceedings or arbitration. Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, December 3, 1998 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor)

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes. Report of the Audit Division on Clinton/Gore '96 Primary Committee, Inc.

Report of the Audit Division on Clinton/Gore '96 General Committee, Inc. and Clinton/Gore '96 General Election Legal and Accounting Compliance Fund.

Report of the Audit Division on the Dole for President Committee, Inc. (Primary).

Report of the Audit Division on the Dole/Kemp '96 and Dole/Kemp Compliance Committee, Inc. (General).

Notice of Proposed Rulemaking Defining Who Qualifies as "Member" of a Membership Association. Administrative Matters.

PERSON TO CONTACT FOR INFORMATION:

Mr. Ron Harris, Press Officer, Telephone: (202) 694-1220.

Marjorie W. Emmons,
Secretary of the Commission.

[FR Doc. 98-31835 Filed 11-24-98; 3:13 pm]

BILLING CODE 6715-01-M

**FEDERAL EMERGENCY
MANAGEMENT AGENCY**

**Open Meeting, Technical Mapping
Advisory Council**

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, the Federal Emergency Management Agency gives notice that the following meeting will be held:

NAME: Technical Mapping Advisory Council.

DATE OF MEETING: December 7-8, 1998.

PLACE: Heinz Center, 1001 Pennsylvania Avenue, NW, Washington, DC.

TIME: 8:30 a.m. to 5:00 p.m., both days.

PROPOSED AGENDA:

1. Call to order and announcements.
2. Action on minutes of previous meeting.
3. Progress report on FEMA's Map Modernization Program.
4. Discussion of location and agenda for March meeting.
5. Finalize 1998 Annual Report.
6. Status update on alluvial fan report, and riverine and coastal erosion studies.
7. Adjournment.

STATUS: This meeting is open to the public.

FOR FURTHER INFORMATION CONTACT:

Michael K. Buckley, P.E., Federal Emergency Management Agency, 500 C Street SW., room 421, Washington, DC 20472, telephone (202) 646-2756 or by facsimile at (202) 646-4596.

SUPPLEMENTARY INFORMATION: This meeting is open to the public with limited seating available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact Sally Magee, Federal Emergency Management Agency, 500 C Street SW., room 444, Washington, DC 20472, telephone (202) 646-8242 or by facsimile at (202) 646-4596 on or before December 2, 1998.

Minutes of the meeting will be prepared and will be available upon request 30 days after they have been approved by the next Technical Mapping Advisory Council meeting.

Dated: November 19, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98-31645 Filed 11-25-98; 8:45 am]

BILLING CODE 6718-04-P

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, NW., 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.: 202-010689-079.
Title: Transpacific Westbound Rate Agreement.

Parties:

American President Lines, Ltd.
("APL")
Hapag-Lloyd Container Linie GmbH
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Line
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha, Ltd.
Orient Overseas Container Line, Inc.
Sea-Land Service, Inc.

Synopsis: The proposed amendment provides that a Class B member of TWRA can complete the performance of any group TWRA service contract if the member, the shipper, and TWRA agree. APL is resigning from TWRA as of January 1, 1999, and will become a Class B member at that time. The amendment also provides that independent actions on tariff items will become effective immediately upon notice and filing thereof and that the right of individual service contracting is extended to refrigerated cargo.

Agreement No.: 202-011375-044.

Title: Trans-Atlantic Conference Agreement.

Parties:

Atlantic Container Line AB
Sea-Land Service, Inc.
A.P. Moller-Maersk Line
Hapag-Lloyd Container Linie GmbH
Mediterranean Shipping Co., S.A.
DSR-Senator Lines
POL-Atlantic
Orient Overseas Container Line (UK) Ltd.
Mexican Line Limited
Hyundai Merchant Marine Co., Ltd.
P&O Nedlloyd Limited
P&O Nedlloyd B.V.
Nippon Yusen Kaisha
Tecomar Limited

Synopsis: The proposed modification restates the agreement and conforms it to the requirements of the Ocean Shipping Reform Act of 1998 ("ORSA") and the European Commission. Changes include deleting authority to discuss or agree on prices for inland transportation within the European Union, but authorizes adoption of a "not below cost" rule with respect to inland transportation in Europe; adding joint U.S. inland service procurement authority in accordance with ORSA; replacing current service contract rules with those complying with ORSA and EC requirements; limiting forwarder compensation/brokerage to shipments from the United States; reducing the notice period required for independent action from 10 to 5 days; and deleting the names of four members resigning on January 1, 1999.

Agreement No.: 207-011441-002.

Title: The NOSAC/NYK Joint Service (East/West) Agreement.

Parties:

NOSAC ANS ("NOSAC")
Nippon Yusen Kaisha

Synopsis: The proposed amendment replaces NOSAC as a member with its wholly owned subsidiary Wilhelmsen Lines. It adds ports and points in Mexico, Central America, South America, and the Caribbean Islands to the Agreement's geographic scope; it adds other provisions related to the administration of the joint service; and changes the name of the Agreement to the "NYK/NOS Joint Service Agreement." Upon the effectiveness of this amendment, the parties intend to terminate the NOSAC/NYK Joint Service (North/South) Agreement (FMC Agreement No. 207-011438).

Agreement No.: 203-011512-001.

Title: Hyundai/MSC Agreement.

Parties:

Hyundai Merchant Marine Co., Ltd.
Mediterranean Shipping Co., S.A.

Synopsis: The proposed amendment sets the expiration date of the agreement as December 31, 1999. It also removes the six-month notice period for termination.

Agreement No.: 202-011587-003.

Title: United States South Europe Conference.

Parties:

A.P. Moller-Maersk Line
P&O Nedlloyd B.V.
P&O Nedlloyd Limited
Sea-Land Service, Inc.

Synopsis: The proposed modification expands the agreement's geographic scope to include Eastern Mediterranean and Black Sea ports; deletes authority to agree on inland rates in the European Union, but authorizes adoption of a "not below cost" rule with respect to inland transportation in Europe; authorizes the members to jointly negotiate with providers of inland transportation within the U.S. effective May 1, 1999; limits the authority to agree on freight forwarder compensation to U.S. exports; requires a unanimous vote to "close" any rate, rule, or regulation; eliminates mandatory service contract guidelines, but provides for voluntary guidelines; and reduces the obligations of members under the agreement.

Dated: November 20, 1998.

By order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 98-31567 Filed 11-25-98; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 21, 1998.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. *Fishback Financial Corporation*, Brookings, South Dakota; to acquire 100 percent of the voting shares of Pipestone Bancshares, Inc., Pipestone, Minnesota, and thereby indirectly acquire First National Bank and Trust, Pipestone, Minnesota, and First National Bank of Garretson, Garretson, South Dakota.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. *Barret Bancorp, Inc.*, Barretville, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Barretville Bank & Trust Company, Barretville, Tennessee, and 39 percent of the voting shares of Somerville Bank & Trust Company, Somerville, Tennessee.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *Ace Gas, Inc.*, Deshler, Nebraska, and Gibbon Exchange Company, Gibbon, Nebraska; to acquire 100 percent of the voting shares of Junction City First National Co., Junction City, Kansas; and thereby indirectly acquire First National Bank, Junction City, Kansas.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *WB&T Bancshares, Inc.*, Duncanville, Texas, and WB&T Delaware Bancshares, Inc., Wilmington, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of Western Bank & Trust, Duncanville, Texas.

Board of Governors of the Federal Reserve System, November 20, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-31565 Filed 11-25-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 21, 1998.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. *Premier Financial Bancorp, Inc.*, Georgetown, Kentucky; to merge with Mt. Vernon Bancshares, Mount Vernon, Kentucky, and thereby indirectly acquire Bank of Mt. Vernon, Mount Vernon, Kentucky.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. *Altrust Financial Services Employee Stock Ownership Plan*, Cullman, Alabama; to become a bank holding company by acquiring up to 45 percent of the voting shares of Altrust Financial Services, Inc., Cullman, Alabama, and thereby indirectly acquire The Peoples Bank of North Alabama, Cullman, Alabama.

2. *First Bancshares, Inc.*, Hattiesburg, Mississippi; to acquire 100 percent of the voting shares of First National Bank of the Pine Belt, Laurel, Mississippi.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. *Citizens First Corporation*, Bowling Green, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens First Bank, Inc., Bowling Green, Kentucky (in organization).

Board of Governors of the Federal Reserve System, November 23, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-31665 Filed 11-25-98; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Agency Information Collection Activities: Proposed Collection: Comment Request

AGENCY: Agency for Health Care Policy and Research, HHS.

ACTION: Notice.

SUMMARY: This notice announces the request of the Agency for Health Care Policy and Research (AHCPR) to the Office of Management and Budget (OMB) for a generic approval of "Voluntary Customer Surveys of 'Partners' of the Agency for Health Care Policy and Research". In accordance with the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)), the AHCPR invites the public to comment on this proposed information collection request to allow it to conduct voluntary customer satisfaction surveys of partners. AHCPR will publish periodic summaries of proposed projects to be carried out under this generic approval in accordance with the Paperwork Reduction Act requirements.

DATES: Comments on this notice must be received by December 30, 1998.

ADDRESSES: Written comments should be submitted to the OMB Desk Officer at the following address: Allison Eyd, Human Resources and Housing Branch, Office of Information and Regulatory Affairs, OMB: New Executive Office Building, Room 10235; Washington, DC 20503. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Ruth A. Celtnieks, AHCPR Reports Clearance Officer, (301) 594-1406, ext. 1497.

SUPPLEMENTARY INFORMATION:

Proposed Project

"Voluntary Customer Surveys of 'Partners' of the Agency for Health Care Policy and Research."

In response to Executive Order 12862, the Agency for Health Care Policy and Research (AHCPR) plans to conduct voluntary customer surveys of

"partners" to identify how well AHCPR is performing its functions with its partners and to use this information to determine the kind and quality of services they like and expect, their level of satisfaction with existing services, and to implement improvements where feasible and practical. AHCPR partners are typically health care payers, plans, practitioners and providers, researchers, professional associations, AHCPR data suppliers, and State and local governments, as well as persons or entities that provide service to the public for AHCPR, e.g., dissemination of AHCPR publications by a "middle man" such as a professional society.

Partner surveys to be conducted by AHCPR may include, for example, surveys of research grantees to measure satisfaction with technical assistance received from AHCPR. Results of these surveys will be used to assess and redirect resources and efforts needed to improve services. For example, the AHCPR's Office of Research Review, Education, and Policy (ORREP) provides grant funds for training of health services researchers. AHCPR would like to survey scholars whose training it has supported regarding their training experience.

In addition, the Office for Health Care Information (OHCI) is proposing to survey one component of their customers: researchers. This proposed survey will be undertaken by a contractor to determine how AHCPR could better serve the research community.

Questions asked may include a need for extended hours to answer inquiries on grant submission-related matters or the development of a comprehensive manual on grant submission.

Method of Collection

The data will be collected using a combination of preferred methodologies appropriate to each survey. These methodologies are: mail surveys; evaluation forms; automated and electronic technology (e.g., AHCPR Clearinghouse Publications, Instantfax); telephone surveys; and focus groups.

The estimated annual burden is as follows:

Type of survey	No. of respondents	Average burden/response	Total hours of burden
Mail/Telephone Surveys or Electronic Technologies	3,000	20 minutes	1,000
Focus Groups	200	1.5 Hours	300
Totals	3,200	.41 Hours	1,300

Request for Comments

Comments are invited on: (a) the necessity of the proposed collections for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Copies of these proposed collections plans can be obtained from the AHCP Reports Clearance Officer (see above).

Dated: November 19, 1998.

John M. Eisenberg,

Administrator.

[FR Doc. 98-31778 Filed 11-25-98; 8:45 am]

BILLING CODE 4160-90-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Disease Control and Prevention****Suspension of Site Registration Fee for Facilities Transferring or Receiving Select Agents**

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention is announcing the suspension of the site registration fee for facilities registered under (42 CFR 72.6). (Additional Requirements for Facilities Transferring or Receiving Select Agents; Final Rule).

DATES: Effective date is November 27, 1998.

FOR FURTHER INFORMATION CONTACT: Laboratory Registration/Select Agent Transfer (LR/SAT) Program, Office of Health and Safety, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mail Stop F-05, Atlanta, Georgia 30333, telephone (404) 639-4418, LR/SAT Program website at <http://www.cdc.gov/od/ohs/lrsat.htm>.

SUPPLEMENTARY INFORMATION: "The Antiterrorism and Effective Death Penalty Act of 1996," Pub. L. 104-132, (42 U.S.C. 262) note, enacted on April 24, 1996, established new provisions to

regulate transfer of certain biological agents and toxins (i.e., select agents), and required HHS to issue rules to implement these provisions. The final rule was published in the **Federal Register** on October 24, 1996, and became effective April 15, 1997. To comply with the final rule, commercial suppliers of select agents, as well as government agencies, universities, research institutions, and private companies that transfer these agents, must register with the Centers for Disease Control and Prevention (CDC). In return for the registration, facilities are responsible for paying a site registration fee. (42 CFR 72.6(a)(2)(iv)).

CDC calculated the direct costs to manage the program, and in a **Federal Register** Notice dated April 14, 1997, announced those fees. (**Federal Register** notice, April 14, 1997, Vol. 62, No. 71:18134-5). Many facilities wishing to register expressed concern that the fees were high and constituted a substantial burden, particularly for small facilities with limited and inflexible budgets. The CDC has reviewed the situation and has determined that for Fiscal Year 1999, funds are available within the agency budget to defray the site registration fee.

Suspension of Site Registration Fee for Facilities Transferring or Receiving Select Agents: Effective November 27, 1998, the site registration fee schedule for all facilities will be suspended. Facilities registered between April 15, 1997, and the effective date of this notice will be contacted by CDC with information regarding the refunding of the site registration fee. The decision as to whether to impose registration fees will be re-evaluated annually to determine whether appropriated funds may be used to cover registration costs.

The site registration will still cover a three year time period. All applications for registration of facilities under this regulation should be mailed to: Centers for Disease Control and Prevention (CDC), Office of Health and Safety, Laboratory Registration/Select Agent Transfer Program, 1600 Clifton Road, NE., Mail Stop F-05, Atlanta, Georgia 30333.

CDC will mail applications to all facilities that express an interest. Questions about this notice and requests for application packages should be faxed to CDC, Office of Health and Safety, telephone (404) 639-0880 or sent by e-mail (lrsat@cdc.gov).

Dated: November 20, 1998.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98-31603 Filed 11-25-98; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Disease Control and Prevention****State Childhood Lead Poisoning Prevention and Surveillance of Blood Lead Levels in Childhood Grantees**

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: State Childhood Lead Poisoning Prevention and Surveillance of Blood Lead Levels in Children Grantees.

Times and Dates: 8 a.m.-5 p.m., February 1, 1999. 8:30 a.m.-5 p.m., February 2, 1999. 8:30 a.m.-5 p.m., February 3, 1999. 9 a.m.-12 noon, February 4, 1999.

Place: Holiday Inn SunSpree Resort and Conference Center, 715 South Gulfview Boulevard, Clearwater Beach, Florida, 33767, telephone 813/447-9566.

Status: Open to the public, limited only by space available. The meeting room accommodates approximately 140 people.

Purpose: The purpose of this meeting is to provide a forum for childhood lead poisoning prevention coordinators and data administrators to review program progress and discuss prevention issues and concerns.

Matters to be Discussed: Agenda items include screening issues; surveillance systems issues; alternative methods of surveillance; data release; coalition building; healthy homes; STELLAR; GIS; and program evaluation. There will be information presented regarding computer programming issues and how it is related to data analysis, and the use of data to make decisions.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Claudette Grant-Joseph, Lead Poisoning Prevention Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE, M/S F-42, Atlanta, Georgia 30341-3724, telephone 770/488-7330.

Persons wishing to make written or oral comments at the meeting should notify the contact person in writing or by telephone no later than close of business January 20, 1999. Requests to make oral comments should contain the name, address, telephone number, and organizational affiliation of the presenter. Depending on the time available and the number of requests to make oral comments, it may be necessary to limit the time of each presenter.

The Director, Management Analysis and Services office has been delegated the

authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: November 20, 1998.

John C. Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98-31604 Filed 11-25-98; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

State Childhood Lead Poisoning Prevention and Surveillance of Blood Lead Levels in Children new and competing Grantees Pre-application Workshop

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: State Childhood Lead Poisoning Prevention and Surveillance of Blood Lead Levels in Children new Grantees Pre-application workshop.

Time and Date: 2 p.m.-5 p.m., January 31, 1999.

Place: Holiday Inn SunSpree Resort and Conference Center, 715 South Gulfview Boulevard, Clearwater Beach, Florida, 33767, telephone 813-447-9566.

Status: Open to the public, limited only by space available. The meeting room accommodates approximately 100 people.

Purpose: The purpose of this meeting is to provide a forum for childhood lead poisoning prevention coordinators to address issues and concerns relating to the FY99 program announcement and application process.

Matters to be Discussed: Agenda items include FY99 program announcement and processes related to the completion of applications for FY99 funds.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Claudette Grant-Joseph, Lead Poisoning Prevention Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE, M/S F-42, Atlanta, Georgia 30341-3724, telephone 770/488-7330.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register**

notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: November 20, 1998.

John C. Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98-31605 Filed 11-25-98; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Workshop on the Potential for Transfusion-Transmission of Tickborne Agents

The Centers for Disease Control and Prevention (CDC) announces an open meeting concerning the potential for transfusion-transmission of tickborne agents.

Name: Workshop on the Potential for Transfusion-Transmission of Tickborne Agents.

Times and Dates: 10 a.m.-5 p.m., January 14, 1999. 8:30 a.m.-12 p.m., January 15, 1999.

Place: Holiday Inn Hotel and Conference Center, 130 Clairmont Avenue, Decatur, Georgia 30030.

Status: Open to the public, limited only by the space available.

Purpose: The objectives of this meeting are to review current information on tickborne pathogens and their potential for transmission by blood transfusion; identify information gaps and research priorities; and identify approaches to reduce the risk of transfusion-related infections from tickborne agents.

Matters To Be Discussed: Agenda items will include:

1. Epidemiology of Major Tickborne Diseases
2. Mechanics of Transmission to the Human Host
3. Pathogenesis, Clinical Disease, and Persistence of the Organism in Human Host
4. Persistence, Detection, Inactivation of Organisms in Blood and Blood Products
5. Studies in Donors and Recipients
7. Department of Defense Perspective/Special Studies
8. Blood Banking Perspective of Transfusion Transmission of Tickborne Agents
9. Panel Discussion

Other agenda items include announcements/introductions; question and answer sessions; and consideration of future directions, goals, and recommendations.

Agenda items are subject to change as priorities dictate.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Contact Person for More Information: Tanya Mercer, Viral & Rickettsial Zoonoses Branch, NCID, CDC, 1600 Clifton Road, m/s G-13, NE, Atlanta, Georgia 30333, telephone 404/639-1075, fax 404/639-4436.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: November 20, 1998.

John C. Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98-31606 Filed 11-25-98; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Early Head Start Evaluation Father Study.

OMB No.: 0970-0169.

Description: The Head Start Reauthorization Act of 1994 established a special initiative creating funding for services for families with infants and toddlers. In response the Administration on Children, Youth and Families (ACYF) designed the Early Head Start (EHS) program. In September 1995, ACYF awarded grants to 68 local programs to serve families with infants and toddlers. ACYF has awarded grants to additional programs, totaling more than 290.

EHS programs are designed to produce outcomes in four domains: (1) Child development, (2) family development, (3) staff development, and (4) community development. The Reauthorization required that his new initiative be evaluated. To study the effect of the initiative, ACYF awarded a contract through a competitive

procurement to Mathematics Policy Research, Inc. (MPR) with a subcontract to Columbia University's Center for Young Children and Families. The evaluation will be carried out from October 1, 1995 through March 30, 2002. Data collection activities that are the subject of this **Federal Register** notice are intended for the fourth phase of the EHS evaluation. The sample for the assessments will be approximately 1,144 fathers from the 3,000 EHS sample

families, whose mothers and infants/toddlers are participating in the study (see OMB #0970-0143) in 13 of the EHS study sites. Each family will be randomly assigned to a treatment group or a control group. The 36-month father assessments will be conducted through personal interviewing, structured observations and videotaping. All data collection instruments have been designed to minimize the burden on respondents by minimizing

interviewing and assessment time. Participation in the study is voluntary and confidential.

The information will be used by government managers, Congress and others to better understand the roles of fathers and father-figures with their children and in the EHS program.

Respondents: Fathers or father-figures of children whose families are in the EHS national evaluation sample (both program and control group families).

ANNUAL BURDEN ESTIMATES

Instrument	Estimated number of respondents	Number of responses per respondent	Average burden hours per respondent	Total burden hours
36-month father interview	89	1	1.0	89
36-month interview and videotaping protocol	74	1	1.3	96
36-month abbreviated interview and videotaping protocol	30	1	1.05	32
Estimated Total Annual Burden: 217.				

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, SW, Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 to 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, NW, Washington, DC 20503, Attn: Ms. Wendy Taylor.

Dated: November 20, 1998.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 98-31566 Filed 11-25-98; 8:45 am]

BILLING CODE 4184-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E-0480]

Determination of Regulatory Review Period for Purposes of Patent Extension; Tasmar

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Tasmar

and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug

product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Tasmar® (tolcapone). Tasmar® is indicated for use as an adjunct to levodopa and carbidopa for the treatment of the signs and symptoms of idiopathic Parkinson's disease. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Tasmar® (U.S. Patent No. 5,236,952) from Hoffman-La Roche, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated September 15, 1998, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Tasmar® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Tasmar® is 2,618 days. Of this time, 2,014 days occurred during the testing phase of the regulatory review period, while 604 days occurred during the

approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food Drug, and Cosmetic Act (the act)(21 U.S.C. 355) became effective:* December 1, 1990. The applicant claims November 28, 1990, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was December 1, 1990, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act:* June 5, 1996. The applicant claims June 3, 1996, as the date the new drug application (NDA) for Tasmar® (NDA 20-697) was initially submitted. However, FDA records indicate that NDA 20-697 was submitted on June 5, 1996.

3. *The date the application was approved:* January 29, 1998. FDA has verified the applicant's claim that NDA 20-697 was approved on January 29, 1998.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 530 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before January 26, 1999, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before May 26, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the ¶docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 4, 1998.

Thomas J. McGinnis,
Deputy Associate Commissioner for Health Affairs.
[FR Doc. 98-31576 Filed 11-25-98; 8:45 am]
BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D-0965]

United States Industry Consensus Standard for the Uniform Labeling of Blood and Blood Components Using ISBT 128; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled "United States Industry Consensus Standard for the Uniform Labeling of Blood and Blood Components Using ISBT 128," December 1997. The International Council for Commonality in Blood Banking Automation (ICCBBA) has submitted the draft document to FDA with a recommendation that it serve as the basis for current FDA guidance on the labeling of blood and blood components. The ICCBBA recommends that the bar coding system described in the draft document, "ISBT 128," replace the coding system "ABC Codabar" currently in use for blood and blood components. FDA is considering updating its guidance on blood labeling and is issuing this notice to invite public comment on the ICCBBA's draft document and the "ISBT 128" coding system, as well as issues related to the possible transition from the labeling of blood and blood components using the "ABC Codabar" to a new coding system.

DATES: Written comments may be submitted at any time, however, to ensure comments are adequately considered in the preparation of guidance, comments should be submitted by February 25, 1999.

ADDRESSES: Submit written requests for single copies of the draft document "United States Industry Consensus Standard for the Uniform Labeling of Blood and Blood Components Using ISBT 128" to the Office of Communication, Training, and Manufacturers Assistance (HFM-40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448. Send one self-addressed adhesive label to assist

that office in processing your requests. The document may also be obtained by mail by calling the CBER Voice Information System at 1-800-835-4709 or 301-827-1800, or by fax by calling the FAX Information System at 1-888-CBER-FAX or 301-827-3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft document.

Submit written comments on the draft document to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Gloria J. Hicks, Center for Biologics Evaluation and Research (HFM-17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-827-6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA published in the **Federal Register** of August 30, 1985 (50 FR 35472), a notice of availability of a document entitled "Guideline for the Uniform Labeling of Blood and Blood Components," which described the uniform container label for blood and blood components. The standard labels recommended in the guideline for blood and blood components incorporated bar code symbology known as ABC Codabar.

The International Society for Blood Transfusion (ISBT) was organized to bring together professionals involved in blood transfusion medicine. One of the Society's goals is to promote and to maintain a high level of ethical, medical, and scientific standards in blood transfusion medicine and science throughout the world. In August 1989, an ISBT Working Party on Blood Banking Automation recognized that Codabar was becoming outdated and initiated the design of a totally new system named ISBT 128 using the bar code symbology known as Code 128. The *ISBT 128 Technical Specification* document was accepted by the ISBT Council in July 1994.

In November 1994, the ISBT turned over to the ICCBBA the responsibility for worldwide management and distribution of the *ISBT 128 Technical Specification* and associated databases. ICCBBA is a nonprofit group organized to oversee, maintain, and distribute the ISBT 128 system. ICCBBA submitted a draft document to FDA that proposes that ISBT 128 replace the current ABC Codabar system used on blood and blood component labels in the United States. On March 23, 1995, FDA asked the Blood Products Advisory Committee

(BPAC) whether FDA should support conversion from the ABC Codabar system to the ISBT 128 system. BPAC voted in favor of FDA supporting the transition to the new coding system. The change to ISBT 128 is also supported by the American Association of Blood Banks (AABB), American Red Cross (ARC), America's Blood Centers (ABC), and the Department of Defense (DoD).

In December 1996, ICCBBA held an ISBT 128 Consensus Conference in Washington, DC, to provide an opportunity for dialogue among the affected industry groups and FDA. Although consensus was obtained for use of ISBT 128 as proposed in the draft document, concerns were expressed regarding implementation timeframes and costs of implementation to hospital transfusion services. The ICCBBA submitted a draft of the industry consensus document to FDA with the recommendation that it serve as the basis for current FDA guidance on blood and blood component labeling. The agency is making this draft document describing the use of ISBT 128 in the labeling of blood and blood components available for public comment to assist the agency in determining whether to update its guidance on blood labeling.

Under FDA's "Good Guidance Practices" (GGP's), published in the **Federal Register** on February 27, 1997 (62 FR 8961), this draft document is being made available for public comment. The GGP's provide that members of the public may comment on and suggest areas for guidance development or revision and submit draft guidance for possible adoption by the agency. In its discretion, FDA may choose to publish for comment such a draft document as the agency considers whether or not to develop or revise guidance. In this instance, FDA believes it would be helpful to obtain public comment on the ISBT 128 coding system as the agency considers updating its guidance on blood labeling.

II. Request for Comments

FDA is making available for comment this draft document entitled "United States Industry Consensus Standard for the Uniform Labeling of Blood and Blood Components Using ISBT 128." In addition to comments about the adoption of ISBT 128 as a blood coding system and the proposed label format, FDA specifically requests comments on the following: (1) The proposed "rule-based" system for naming blood components since adoption of ISBT 128 would entail changing some of the currently accepted names of blood components, e.g., Platelets, Pheresis

would become Apheresis Platelets; and (2) timeframes and procedures for the transition and full implementation of ISBT 128. FDA notes that its intent would be to initiate changes to language in order to permit the use of the new system if FDA determines the ISBT 128 is an acceptable coding system. Thus, in a future document FDA may consider changes to accommodate the new system of blood component bar coding, identification, and naming.

This draft document is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Dockets Management Branch (address above) written comments regarding this draft document. Written comments may be submitted at any time, however, comments should be submitted by February 25, 1999, to ensure adequate consideration in the preparation of guidance. Received comments will be considered in determining whether to issue guidance. 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. A copy of the draft document and received comments are available for public examination in the office above between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the draft document using the World Wide Web (WWW). For WWW access, connect to CBER at "http://www.fda.gov/cber/guidelines.htm".

Dated: November 18, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98-31571 Filed 11-25-98; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA-R-50 and HCFA-1515/1572]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the

following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. Type of Information Collection Request: Extension of a currently approved collection; Title of Information Collection: Medical Records Review Under PPS and Supporting Regulations in 42 CFR 412.40-412.52; Form No.: HCFA-R-0050 (OMB# 0938-0359); Use: Peer Review Organizations (PRO) are authorized to conduct medical review activities under the Prospective Payment System (PPS). In order to conduct the medical review activities we depend upon hospitals to make available medical records. PROs ensure that admissions are medically necessary, provided in the appropriate setting, and that they meet acceptable standards of quality.; Frequency: When records are reviewed; Affected Public: Business or other for profit; Number of Respondents: 7,053; Total Annual Responses: 895,419; Total Annual Hours: 26,865.

2. Type of Information Collection Request: Extension of a currently approved collection; Title of Information Collection: Home Health Agency Survey and Deficiencies Report, Home Health Functional Assessment Instrument and Supporting Regulations in 42 CFR 484.10-484.52; Form No.: HCFA-1515/1572 (OMB# 0938-0355); Use: In order to participate in the Medicare program as a Home Health Agency (HHA) provider, the HHA must meet Federal Standards. These forms are used to record information about patients' health and provider compliance with requirements.; Frequency: Annually; Affected Public: Business or other for-profit, Not-for-profit institutions; Number of Respondents: 9,942; Total Annual Responses: 19,884; Total Annual Hours: 19,884.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at <http://www.hcfa.gov/regs/prdact95.htm>, or E-mail your

request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786-1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: November 17, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 98-31578 Filed 11-25-98; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 meeting of the National Cancer Advisory Board.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(6) and 552b(c)(9)(B), Title 5 U.S.C. and section 10(d) of the Federal Advisory Committee Act, as amended, for discussions pertaining to NCI personnel and programmatic issues. These discussions could reveal information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy and would be likely to significantly frustrate the subsequent implementation of personnel and programmatic recommendations made during these discussions.

Name of Committee: National Cancer Advisory Board.

Date: December 8-9, 1998.

Open: December 8, 1998, 8:30 am to 4:00 pm and December 9, 1998, 8:30 am to 1:00 pm.

Agenda: Report of the Director, National Cancer Institute; Overview of Board of Scientific Advisors activities; Intramural and Extramural Program Overviews and Updates; Presentations by various NCI working groups on current and proposed program activities, projects and initiatives; other NCAB business.

Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Closed: December 8, 1998, 4:00 pm to 5:30 pm.

Agenda: To review and evaluate discussion of Intramural site visits, proprietary, programmatic and personnel issues. Review and discussion of Extramural proprietary, programmatic and personnel issues.

Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Contact Person: Dr. Marvin R. Kalt, Executive Secretary, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, Executive Plaza North, Suite 600, 6130 Executive Boulevard, Rockville, MD 20892, (301) 496-5147.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: November 19, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98-31635 Filed 11-25-98; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Nation Human Genome Research Institute; National Bioethics Advisory Commission; Notice of Workshop

Notice is hereby given of the meeting on Involving Diverse Communities in Genetics Research, sponsored by the National Human Genome Research Institute (NHGRI), and the National Bioethics Advisory Commission, November 23, 1998, 8:30 a.m. to 5:30 p.m., at the Natcher Building, Room D, on the NIH campus. Registration is required.

To register and for further information, contact Ms. Hope Kott, 301 770-3153.

Individuals who plan to attend and need special assistance, such as sign

language interpretation or other reasonable accommodations, should contact Ms. Kott, 301 770-3153 by November 19.

(Catalogue of Federal Domestic Assistance Program No. 93.172, Human Genome Research.)

Date: November 12, 1998.

Kathy Hudson,

Assistant Director for Policy and Public Affairs, NHGRI.

[FR Doc. 98-31639 Filed 11-25-98; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Degenerative and Dementing Diseases of Aging.

Date: December 1, 1998.

Time: 12:00 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, Chevy Chase, MD 20815.

Contact Person: Paul Lenz, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496-9666.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel, Patient-Oriented Research in Aging.

Date: December 4, 1998.

Time: 3:00 pm to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: Gateway Building, Room 2C-212, National Institute on Aging, National Institutes of Health, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mary Ann Guadagno, Scientific Review Administrator, The

Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496-9666.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel, Alzheimer's Disease Data Coordinating Center (ADCC).

Date: December 9-10, 1998.

Time: 6:00 pm to 9:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn-Washington/Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815, MD 20815.

Contact Person: Mary Ann Guadagno, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496-9666.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel, Geriatrics and Demography/Economics of Aging Training Grant Application Review.

Date: December 14, 1998.

Time: 1:00 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Ave Room 2C212, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Paul Lenz, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496-9666.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: November 19, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98-31633 Filed 11-25-98; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections

552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, Special Emphasis Panel.

Date: November 24, 1998.

Time: 2:00 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: 6000 Executive Blvd., Suite 409, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: M. Virginia Wills, Lead Grants Technical Assistant, Extramural Projects Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892-7003, 301-443-6106, vwills@willco.niaaa.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: November 19, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98-31634 Filed 11-25-98; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: November 23, 1998.

Time: 11:00 am to 12:30 pm.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building—Room 9C-26, 5600 Fishers Lane, Rockville, MD 20857 (Telephone Conference Call).

Contact Person: Victoria S. Levin, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C-26, Rockville, MD 20857, 301-443-6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: December 2, 1998.

Time: 12:00 pm to 1:00 pm.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building—Room 9-105, 5600 Fishers Lane, Rockville, MD 20857 (Telephone Conference Call).

Contact Person: Henry J. Haigler, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9-105, Rockville, MD 20857, 301-443-7216.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: December 7, 1998.

Time: 2:00 pm to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building—Room 9C-26, 5600 Fishers Lane, Rockville, MD 20857 (Telephone Conference Call).

Contact Person: Mary Sue Krause, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C-26, Rockville, MD 20857, 301-443-6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: December 15, 1998.

Time: 1:00 pm to 2:00 pm.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building—Room 9C-26, 5600 Fishers Lane, Rockville, MD 20857 (Telephone Conference Call).

Contact Person: Mary Sue Krause, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C-26, Rockville, MD 20857, 301-443-6470.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: December 16, 1998.

Time: 1:00 pm to 2:00 pm.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building—Room 9C-26, 5600 Fishers Lane, Rockville, MD 20857 (Telephone Conference Call).

Contact Person: Lawrence E. Chaitkin, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C-26, Rockville, MD 20857, 301-443-6470.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: November 19, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98-31636 Filed 11-25-98; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Chromosome 6p and Developmental Defects.

Date: November 23-24, 1998.

Time: 7:00 pm to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: The Inn at Longwood Medical, 342 Longwood Avenue, Boston, MA 02115.

Contact Person: Edgar E. Hanna, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Room 5E01, Bethesda, MD 20892, (302) 496-1485.

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: November 17, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98-31638 Filed 11-25-98; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Warren Grant Magnuson Clinical Center; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Executive Committee of the Board of Governors of the Warren Grant Magnuson Clinical Center, November 23, 1998 from 9:00 a.m. to 12:00 p.m., National Institutes of Health, Clinical Center Medical Board Room, 2C116, 9000 Rockville Pike, Bethesda, MD 20892, which was published in the **Federal Register** on November 5, 1998, 63 FR 59801.

In accordance with the provisions set forth in sec. 552b(c)(6) of Title 5, U.S.C. and sec. 10(d) of Public Law 92-463, a portion of this meeting will be closed to the public from approximately 11:00 a.m. to adjournment for discussion of personnel qualifications and performance, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: November 19, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98-31637 Filed 11-25-98; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4363-FA-05]

Announcement of Funding Awards for Intermediaries to Administer Preservation Technical Assistance Grants for FY 1998-1999

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of

Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition of funding under the Notice of Funding Availability for Intermediaries to Administer Mark-to-Market (M2M) Intermediary Technical Assistance Grants (ITAGs). This announcement contains the names and addresses of the award winners and the amount of the awards.

FOR FURTHER INFORMATION CONTACT:

Arthur Goldstein, Mark-to-Market program, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708-2300, ext. 2657 (this is not a toll-free number). The TTY number for the hearing impaired is 1-800-877-8339.

SUPPLEMENTARY INFORMATION: The Mark-to-Market, Intermediary Technical Assistance Grant program is authorized by section 514 of the FY 1998 HUD Appropriations Act (Pub. L. 105-65, approved October 27, 1997).

The purpose of the competition was to promote the ability of residents of eligible M2M properties to participate meaningfully in the M2M process established by section 514 of the FY 1998 HUD Appropriations Act.

The 1998 awards announced in this Notice were selected for funding in a competition announced in a **Federal Register** Notice published on April 30, 1998 (63 FR 23933). Applications were scored and selected for funding on the basis of selection criteria contained in that Notice.

A total of \$9.0 million has been awarded to three (3) Intermediary Technical Assistance Grant applicants. The program covers the entire country which has been divided into 5 geographic regions. The three applicants that were selected are: Low Income Housing Fund that will cover the Southwest (Arizona, Arkansas, California, Louisiana, Nevada, New Mexico, Oklahoma, Texas) and Southeast (Alabama, Caribbean, Florida, Georgia, Kentucky, Mississippi, North Carolina, Tennessee, Virginia) regions, Amador Tuolumne will cover the Northwest (Alaska, Colorado, Hawaii, Idaho, Illinois, Iowa, Kansas, Minnesota, Montana, Nebraska, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming) and Midwest (Indiana, Michigan, Ohio, Wisconsin) regions, and Georgetown-National Center for Tenant Ownership will cover the Northeast (Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Washington, DC,

Vermont, West Virginia) region. For each region that the applicant has been selected for, they will be given \$1.8 million to be dispersed as grants over a 2-year period.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545). The Department is publishing the names, addresses, geographic responsibility and amounts of those awards as follows:

Recipients of the Intermediaries To Administer Preservation Technical Assistance Grants for FY 1998-1999

Amador Toulumne Community Action Agency: \$3.6 million
935 South State Highway 49, Jackson, CA 95642, Contact: Ms. Diane Bennett, Phone: (209) 533-1397, Fax: (209) 533-1034

Geographic Responsibility

Northwest: Alaska, Colorado, Hawaii, Idaho, Illinois, Iowa, Kansas, Minnesota, Montana, Nebraska, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming.

Midwest: Indiana, Michigan, Ohio, Wisconsin.

Low Income Housing Fund: \$3.6 million
605 Market Street, Suite 200, San Francisco, CA 94105, Contact: Mr. John Klein, Phone: (415) 777-9404, Fax: (415) 777-9195

Geographic Responsibility

Southwest: Arizona, Arkansas, California, Louisiana, Nevada, New Mexico, Oklahoma, Texas.

Southeast: Alabama, Caribbean, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia.

National Center for Tenant: \$1.8 million
Ownership—Georgetown University

Law School, 777 N. Capital St., NE, Suite 405, Washington, DC 20002-4239, Contact: Mr. Peter Clare, Phone: (202) 628-0750, Fax: (202) 628-0672

Geographic Responsibility

Northeast: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Washington, DC, Vermont, West Virginia.

Dated: November 23, 1998.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 98-31663 Filed 11-25-98; 8:45 am]

BILLING CODE 4210-27-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4363-FA-06]

Announcement of Funding Awards for Outreach and Training Grants for FY 1998-1999 to Conduct Outreach and Training Development for HUD Tenants in Mark-to-Market Properties

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition of funding under the Notice of Funding Availability for Outreach and Training Mark-to-Market (M2M) Grants (OTAGs). This announcement contains the names and addresses of the

award winners and the amount of the awards.

FOR FURTHER INFORMATION CONTACT:

Arthur Goldstein, Mark-to-Market program, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, D.C. 20410, telephone (202) 708-2300, ext. 2657 (this is not a toll-free number). The TTY number for the hearing impaired is 1-800-877-8339.

SUPPLEMENTARY INFORMATION: The Mark-to-Market, Intermediary Technical Assistance Grant program is authorized by section 514 of the FY 1998 HUD Appropriations Act (Pub. L. 105-65, approved October 27, 1997).

The purpose of the competition was to promote the ability of residents of eligible M2M properties to participate meaningfully in the M2M process established by section 514 of the FY 1998 HUD Appropriations Act.

The 1998 awards announced in this Notice were selected for funding in a competition announced in a **Federal Register** Notice published on April 30, 1998 (63 FR 23943). Applications were scored and selected for funding on the basis of selection criteria contained in that Notice.

A total of \$6.0 million has been awarded to 32 OTAG applicants. The program will cover 28 states.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545). The Department is publishing the names, addresses, and amounts of those awards as shown in Appendix A.

Dated: November 23, 1998.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

APPENDIX A.—RECIPIENTS OF AWARDS FOR THE OUTREACH AND TRAINING GRANTS FOR FY 1998-1999 TO CONDUCT OUTREACH AND TRAINING DEVELOPMENT FOR HUD TENANTS IN MARK-TO-MARKET PROPERTIES

Legal name	Address	Contact person	\$ allocation
Iowa Coalition for Housing and Homeless	205 15th Street, Polk County, Des Moines, IA 50309.	Jim Cain, (515) 288-5022.	\$220,000
California Coalition for Rural Housing Project (Northern CA).	926 J. Street, Suite 422, Sacramento County, Sacramento, CA 95814.	Robert J. Wiener, (916) 443-4448.	280,000
The Tenants Action Group in Philadelphia	21 S. 12th Street, 12th Floor, Philadelphia, PA 19107.	Liz Hersh, (215) 575-0707.	400,000
Community Alliance of Tenants	2710 NE 14th Avenue, Multnomah County, Portland, OR 97212.	Anita Rodgers, (503) 460-9702.	100,000
Iron Bound Comm. Corporation	51 McWhorthen Street, Newark, NJ 07105	Nancy Zak, (973) 589-3353.	210,000
New York State Tenant & Neigh. Info. Service (NY State minus Bronx, Brooklyn).	505 8th Avenue, 8th Floor, New York, NY 10018	Joe Heaphy, (212) 605-8922.	350,000
Virginia Poverty Law Center Inc	201 West Broad Street, Suite 302, Richmond, VA 23220.	Evan G. Lewis, (804) 772-9430.	75,000
Texas Tenant's Union, Inc	5405 East Grand Avenue, Dallas, TX 75223	Sandy Rollins, (214) 823-3846.	250,000

APPENDIX A.—RECIPIENTS OF AWARDS FOR THE OUTREACH AND TRAINING GRANTS FOR FY 1998–1999 TO CONDUCT OUTREACH AND TRAINING DEVELOPMENT FOR HUD TENANTS IN MARK-TO-MARKET PROPERTIES—Continued

Legal name	Address	Contact person	\$ allocation
Coalition of Homeless & Hsing	85 East Gay Street, Suite 603, Columbus, OH 43215.	Bill Faith, (614) 280–1984.	400,000
Indiana Coalition on Housing and Homeless	902 North Capitol Ave., Marion County, Indianapolis, IN 6204–1005.	Jeff Terry, (317) 636–8819.	350,000
Housing Comes First	300 Delmar Blvd., St. Louis, MO 63112–3199	Laura Barrett, (314) 367–2003.	350,000
Tenants United for Housing Inc	4550 N. Claredon, Suite D. North, Chicago, IL 60640.	Denise Irwin, (773) 271–2235.	350,000
The Tenants Union	3902 South Ferdinand, Seattle, WA 98118	Catherine Castillo Cota, (206) 722–6848.	240,000
LA Center for Affordable Tenant Hsg (L.A. & SF CA areas).	1296 North Fairfax Ave, Los Angeles, CA 90046	Larry Gross	290,000
Housing and Credit Counseling, Inc	1195 SW Buchanan, Suite 203, Topeka, KS 66604–1183.	Karen Miller, (785) 234–0217.	250,000
The Legal Aid Society (Bronx, Brooklyn, NY)	90 Church St., 15th Floor, New York, NY 10007 ..	Pascale Nijhof, (212) 577–3303.	250,000
Legal Aid Bureau, Inc	500 E. Lexington St., Baltimore, MD 21202	Rhonda Lipkin, (410) 539–5340.	160,000
Crossroads Urban Center	347 South 400 East, Salt Lake City, UT 84111	Glenn L. Bailey, (801) 333–8931.	100,000
National Housing Trust	1101 30th Street NW, Suite 400, Washington, DC 20007.	Michael Bodaken, (202) 333–8931.	
1. Alabama .....	.....	.....	1. 35,000
2. Tennessee .....	.....	.....	2. 35,000
3. Minnesota .....	.....	.....	3. 35,000
4. Michigan .....	.....	.....	4. 35,000
5. Mississippi .....	.....	.....	5. 35,000
6. W. VA .....	.....	.....	6. 35,000
7. Wisconsin .....	.....	.....	7. 45,000
Homeless and Hsg Coalition of KY	306 W. Main St, Suite 502, Frankfort, KY 40601 ..	Alan Dahl, (302) 223–1834.	210,000
NC Low Income Housing Coalition	3901 Barrett Drive, Suite 200, Raleigh, NC 27609	Linda S. Shaw, (919) 881–0707.	250,000
Florida Housing Coalition	1367 East Lafayette St, Suite C, Tallahassee, FL 32301.	Tracey D. Suber, (851) 878–4219.	110,000
MA Alliance HUD Tenants (Eastern MA)	353 Columbus Avenue, Boston, MA 02116	Michael Kane, (617) 267–2949.	250,000
Anti Displacement Proj (Western MA)	57 School Street, Hampden County, Springfield, MA 01105.	Carrolyn Murrey, (413) 739–7233.	250,000
Legal Aid Society of Hawaii	1108 Nuugnu Ave, Honalulu, HI 96817	Victor Geminiani, (808) 536–536–4302.	50,000

[FR Doc. 98–31664 Filed 11–25–98; 8:45 am]
BILLING CODE 4210–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4341–N–37]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development,

451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TTY number for the hearing- and speech-impaired (202) 708–2656 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the

December 12, 1988 Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency’s needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless

assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B-41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll-free information line at 1-800-927-7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: **AIR FORCE**: Ms. Barbara Jenkins, Air Force Real Estate Agency, (Area-MI), Bolling Air Force Base, 112 Luke Avenue, Suite 104, Building 5683, Washington, DC 20332-8020; (202) 767-4184; **COE**: Mr. Robert Swieconeck, Army Corps of Engineers, Management & Disposal Division, Pulaski Building, Room 4224, 20 Massachusetts Avenue, NW, Washington, DC 20314-1000; (202) 761-

1749; **GSA**: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW, Washington, DC 20405; (202) 501-2059; **NAVY**: Mr. Charles C. Cocks, Department of the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Code 241A, 200 Stovall Street, Alexandria, VA 22332-2300; (703) 325-7342; **VA**: Mr. George L. Szwarcman, Director, Land Management Service, 184A, Department of Veterans Affairs, 811 Vermont Avenue, NW, Room 414, Lafayette Bldg., Washington, DC 20420; (202) 565-5941; (These are not toll-free numbers).

Dated: November 19, 1998.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM, FEDERAL REGISTER REPORT FOR 11/27/98

Suitable/Available Properties

Buildings (by State)

Delaware

Unaccompanied Pers. Housing
800 Inlet Road
Rehoboth Beach Co: Sussex DE 19971-2698
Landholding Agency: GSA
Property Number: 549840009
Status: Excess
Comment: 3600 sq. ft., 2-story, termite damage, most recent use—housing, off-site use only

GSA Number: 4-U-DE-462

Missouri

Proj. Residence #1
Stockton Lake
Stockton Co: Cedar MO 65785-
Landholding Agency: COE
Property Number: 319840001
Status: Excess
Comment: 1260 sq. ft. w/attached garage, most recent use—residence, off-site use only

Proj. Residence #2

Stockton Lake
Stockton Co: Cedar MO 65785-
Landholding Agency: COE
Property Number 319840002
Status: Excess
Comment: 1260 sq. ft. w/attached garage, most recent use—residence, off-site use only

North Carolina

Coinjock Station
Canal Road
Coinjock Co: Currituck NC 27293-
Landholding Agency: GSA
Property Number 549840010
Status: Excess
Comment: 4 bldgs., most recent use—storage/office
GSA Number: 4-U-NC-734

Oklahoma

NIPER
Natl. Inst. for Petroleum & Energy Research

220 Virginia Ave.
Bartlesville OK 74003-
Landholding Agency: GSA
Property Number: 549840011
Status: Surplus
Comment: 25 structures on 15.66 acres of land, most recent use—offices to labs, environmental issues
GSA Number: 7-B-OK-563

Pennsylvania

Dwelling #2
Youghiogheny River Lake
Confluence Co: Fayette PA 15424-9103
Landholding Agency: COE
Property Number: 319830003
Status: Excess
Comment: 1421 sq. ft., 2-story + basement, most recent use—residential

Unsuitable Properties

Buildings (by State)

Alaska

Bldg. 3
Oliktok Long Range Radar Site
Elmendorf AFB AK 99506-2270
Landholding Agency: Air Force
Property Number: 189840010
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 8
Oliktok Long Range Radar Site
Elmendorf AFB AK 99506-2270
Landholding Agency: Air Force
Property Number: 189840011
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 19
Lonely Short Range Radar Site
Elmendorf AFB AK 99506-2270
Landholding Agency: Air Force
Property Number: 189840012
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 20
Lonely Short Range Radar Site
Elmendorf AFB AK 99506-2270
Landholding Agency: Air Force
Property Number: 189840013
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 338
King Salmon Airport
Naknek Co: Bristol Bay AK
Landholding Agency: Air Force
Property Number: 189840014
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 560
King Salmon Airport
Naknek Co: Bristol Bay AK
Landholding Agency: Air Force
Property Number: 189840015
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 612
King Salmon Airport
Naknek Co: Bristol Bay AK

Landholding Agency: Air Force
Property Number: 189840016
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 618
King Salmon Airport
Naknek Co: Bristol Bay AK
Landholding Agency: Air Force
Property Number: 189840017
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 643
King Salmon Airport
Naknek Co: Bristol Bay AK
Landholding Agency: Air Force
Property Number: 189840018
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 649
King Salmon Airport
Naknek Co: Bristol Bay AK
Landholding Agency: Air Force
Property Number: 189840019
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 114
Indian Mountain Long Range Radar Site
Elmendorf AFB AK 99506-2270
Landholding Agency: Air Force
Property Number: 189840020
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 34-636
Elmendorf AFB
Anchorage AK 99506-3240
Landholding Agency: Air Force
Property Number: 189840021
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Secured Area, Extensive deterioration

Bldg. 34-638
Elmendorf AFB
Anchorage AK 99506-3240
Landholding Agency: Air Force
Property Number: 189840022
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Secured Area, Extensive deterioration

Bldg. 140
Cape Lisburne Long Range Radar Site
Elmendorf AFB AK 99506-3240
Landholding Agency: Air Force
Property Number: 189840023
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 145
Cape Lisburne Long Range Radar Site
Elmendorf AFB AK 99506-3240
Landholding Agency: Air Force
Property Number: 189840024
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 310

Cape Lisburne Long Range Radar Site
Elmendorf AFB AK 99506-3240
Landholding Agency: Air Force
Property Number: 189840025
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 27
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840026
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 30
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840027
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 42
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840028
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 212
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840029
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 213
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840030
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 223
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840031
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 452
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840032
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 502
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840033
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 503
Eareckson Air Station
Shemya Island AK

Landholding Agency: Air Force
Property Number: 189840034
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 522
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840035
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 587
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840036
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 588
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840037
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 598
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840038
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 605
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840039
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 613
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840040
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 614
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840041
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 615
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840042
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 616
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840043

Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 617
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840044
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 624
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840045
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 700
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840046
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 718
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840047
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 727
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840048
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 731
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840049
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 751
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840050
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 753
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840051
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 1001
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840052
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 1005
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840053
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 1010
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840054
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 1025
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840055
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 1030
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840056
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 3016
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840057
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 3062
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840058
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 3063
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 189840059
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Guam
Andersen South
Andersen Admin. Annex
360 housing units & a commercial structure
Mangilao GU 96923-
Landholding Agency: Air Force
Property Number: 189840009
Status: Underutilized
Reason: Secured Area

Illinois
Bldg. 415
Naval Training Center
201 N. Decatur Ave.
Great Lakes IL
Landholding Agency: Navy
Property Number: 779840023
Status: Unutilized
Reason: Secured Area

Bldg. 1015
Naval Training Center
201 N. Decatur Ave.
Great Lakes IL
Landholding Agency: Navy
Property Number: 779840024
Status: Unutilized
Reason: Secured Area
Bldg. 1016
Naval Training Center
201 N. Decatur Ave.
Great Lakes IL
Landholding Agency: Navy
Property Number: 779840025
Status: Unutilized
Reason: Secured Area
Wyoming
Bldg. 80
Medical Center
Sheridan WY 82801-
Landholding Agency: VA
Property Number: 979840001
Status: Unutilized
Reason: Floodway, Extensive deterioration

Land (by State)

Kentucky
8.04 acres
Taylorsville Lake Project
Taylorsville Co: Spenser KY 40071-9801
Landholding Agency: COE
Property Number: 319840003
Status: Unutilized
Reason: Other
Comment: Inaccessible
[FR Doc. 98-31481 Filed 11-25-98; 8:45 am]
BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-942-09-1420-00]

Filing of Plats of Survey; Nevada

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing is effective at 10:00 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: David J. Clark, Chief, Branch of Geographic Services, Bureau of Land Management (BLM), Nevada State Office, 1340 Financial Boulevard Way, P.O. Box 12000, Reno, Nevada 89520, 702-861-6559.

SUPPLEMENTARY INFORMATION:

1. The Plat of Survey of the following described lands will be officially filed at the Nevada State Office, Reno, Nevada on December 28, 1998:

The plat, representing the dependent resurvey of a portion of the

subdivisional lines, and the subdivision of section 35, Township 18 North, Range 29 East, of the Mount Diablo Meridian, in the State of Nevada, under Group No. 763, was accepted November 23, 1998.

This survey was executed to meet certain administrative needs of the Bureau of Reclamation.

2. The Plat of Survey of the following described lands will be officially filed at the Nevada State Office, Reno, Nevada on December 28, 1998:

The plat, representing the dependent resurvey of a portion of the subdivisional lines of Township 16 North, Range 28 East, of the Mount Diablo Meridian, in the State of Nevada, under Group No. 763, was accepted November 23, 1998.

This survey was executed to meet certain administrative needs of the Bureau of Reclamation.

3. The Plat of Survey of the following described lands will be officially filed at the Nevada State Office, Reno, Nevada on December 28, 1998:

The plat, representing the dependent resurvey of a portion of the south boundary, a portion of the subdivisional lines, and the meanders of Carson Lake, and the determination of a partition line in the relicted lands of Carson Lake, the completion survey of the south boundary, the subdivision of fractional sections 25 and 36, the metes-and-bounds survey of Parcel A, and the survey of Tracts 37, 38, 39 and 40, Township 17 North, Range 28 East, of the Mount Diablo Meridian, in the State of Nevada, under Group No. 763, was accepted November 23, 1998.

This survey was executed to meet certain needs of the Bureau of Reclamation.

4. The Plat of Survey of the following described lands will be officially filed at the Nevada State Office, Reno, Nevada on December 28, 1998:

The plat, in three (3) sheets, representing the dependent resurvey of portions of the east and west boundaries, a portion of the subdivisional lines, and the meanders of Carson Lake, and the survey of portions of the east and west boundaries, the metes-and-bounds survey of a portion of U.S. Highway No. 95, and the survey of Tracts 37 and 38, Township 16 North, Range 29 East, of the Mount Diablo Meridian, in the State of Nevada, under Group No. 763, was accepted November 23, 1998.

This survey was executed to meet certain needs of the Bureau of Reclamation.

5. The Plat of Survey of the following described lands will be officially filed at

the Nevada State Office, Reno, Nevada on December 28, 1998:

The plat, in three (3) sheets, representing the dependent resurvey of portions of the west and north boundaries, a portion of the subdivisional lines, and the meanders of Carson Lake, and the determination of the partition lines in the relicted lands of Carson Lake, the survey of the south boundary, the completion survey of the east and west boundaries, the metes-and-bounds surveys of a private claim and a portion of U.S. Highway No. 120, and the survey of Tracts 37, 38, 39 and 40, Township 17 North, Range 29 East, of the Mount Diablo Meridian, in the State of Nevada, under Group No. 763, was accepted November 23, 1998.

This survey was executed to meet certain needs of the Bureau of Reclamation.

6. The Plat of Survey of the following described lands will be officially filed at the Nevada State Office, Reno, Nevada on December 28, 1998:

The plat, representing the survey of the subdivisional lines of Township 16 North, Range 30 East, of the Mount Diablo Meridian, in the State of Nevada, under Group No. 763, was accepted November 23, 1998.

This survey was executed to meet certain needs of the Bureau of Reclamation.

7. The Plat of Survey of the following described lands will be officially filed at the Nevada State Office, Reno, Nevada on December 28, 1998:

The plat, in three (3) sheets, representing the dependent resurvey of portions of the south, west and north boundaries, a portion of the subdivisional lines, and the meanders of Carson Lake, and the completion survey of the south boundary, and the survey of Tract 37, Township 17 North, Range 30 East, of the Mount Diablo Meridian, in the State of Nevada, under Group No. 763, was accepted November 23, 1998.

This survey was executed to meet certain needs of the Bureau of Reclamation.

8. Subject to valid existing rights, the provisions of existing withdrawals and classifications, the requirements of applicable laws, and other segregations of record, those lands listed under items 2 through 7 are open to application, petition, and disposal, including application under the mineral leasing laws. All such valid applications received on or prior to December 28, 1998, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

9. The above-listed surveys are now the basic record for describing the lands

for all authorized purposes. These surveys have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: November 23, 1998.

David J. Clark,

Chief Cadastral Surveyor, Nevada.

[FR Doc. 98-31777 Filed 11-25-98; 8:45 am]

BILLING CODE 4310-HC-P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Minerals Management Service, DOI.

ACTION: Notice of information collection solicitation.

SUMMARY: Under the Paperwork Reduction Act of 1995, the Minerals Management Service (MMS) is soliciting comments on an information collection using an optional electronic spreadsheet to simplify creation of the Form MMS-2014 when reporting purchases of the Government's royalty oil.

DATES: Written comments should be received on or before January 26, 1999.

ADDRESSES: Comments sent via the U.S. Postal Service should be sent to Minerals Management Service, Royalty Management Program, Rules and Publications Staff, PO. Box 25165, MS 3021, Denver, Colorado 80225-0165; courier address is Building 85, Room A613, Denver Federal Center, Denver, Colorado 80225; e-mail address is RMP.comments@mms.gov.

FOR FURTHER INFORMATION CONTACT: For questions concerning this information collection—Dennis C. Jones, Rules and Publications Staff, phone (303) 231-3046, FAX (303) 231-3385, e-mail Dennis.C.Jones@mms.gov. For questions concerning the electronic spreadsheet—Larry Barker, Division of Verification, phone (303) 231-3157, FAX (303) 231-3189, e-mail Lawrence.Barker@mms.gov.

SUPPLEMENTARY INFORMATION: In compliance with the Paperwork Reduction Act of 1995, section 3506 (c)(2)(A), we are notifying you, members of the public and affected agencies, of this collection of information, including a newly-developed electronic spreadsheet. On September 3, 1998, OMB emergency approval was granted for MMS to provide, for optional use, an

electronic spreadsheet to simplify required submission by industry of payment and other data associated with royalty production purchased from MMS (OMB Control Number 1010-0118). One version of this spreadsheet may be used to report purchase of Federal-only RIK production. A second version may be used to report Federal purchase data and also to submit data in a form acceptable to the State of Wyoming (State) on the State RIK production jointly sold with Federal production. The publication of this Notice has been timed to coincide with current RIK purchasers' use of the new spreadsheet so that they can provide feedback to MMS on their experience using it to report Federal production. Examples of both versions of the spreadsheet are attached for use of others who may wish to comment (Attachment 1). MMS would like to know, with regard to reporting Federal RIK purchases only:

(a) Is using the spreadsheet easier and more efficient than preparing a manual Form MMS-2014?

(b) Is this information collection necessary for us to properly do our job?

(c) Have we accurately estimated the industry burden for responding to this collection?

(d) If not, please explain.

(e) Can we enhance the quality, utility, and clarity of the information we collect?

The Secretary of the Interior is responsible for the collection of royalties from lessees producing minerals from leased Federal lands. The Secretary is required by various laws to manage the production of mineral resources on Federal onshore and offshore leases and agreements, to collect the royalties due, and to distribute resulting revenues in accordance with those laws. MMS performs the royalty management functions for the Secretary. Most royalties are now paid in-value—when a company or individual enters into a contract to develop, produce, and dispose of minerals from Federal lands, that company or individual agrees to pay the United States a share (royalty) of the full value received for the minerals taken from leased lands. MMS uses an automated fiscal accounting system, the Auditing and Financial System (AFS), to account for revenues collected from Federal leases/agreements. The Report of Sales and Royalty Remittance, Form MMS-2014, is the only document used for reporting royalties paid in-value and other lease-related financial transactions to MMS. The AFS relies on data reported by

payors on Form MMS-2014 for the majority of its processing.

In addition to accounting for royalties reported by payors, the AFS, using Form MMS-2014 information, performs numerous other functions. These functions include monthly distribution of mineral revenues to State and General Treasury accounts; providing royalty accounting and statistical information to States and others who have a need for such information; and identifying under-reporting and nonreporting so MMS can promptly collect revenues. Sales and royalty information gathered through the AFS is compared with production data collected by an MMS automated production accounting system—the Production Accounting and Auditing System (PAAS). This AFS/PAAS comparison of reported sales with reported production provides MMS with the ability to corroborate reported production volumes to help verify that the proper royalties are being collected.

MMS has begun the first of three pilot programs to study the feasibility and cost/effectiveness of taking the Government's oil and gas royalties in-kind (RIK), that is, as a share of production rather than an in-value payment. Successful bidders who entered into RIK contracts with MMS pursuant to an Invitation for Bids (IFB) published July 1, 1998 are taking federal royalty oil beginning October, 1998. The contracts require purchasers of royalty oil to make payment to MMS for the royalty oil and report payments and related data. The first payments and reports are due by November 30, 1998.

Since RIK pilot purchasers will not need to use the full range of reporting instructions and methods on Form MMS-2014, MMS has made available at no cost an electronic spreadsheet to more simply create electronic Form MMS-2014. The purchaser has the choice of reporting either (1) through use of the spreadsheet (which will electronically generate a Form MMS-2014 for MMS) (2) on a hard copy Form MMS-2014, or (3) through a company's own MMS-compatible automated reporting systems (which a number of present in-value royalty reporters currently use).

Before providing the electronic spreadsheet to purchasers, MMS will enter into each purchaser's copy of the spreadsheet the following reference data—lease number, royalty rate, property name, total property volume, percent allocated to Federal ownership, percent allocated to fee or State ownership and what percent of total property volume a particular lease represents. MMS needs the reference data to identify and account for

purchasers' reports of payment for RIK production purchased from those properties.

The purchaser will, on its monthly Form MMS-2014, subsequently enter for the entire property (1) RIK volumes purchased, (2) the unit price, (3) total value, and (4) quality value. If reference data items such as royalty rate should change, purchasers would update the electronic spreadsheets for continued (always optional) use based on information provided by BLM or MMS personnel and lessees/operators.

If purchasers need to amend an initial Form MMS-2014 report, they will have the choice of doing so either by entering changes manually on a hard-copy Form MMS-2014 or by using MMS's established electronic reporting process.

MMS has chosen to defer development of a permanent form for reporting of the purchase of RIK production until MMS has gained the benefit of experience from the RIK pilots. If simplifying filing of Form MMS-2014 data through use of the electronic spreadsheet is effective for the 1 to 3-year period represented by the Wyoming crude oil RIK pilot, then MMS plans to continue use of this approach through the second RIK pilot (limited to gas from Texas 8(g) zone) and the third RIK pilot (larger volumes of gas from wider areas of the Gulf of Mexico Region). Using the electronic spreadsheet has the advantage of eliminating or delaying creation of a new form until its requirements are better defined, while still meeting MMS' needs to properly distribute funds, carry out the AFS/PAAS comparison, and provide information to other recipients about their share of payments distributed from Federal revenues.

This collection represents a significant net reduction in burden. While a few new companies may report, the overall number of respondents is greatly reduced. This is because only one purchaser need report one or two lines of data aggregating volumes from a multi-lease property, rather than multiple lessee/producers each reporting at the detailed revenue source level that in-value royalty payments would require for the same properties. The electronic spreadsheet allocates data needed by MMS automatically to levels of the revenue sources within each lease agreement on the Form MMS-2014, reducing complexity of reporting. We estimate that the time required to prepare and submit this information is about 2 minutes per line monthly.

Attachment 1

Minerals Management Service
 Royalty-In-Kind Pilot Program
 Federal Oil and Gas Purchase System

OMB 1010-0118 (Exp. March 31, 1999)

RIK Oil and Gas Reporting and Payment for:

Example: Oil Company Inc.
 123 Green Tree Street
 Sam City, Wyoming 82003

Payor Code RIK07

Payor Assigned | Document Number: A12345
 Contract Number: MMS-RIKWY9:

MMS	
RIK Quantity	1,735
RIK Value	\$15,657.40

Internal Disk File Name a:\Test.csv

Create Electronic Reports:

MMS - 2014 Transmittal Letter
 MMS - 2014 Form

Instructions: Enter the data in the yellow boxes above and below. Once you have ensured that all of the data elements are correct, select/push the "MMS-2014 Transmittal Letter" button to print the Transmittal Letter. Then select/push the "MMS - 2014 form" button to create the MMS-2014 CSV format file. The files should then be sent to the MMS as provided in the "2014 Instruction Sheet". The RIK purchase amount due is shown in the green box noted as "RIK Value". or modifications insert at least two new lines (one with a negative amount of the original line and one for the new line). Give the new lines a new line code. For example line code B0100 would become B0100M1 and B0100M2.

Insert the proper amount of lines in the 2014 Work Sheet and 2014 sheet.

Line Code	Property Name	Agree/Lease Number	Purchased RIK Quantity	Purchase Unit Price	RIK Value	Gravity ° API	Sales Month	Selling Arrg. Code	Transaction Code	Adjustment Reas. Code	MMS Tract Pct.	State/Fee Tract Pct.	100% Volume
B0100	Example Agreement	892-000123-A	1,692.5	\$9.00	\$15,232.40	25.0	1098	002	01	00	62.8827%	37.1173%	2,691.50
B0200	Example Lease	Fed 1234567890	42.5	\$10.00	\$425.00	23.1	1098	002	01	00	100.0000%	0.0000%	42.50
Totals			1,735.0	\$9.02	\$15,657.40								2,734.00

Certification Statements

The Paperwork Reduction Act of 1995 requires us to inform you that this information is being collected by the Minerals Management Service (MMS) to document details of royalty payments and sales of minerals from leases on Federal lands. We will use this information to maintain and audit lease accounts, and we estimate the burden for reporting electronically is 2 minutes per line and for reporting manually is 7 minutes per line. Comments on the accuracy of this burden estimate or suggestions on reducing this burden should be directed to the Information Collection Clearance Officer, MS 4230, MMS, 1849 C Street, N. W., Washington, DC 20240 and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the U. S. Department of the Interior, Washington, DC 20503. Proprietary information submitted to the U. S. Department of the Interior is protected in accordance with standards established by the Federal Oil and Gas Royalty Management Act of 1982 (30 U. S. C. 1733), the Freedom of Information Act (5 U.S. 552 (b) (4)), and the Departmental Regulations (43 CFR 2). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Minerals Management Service / State of Wyoming Land & Farm Loan Office OMB 1010-0118 (Exp. March 31, 1999)
 Joint Effort Royalty-in-Kind Pilot Program
 Royalty Oil and Gas Purchase System

vs 1.0

RIK Oil and Gas Reporting and Payment for:

Exmpl. Oil Company Inc. Payor Assigned | Document Number: A12345
 123 Green Tree Street Payor Code RIK0?

Contract Number: 12345678B

Sam City, Wyoming 82003	1198
Report Month (mmyy):	3
Print Method Code:	

MMS	State	Total
RIK Quantity	1,107	628
RIK Value	\$5,653.85	\$15,657.40

Create Electronic Reports:

MMS-2014 Transmittal Letter
 MMS-2014 Form
 State of Wyoming - Form M2E

Internal Disk File Name:

a:\Test.csv

Instructions: Enter the data in the yellow boxes above and below. Once you have ensured that all of the data elements are correct, select/push the "MMS-2014 Transmittal Letter" button to print the Transmittal Letter.

Then select/push the "MMS - 2014 Form" button to create the MMS-2014 CSV format file.
 Then select/push the "State of Wyoming - Form M2E" button to create the M2E text file. These separate files should then be sent to the MMS and the State of Wyoming as provided in the instruction package.

The RIK purchase amount due is shown in the green box noted as "RIK Value".
 For modifications insert at least two new lines (one with a negative amount of the original line and one for the new line).
 Give the new lines a new line code. For example line code B0100 would become B0100M1 and B0100M2.

Insert the proper amount of lines in the 2014 Work Sheet and 2014 sheet.

Line Code	Property Name	Agree/Lease Number	Purchased RIK Quantity	Purchase Unit Price	RIK Value	Gravity ° API	Sales Month	Selling Arr. Code	Transaction Code	Adjustment Res. Code	MMS Tract Pct.	State Tract Pct.	100% Volume
B0100	Example Agreement	892-000123-A	1,692.5	\$9.00	\$15,232.40	25.0	1098	002	01	00	62.8827%	37.1173%	1,692.49
B0200	Example Lease	Fed 1234567890	42.5	\$10.00	\$425.00	23.1	1098	002	01	00	100.0000%	0.0000%	42.50
Totals			1,735.0	\$9.02	\$15,657.40								1,734.99

Certification Statements

The Paperwork Reduction Act of 1995 requires us to inform you that this information is being collected by the Minerals Management Service (MMS) to document details of royalty payments and sales of minerals from leases on Federal lands. We will use this information to maintain and audit lease accounts, and we estimate the burden for reporting electronically is 2 minutes per line and for reporting manually is 7 minutes per line. Comments on the accuracy of this burden estimate or suggestions on reducing this burden should be directed to the Information Collection Clearance Officer, MS 4230, MMS, 1849 C Street, N. W., Washington, DC 20240 and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the U. S. Department of the Interior, Washington, DC 20503. Proprietary information submitted to the U. S. Department of the Interior is protected in accordance with standards established by the Federal Oil and Gas Royalty Management Act of 1982 (30 U. S. C. 1733), the Freedom of Information Act (5 U.S. 552 (b) (4)), and the Departmental Regulations (43 CFR 2). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Dated: November 17, 1998.

Lucy Querques Denett,
 Associate Director for Royalty Management.

BILLING CODE 4310-MR-P
 [FR Doc. 98-31322 Filed 11-25-98; 8:45 am]
 BILLING CODE 4310-MR-G

DEPARTMENT OF JUSTICE**Office of Justice Programs****Office of Juvenile Justice and
Delinquency Prevention**

[OJP(OJJDP)-1203]

RIN 1121-ZB39

**Meeting of the Coordinating Council
on Juvenile Justice and Delinquency
Prevention**

AGENCY: Office of Justice Programs,
Office of Juvenile Justice and
Delinquency Prevention, Justice.

ACTION: Notice of meeting of the
Coordinating Council on Juvenile
Justice and Delinquency Prevention.

SUPPLEMENTARY INFORMATION: A meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention will take place in the District of Columbia, beginning at 1:00 p.m. on Wednesday, December 9, 1998 and ending at 3:00 p.m. on December 9, 1998. This advisory committee, chartered as the Coordinating Council on Juvenile Justice and Delinquency Prevention, will meet at the Office of Justice Programs, located at 810 Seventh St. SW., in the third floor auditorium, Washington, D.C. 20531. The Coordinating Council, established pursuant to Section 3(2)A of the Federal Advisory Committee Act (5 U.S.C.) App. 2), will meet to carry out its advisory functions under Section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. This meeting will be open to the public. Expedited scheduling considerations for this meeting precluded the full notice period. For security reasons, members of the public who are attending the meeting must contact the Juvenile Justice Resource Center by close of business December 4, 1998. The point of contact is Jan Shaffer who can be reached at (301) 519-5886. The public is further advised that a pictured identification is required to enter the building.

Dated: November 18, 1998.

Shay Bilchik,

*Administrator, Office of Juvenile Justice and
Delinquency Prevention.*

[FR Doc. 98-31628 Filed 11-25-98; 8:45 am]

BILLING CODE 4410-18-P

DEPARTMENT OF LABOR**Employment Standards Administration****Wage and Hour Division; Minimum
Wages for Federal and Federally
Assisted Construction; General Wage
Determination Decisions**

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29

CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3014, Washington, DC 20210.

**Withdrawn General Wage
Determination Decision**

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, General Wage Determination No. AR980042 dated February 13, 1998.

Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is less than ten (10) days from the date of this notice, this action shall be effective unless the agency finds that there is insufficient time to notify bidders of the change and the finding is documented in the contractor file.

**Modifications to General Wage
Determination Decisions**

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts

MA980001 (Feb. 13, 1998)
MA980002 (Feb. 13, 1998)
MA980003 (Feb. 13, 1998)
MA980005 (Feb. 13, 1998)
MA980006 (Feb. 13, 1998)

MA980007 (Feb. 13, 1998)
 MA980008 (Feb. 13, 1998)
 MA980009 (Feb. 13, 1998)
 MA980010 (Feb. 13, 1998)
 MA980012 (Feb. 13, 1998)
 MA980013 (Feb. 13, 1998)
 MA980017 (Feb. 13, 1998)
 MA980018 (Feb. 13, 1998)
 MA980019 (Feb. 13, 1998)
 MA980020 (Feb. 13, 1998)
 MA980021 (Feb. 13, 1998)

Volume II

Pennsylvania
 PA980021 (Feb. 13, 1998)

Volume III

Florida
 FL980017 (Feb. 13, 1998)
 Mississippi
 MS980057 (Feb. 13, 1998)
 South Carolina
 SC980033 (Feb. 13, 1998)

Volume IV

Illinois
 IL980001 (Feb. 13, 1998)
 IL980002 (Feb. 13, 1998)
 IL980006 (Feb. 13, 1998)
 IL980008 (Feb. 13, 1998)
 IL980009 (Feb. 13, 1998)
 IL980011 (Feb. 13, 1998)
 IL980013 (Feb. 13, 1998)
 IL980015 (Feb. 13, 1998)
 IL980016 (Feb. 13, 1998)
 IL980018 (Feb. 13, 1998)

Indiana

IN980001 (Feb. 13, 1998)
 IN980002 (Feb. 13, 1998)
 IN980003 (Feb. 13, 1998)
 IN980004 (Feb. 13, 1998)
 IN980005 (Feb. 13, 1998)
 IN980006 (Feb. 13, 1998)

Michigan

MI980003 (Feb. 13, 1998)
 MI980063 (Feb. 13, 1998)

Volume V

Arkansas

AR980001 (Feb. 13, 1998)
 AR980006 (Feb. 13, 1998)
 AR980008 (Feb. 13, 1998)
 AR980030 (Feb. 13, 1998)
 AR980034 (Feb. 13, 1998)

Iowa

IA980002 (Feb. 13, 1998)
 IA980004 (Feb. 13, 1998)
 IA980006 (Feb. 13, 1998)

Kansas

KS980009 (Feb. 13, 1998)
 KS980025 (Feb. 13, 1998)
 KS980026 (Feb. 13, 1998)
 KS980063 (Feb. 13, 1998)

New Mexico

NM980001 (Feb. 13, 1998)
 NM980005 (Feb. 13, 1998)

Texas

TX980069 (Feb. 13, 1998)

Volume VI

Oregon

OR980001 (Feb. 13, 1998)
 OR980017 (Feb. 13, 1998)

Washington

WA980005 (Feb. 13, 1998)
 WA980008 (Feb. 13, 1998)
 WA980023 (Feb. 13, 1998)

Volume VII

California

CA980002 (Feb. 13, 1998)
 CA980004 (Feb. 13, 1998)
 CA980028 (Feb. 13, 1998)
 CA980031 (Feb. 13, 1998)
 CA980034 (Feb. 13, 1998)
 CA980036 (Feb. 13, 1998)
 CA980037 (Feb. 13, 1998)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1-800-363-2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512-1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 20th day of November 1998.

Margaret J. Washington,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 98-31509 Filed 11-25-98; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL EDUCATION GOALS PANEL

Notice of Meeting/Press Conference/Teleconference

AGENCY: National Education Goals Panel.

ACTION: Notice of Meeting/Press Conference/Teleconference.

SUMMARY: This notice sets forth the date and location of a forthcoming meeting of the National Education Goals Panel. This notice also describes the functions of the Panel.

DATE AND TIME: Thursday, December 10, 1998, 8:30 a.m. to 3:30 p.m.

ADDRESSES: National Press Club, 529 14th Street, NW, Washington, DC 20045. (Task Force on the Future of the Goals, 8:30 a.m.-10:30 a.m., Holeman Lounge; National Education Goals Panel Meeting, 10:30 a.m. to 11:00 a.m., Holeman Lounge; Press Conference, 11:00 a.m. to 12:00 p.m., Ballroom; Teleconference, 1:30 p.m. to 3:30 p.m., Ballroom.

FOR FURTHER INFORMATION CONTACT: Ken Nelson, Executive Director, 1255 22nd Street, NW, Suite 502, Washington, DC 20037. Telephone: (202) 724-0015.

SUPPLEMENTARY INFORMATION: The National Education Goals Panel was established to monitor, measure and report state and national progress toward achieving the eight National Education Goals, and report to the states and the Nation on the progress.

Agenda Items

The meeting of the Panel is open to the public. The National Education Goals Panel will convene a series of events on December 10 at the National Press Club. From 8:30 a.m. to 11:00 a.m. a Task Force and the Panel will discuss the future of the Goals and the Panel. From 11:00 to 12:00 there will be a press conference announcing the release of four new reports, *Building a Nation of Learners, 1998*; *Data Volume for the National Education Goals, 1998*; *Promising Practices: Progress Toward the Goals, 1998* and *Talking About Tests: An Idea Book for State Leaders*. This year's Goals Report will recognize those states that have made significant improvement over time and those states which are highest performing and most improved on the Goals and Indicators. The Data Volume will provide detailed information about each state's performance towards attaining the National Education Goals. *Promising Practices: Progress Toward the Goals 1998*, identifies top performing and improving states on one indicator per Goal and tells the story of how these states have made progress toward the Goal. It characterizes the policies and programs which have enabled North Carolina and Texas to make rapid achievement on multiple indicators. *Talking About Tests: An Idea Book for State Leaders*, offers state and district examples on how to simplify the complicated messages of standards and

assessments and make tests results more meaningful to parents. The teleconference (which will be held from 1:30 p.m. to 3:30 p.m.) is an effort to bring education policy makers together with governors, their education aides, state legislators, presidents of state boards of education and representatives of the business community to talk about education reform initiatives.

Dated: November 20, 1998.

Ken Nelson,

Executive Director, National Education Goals Panel.

[FR Doc. 98-31581 Filed 11-25-98; 8:45 am]

BILLING CODE 4010-01-M

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meeting; Regular Board Meeting of the Board of Directors

TIME AND DATE: 2:00 p.m., Monday, December 7, 1998.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW., Suite 800, Board Room, Washington, DC 20005.

STATUS: Open/Closed.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/Secretary, 202/376-2441.

AGENDA:

- I. Call to Order
- II. Approval of Minutes:
September 9, 1998, Regular Meeting
- III. Audit Committee Report:
September 8, 1998
- IV. Treasurer's Report
- V. Executive Director's Quarterly Management Report
- VI. Personnel Committee Report:
November 9, 1998, Closed Meeting
- VII. Adjourn

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 98-31799 Filed 11-24-98; 8:45 am]

BILLING CODE 7570-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-213]

In the Matter of Connecticut Yankee Atomic Power Company (Haddam Neck Plant); Exemption

I

Connecticut Yankee Atomic Power Company is the holder of Facility Operating License No. DPR-61, which authorizes the licensee to possess the Haddam Neck Plant (HNP). The license

states, among other things, that the facility is subject to all the rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect. The facility consists of a pressurized-water reactor located at the licensee's site in Middlesex County, Connecticut. The facility is permanently shut down and defueled, and the licensee is no longer authorized to operate or place fuel in the reactor.

II

Section 50.54(w) of 10 CFR Part 50 requires power reactor licensees to maintain onsite property damage insurance coverage in the amount of \$1.06 billion. Section 140.11(a)(4) of 10 CFR Part 140 requires a reactor with a rated capacity of 100,000 electrical kilowatts or more to maintain liability insurance of \$200 million and to participate in a secondary insurance pool.

NRC may grant exemptions from the requirements of 10 CFR Part 50 of the regulations which, pursuant to 10 CFR 50.12(a), (1) are authorized by law, will not present an undue risk to public health and safety, and are consistent with the common defense and security and (2) present special circumstances. Special circumstances exist when application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule (10 CFR 50.12(a)(2)(ii)). The underlying purpose of Section 50.54(w) is to provide sufficient property damage insurance coverage to ensure funding for onsite post-accident recovery stabilization and decontamination costs in the unlikely event of an accident at a nuclear power plant.

NRC may grant exemptions from the requirements of 10 CFR Part 140 of the regulations which, pursuant to 10 CFR 140.8, are authorized by law and are otherwise in the public interest. The underlying purpose of Section 140.11 is to provide sufficient liability insurance to ensure funding for claims resulting from a nuclear incident or precautionary evacuation.

III

On October 7, 1997, the licensee requested exemption from the financial protection requirement limits of 10 CFR 50.54(w) and 10 CFR 140.11. The licensee requested that the amount of insurance coverage it must maintain be reduced to \$50 million for onsite property damage and \$100 million for offsite financial protection. The licensee stated that special circumstances exist

because of the permanently shutdown and defueled condition of HNP.

The financial protection limits of 10 CFR 50.54(w) and 10 CFR 140.11 were established to require a licensee to maintain sufficient insurance to cover the costs of a nuclear accident at an operating reactor. Those costs were derived from the consequences of a release of radioactive material from the reactor. Although the risk of an accident at an operating reactor is very low, the consequences can be large. In an operating plant, the high temperature and pressure of the reactor coolant system, as well as the inventory of relatively short-lived radionuclides, contribute to both the risk and consequences of an accident. In a permanently shutdown and defueled reactor facility, the reactor coolant system will never be operated and contains no short-lived radionuclides, which eliminates the possibility of reactor accidents. A further reduction in risk occurs because decay heat from the spent fuel decreases over time, which reduces the amount of cooling required to prevent the spent fuel from heating up to a temperature that could compromise the ability of the fuel cladding to retain fission products.

Along with the reduction in risk, the consequences of a release decline after a reactor permanently shuts down and defuels. The short-lived radionuclides contained in the spent fuel, particularly volatile components such as iodine and most of the noble gases, decay away, thereby reducing the inventory of radioactive materials that are readily dispersible and transportable in air.

Although the risk and consequences of a radiological release decline substantially after a plant permanently defuels its reactor, they are not completely eliminated. There are potential onsite and offsite radiological consequences that could be associated with the onsite storage of the spent fuel in the spent fuel pool (SFP). In addition, a site may contain a radioactive inventory of liquid radwaste, activated reactor components, and contaminated structural materials. For purposes of modifying the amount of insurance coverage maintained by a power reactor licensee, the potential consequences, despite very low risk, are an appropriate consideration.

In order to determine the insurance coverage sufficient for a permanently defueled facility, the cost of recovery from potential accident scenarios must be evaluated. At the HNP, spent fuel is the largest source term on the site. The spent fuel is stored in the SFP, which uses water to cool the fuel. By letter dated September 26, 1997, the licensee

submitted an analysis of the heatup characteristics of the spent fuel in the absence of SFP water inventory. The analysis was based on storing the fuel in a configuration consistent with the analysis. By letter dated December 18, 1997, the licensee stated that, as of October 23, 1997, the spent fuel assemblies had been rearranged within the SFP to comply with the configuration used for the heat-up analysis. The licensee concluded that air cooling of the fuel would be sufficient to maintain the integrity of the fuel cladding and that rapid zircaloy oxidation is no longer possible. The staff independently evaluated the licensee's conclusion and found it acceptable. The staff concluded that the cost of recovering from a loss of SFP water would be bounded by other accidents that may occur at a permanently defueled site.

In SECY 96-256, "Changes to the Financial Protection Requirements for Permanently Shutdown Nuclear Power Reactors, 10 CFR 50.54(w) and 10 CFR 140.11," dated December 17, 1996, the staff estimated the onsite cleanup costs of accidents considered to be the most costly at a permanently defueled site with spent fuel stored in the SFP. The staff found that the onsite recovery costs for a fuel handling accident could range up to \$24 million. The estimated onsite cleanup costs to recover from the rupture of a large liquid radwaste storage tank could range up to \$50 million. The licensee's proposed level of \$50 million for onsite property insurance is sufficient to cover these estimated cleanup costs.

The offsite cleanup costs of the accident scenarios discussed above are estimated to be negligible in SECY 96-256. However, a licensee's liability for offsite costs may be significant due to lawsuits alleging damages from offsite releases. Experience at Three Mile Island Unit 2 showed that significant judgments against a licensee can result despite negligible dose consequences from an offsite release. An appropriate level of financial liability coverage is needed to account for potential judgments and settlements and to protect the Federal Government from indemnity claims. The licensee's proposed level of \$100 million in primary offsite liability coverage is sufficient for this purpose.

The staff has determined that participation in the secondary insurance pool for offsite financial protection is not required for a permanently shut down and defueled plant after the time that air cooling of the spent fuel is sufficient to maintain the integrity of the fuel cladding. As noted above, the staff

finds that sufficient time has elapsed to ensure the integrity of the HNP spent fuel cladding.

IV

The NRC staff has completed its review of the licensee's request to reduce financial protection limits to \$50 million for onsite property insurance and \$100 million for offsite liability insurance. On the basis of its review, the NRC staff finds that the spent fuel stored in HNP's SFP is no longer susceptible to rapid Zircaloy oxidation. The requested reductions are consistent with SECY-96-256, "Changes to the Financial Protection Requirements for Permanently Shutdown Nuclear Power Reactors, 10 CFR 50.54(w) and 10 CFR 140.11," dated December 17, 1996. The Commission informed the staff by a staff requirements memo dated January 28, 1997, that it did not object to the insurance reductions recommended in SECY 96-256. The licensee's proposed financial protection limits will provide sufficient insurance to recover from limiting hypothetical events, if they occur. Thus, the underlying purposes of the regulations will not be adversely affected by the reductions in insurance coverage.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), an exemption to reduce onsite property insurance to \$50 million is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Further, special circumstances are present, as set forth in 10 CFR 50.12(a)(2)(ii). Therefore the Commission hereby grants an exemption from the requirement of 10 CFR 50.54(w).

In addition, the Commission has determined that, pursuant to 10 CFR 140.8, an exemption to reduce primary offsite liability insurance to \$100 million, accompanied by withdrawal from the secondary insurance pool for offsite liability insurance, is authorized by law and is in the public interest. Therefore, the Commission hereby grants an exemption from the requirements of 10 CFR 140.11(a)(4).

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of these exemptions will not have a significant effect on the quality of the human environment (63 FR 50929).

These exemptions are effective upon issuance.

Dated at Rockville, Maryland, this 19th day of November 1998.

For the Nuclear Regulatory Commission.

Roy P. Zimmerman,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98-31643 Filed 11-25-98; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-445 and 50-446]

Texas Utilities Electric Company, Comanche Peak Steam Electric Station, Units 1 and 2; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF-87 and NPF-89 issued to Texas Utilities Electric Company (the licensee) for operation of Comanche Peak Steam Electric Station, Units 1 and 2 located in Somervell County, Texas.

The proposed amendment would increase the allowed outage time (AOT) for a centrifugal charging pump from 72 hours to 7 days and add a Configuration Risk Management Program.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

There is no effect on the probability of an event; the only potential effect is on the capability to mitigate the event. The centrifugal charging pumps are credited in the Final Safety Analysis Report Chapter 15

LOCA analysis for ECCS injection and for the containment sump recirculation mode for the design-basis LOCA. Increasing the AOT for the centrifugal charging pumps does not affect analysis assumptions regarding functioning of required equipment designed to mitigate the consequences of accidents. Further, the severity of postulated accidents and resulting radiological effluent releases will not be affected by the increased AOT.

A reliability analysis of the charging system found the change to have no significant impact on normal operation or on the RCP seal cooling function. Therefore, the change would not significantly increase in the probability of a seal LOCA.

The increase in the AOT potentially affects only the availability of the charging system for accident mitigation and has no effect on the ability of other ECCS systems to perform their functions. Through the use of a probabilistic risk assessment, it was determined that the proposed change would have an insignificant effect on the core damage frequency.

The proposed changes to the Technical Specifications BASES are administrative in nature and do not change the specific Technical Specifications requirements. The changes to the BASES sections of the Technical Specifications ensure that when the centrifugal charging pumps are taken out of service, administrative controls are in place to consider and manage risk associated with the specific configuration of the plant. Changes to the Administrative Controls section of the Technical Specifications are administrative in nature and reflect addition of a configuration risk management program. These administrative changes provide additional assurance that risk is appropriately considered and managed during changing plant configurations in order to assure that intended plant design/safety functions will be maintained. No design basis accidents are affected by these proposed administrative changes as they do not impact nor affect accident analysis assumptions.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different type of accident from any accident previously evaluated?

Unavailability of one centrifugal charging pump for a finite period of time is currently allowed by the Technical Specifications. Increasing the AOT from 72 hours to 7 days would not change the method that TU Electric operates CPSES, thus would not create a new condition. Further, the proposed change would not result in any physical alteration to any plant system, and there would not be a change in the method by which any safety related system performs its function. The ECCS would still be capable of mitigating the consequences of the design-basis accident LOCA with the one centrifugal charging pump operable. No new unanalyzed accident would be created.

The proposed changes to add a configuration risk management program and reference to that program in the BASES section of the Technical Specifications for

the Centrifugal Charging pumps will not delete any specification requirement or function already designated in the Technical Specifications. The administrative changes retain adequate regulatory basis to ensure that intended plant design/safety functions will be maintained. These changes are administrative in nature and do not affect the design or operation of any system, structure, or component in the plant. Accordingly, no new failure modes have been defined for any plant system or component important to safety, nor have any new initiating events been identified as a result of the proposed changes.

In summary, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

The proposed increase in the AOT does not impact either the physical protective boundaries or performance of safety systems for accident mitigation. There is no safety analysis impact since the extension of the centrifugal charging pump AOT interval will have no effect on any safety limit, protection system setpoint, or limiting condition of operation. There is no hardware change that would impact existing safety analysis acceptance criteria, therefore there is no significant change in the margin of safety.

The proposed changes involve the addition of a configuration risk management program and reference to that program in the BASES section of the Technical Specifications for the Centrifugal Charging pumps affected by License Amendment Request 96-06. These changes are administrative in nature and do not directly affect any protective boundaries nor impact the safety limits for the protective boundaries. The addition of the configuration risk management program provides additional assurance that adequate regulatory basis for continued proper administrative review and plant configuration control to ensure that actions prescribed in plant operating procedures are maintained so as not to impact the plant's margin of safety. Therefore, there is no significant reduction in the margin of safety.

In summary, the proposed change would not have a significant impact on the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change

during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 28, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and

Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one

contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, N.W., Washington, DC, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 2, 1996 (TXX-96434), originally noticed in the **Federal Register** (62FR50011). The application has been supplemented by letters dated October 2, 1998 (TXX-98215), and November 13, 1998 (TXX-98241 and TXX-98244), which are available for public inspection at the Commission's Public Document Room,

the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019.

Dated at Rockville, Maryland, this 20th day of November 1998.

For the Nuclear Regulatory Commission.

Timothy J. Polich,

Project Manager, Project Directorate IV-1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98-31642 Filed 11-25-98; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Florida Power and Light Company, Turkey Point Units 3 and 4; Environmental Assessment and Finding of No Significant Impact

[Docket Nos. 50-250 and 50-251]

The U.S. Nuclear Regulatory Commission (the Commission or NRC) is considering issuance of an exemption from certain requirements of its regulations to Florida Power and Light Company (the licensee), holder of Facility Operating Licenses Nos. DPR-31 and DPR-41 for operation of Turkey Point Units 3 and 4, respectively.

Environmental Assessment

Identification of Proposed Action

The proposed action is in accordance with the licensee's application dated July 31, 1997, as supplemented by submittals dated July 2, and October 27, 1998, for exemption from certain requirements of Appendix R, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979," for Turkey Point Units 3 and 4. Specifically, the licensee requested an exemption from the requirements of Appendix R, Subsection III.G.2.a, for raceway fire barriers in the Open Turbine Building.

The Need for the Proposed Action

The Thermo-Lag fire barriers installed at Turkey Point Units 3 and 4 have a rating that does not meet the requirements specified in Subsection III.G.2.a. The proposed exemption is needed because compliance with the regulation would result in significant additional costs.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and

concludes that the underlying purpose of the regulation, to provide reasonable assurance that at least one means of achieving and maintaining safe shutdown conditions will remain available during and after any postulated fire in the plant, will be met. Accordingly, the proposed action will not result in an increase in the probability or consequences of accidents previously analyzed or result in a change in occupational or public dose. Therefore, there are no significant radiological impacts associated with the proposed action.

In addition, the proposed action will not result in a change in nonradiological plant effluents and will have no other nonradiological environmental impact.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with this action.

Alternative to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (no-action alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements related to operation of Turkey Point Units 3 and 4, dated July 1972.

Agencies and Persons Consulted

In accordance with its stated policy, on November 4, 1998, the NRC staff consulted with the Florida State official, Mr. William Passetti of the Bureau of Radiation Control, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's request dated July 31, 1997, as supplemented by submittals dated July 2, and October 27, 1998, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street,

NW., Washington, DC, and at the local public document room located at the Florida International University, University Park, Miami, Florida.

Dated at Rockville, Maryland, this 20th day of November 1998.

For the Nuclear Regulatory Commission.

Frederick J. Hebdon,

Director, Project Directorate II-3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98-31641 Filed 11-25-98; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Privacy Act of 1974, As Amended; Establishment of Two New Systems of Records

AGENCY: Nuclear Regulatory Commission.

ACTION: Systems of records; two new systems of records proposed.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Nuclear Regulatory Commission (NRC) is issuing public notice of its intent to establish two new systems of records (systems) entitled NRC-43, "Employee Health Center Records—NRC," and NRC-44, "Employee Fitness Center Records—NRC."

EFFECTIVE DATE: Each system of records will become effective without further notice on January 6, 1999, unless comments received on or before that date cause a contrary decision. If changes are made based on NRC's review of comments received, a new final notice will be published.

ADDRESSES: Send comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications staff. Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. Federal workdays. Copies of comments received may be examined at the NRC Public Document Room at 2120 L Street, NW., Lower Level, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jona L. Souder, Freedom of Information Act/ Privacy Act Section, Information Services Branch, Information Management Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-7170 (jls3@nrc.gov).

SUPPLEMENTARY INFORMATION: NRC is establishing a new system of records

entitled NRC-43, "Employee Health Center Records—NRC," to facilitate management of and document individuals' use of services provided by NRC's Employee Health Center and any other health care facilities operating under a contract or agreement with NRC. The Employee Health Center was previously run by the Public Health Service (PHS) and covered by a PHS system notice. Information in the new NRC system is maintained to (1) provide date necessary to ensure proper evaluation, diagnosis, treatment, and referral to maintain continuity of care; (2) provide an accurate medical history of health care and medical treatment received by the individual; (3) plan for further care of the individual; (4) provide a means of communication among health care members who contribute to the individual's care; and (5) provide a means for evaluating the quality of health care provided.

NRC is also establishing a new system of records entitled NRC-44, "Employee Fitness Center Records—NRC."

Information in the system is maintained to facilitate management of the Fitness Center, document individuals' voluntary use of services provided, and monitor the health and physical fitness of individual members.

Reports on the two new systems of records are being sent to the Office of Management and Budget (OMB), the Committee on Governmental Affairs of the U.S. Senate, and the Committee on Government Reform and Oversight of the U.S. House of Representatives as required by the Privacy Act and OMB Circular No. A-130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals."

Accordingly, NRC proposes to add the following new systems of records, NRC-43, "Employee Health Center Records—NRC," and NRC-44, "Employee Fitness Center Records—NRC," to read as follows:

NRC-43

SYSTEM NAME:

Employee Health Center Records—NRC.

SYSTEM LOCATION:

Primary system—NRC Employee Health Center, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems may exist, in whole or in part, at the NRC's regional and other offices listed in Addendum I, Parts 1 and 2, and/or at any other health care facilities operating under a contract or agreement with NRC

for health-related services. This system may contain some of the information maintained in other systems of records, including NRC-11, "General Personnel Records (Official Personnel Folder and Related Records)—NRC," NRC-17, "Occupational Injuries and Illness Records—NRC," and, when in effect, NRC-44, "Employee Fitness Center Records—NRC."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees, consultants, contractors, other Government agency personnel, and anyone on NRC premises who requires emergency or first-aid treatment.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is comprised of records developed as a result of voluntary employee use of health services provided by the Health Center, and of emergency health services rendered by Health Center staff to individuals for injuries and illnesses suffered while on NRC premises. Specific information maintained on individuals includes, but is not limited to, their name, date of birth, and Social Security number; medical history and other biographical data; test reports and medical diagnoses based on employee health maintenance physical examinations or health screening programs (tests for single medical conditions or diseases); history of complaint, diagnosis, and treatment of injuries and illness rendered by the Health Center staff; immunization records; records of administration by Health Center staff of medications prescribed by personal physicians; medical consultation records; statistical records; daily log of patients; and medical documentation such as personal physician correspondence and test results submitted to the Health Center staff by the employee. Forms used to obtain or provide information include the following:

- (1) Employee Health Record
- (2) Immunization/Health Profile
- (3) Problem List
- (4) Progress Notes
- (5) Consent for Release of Medical Information
- (6) Against Medical Advice (AMA) Release
- (7) Patient Treatment Record
- (8) Injection Record
- (9) Allergy
- (10) Respirator Certification Form
- (11) Pre-travel Questionnaire
- (12) Flu Vaccine Form
- (13) Pneumonia Vaccine Form
- (14) TB Test Form
- (15) Office of Workers' Compensation Programs (OWCP) Occupational Injury Form

- (16) Medical History
- (17) Medical Examination
- (18) Prostate Symptoms Questionnaire
- (19) Proctosigmoidoscopy Form

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:
5 U.S.C. 7901; Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

- a. To refer information required by applicable law to be disclosed to a Federal, State, or local public health service agency concerning individuals who have contracted certain communicable diseases or conditions in an effort to prevent further outbreak of the disease or condition.
- b. To disclose information to the appropriate Federal, State, or local agency responsible for investigation of an accident, disease, medical condition, or injury as required by pertinent legal authority.
- c. To disclose information to the Office of Workers' Compensation Programs in connection with a claim for benefits filed by an employee.
- d. To Health Center staff and medical personnel under a contract or agreement with NRC who need the information in order to schedule, conduct, evaluate, or follow up on physical examinations, tests, emergency treatments, or other medical and health care services.
- e. To refer information to private physicians designated by the individual when requested in writing.
- f. To the National Archives and records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.
- g. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, on microfiche, on computer media, and on file cards, logs, x-rays, and other medical reports and forms.

RETRIEVABILITY:

Records are retrieved by the individual's name, date of birth, and

Social Security number, or any combination of those identifiers.

SAFEGUARDS:

Records in the primary system are maintained in a building where access is controlled by a security guard force and entry to each floor is controlled by keycard. Records in the system are maintained in lockable file cabinets with access limited to agency or contractor personnel whose duties require access. The records are under visual control during duty hours. Access to automated data requires use of proper password and user identification codes by authorized personnel.

RETENTION AND DISPOSAL:

Records documenting an individual employee's medical history, physical condition, and visits to Government health facilities, for nonwork-related purposes, are maintained for six years from the date of the last entry as are records on consultants, contractors, other Government agency personnel, and anyone on NRC premises who requires emergency or first-aid treatment in accordance with Government Records Schedule (GRS) 1-19. Health Center control records such as logs or registers reflecting daily visits are destroyed three months after the last entry if the information is summarized on a statistical report in accordance with GRS 1-20a and two years after the last entry if the information is not summarized in accordance with GRS 1-20b.

SYSTEM MANAGER(S) AND ADDRESSES:

Employee Assistance Program Manager, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9; and provide their full name, any former name(s), date of birth, and Social Security number.

RECORD ACCESS PROCEDURES:

Same as "Notification Procedures."

CONTESTING RECORD PROCEDURES:

Same as "Notification Procedures."

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from a number of sources

including, but not limited to, the individual to whom it pertains; laboratory reports and test results; NRC Health Center physicians, nurses, and other medical technicians or personnel who have examined, tested, or treated the individual; the individual's coworkers or supervisors; other systems of records; the individuals' personal physician(s); NRC Fitness Center staff; other Federal agencies; and other Federal employee health units.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

NRC-44

SYSTEM NAME:

Employee Fitness Center Records—NRC.

SYSTEM LOCATION:

Primary system—NRC Fitness Center, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems may exist, in whole or in part, at the NRC's regional and other offices listed in Addendum 1, Parts 1 and 2, and/or at other facilities operating under a contract or agreement with NRC for fitness-related services. This system may contain some of the information maintained in other systems of records, including NRC-32, "Office of the Chief Financial Officer Financial Transactions and Debt Collection Management Records—NRC."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who apply for membership in the Fitness Center as well as current and inactive Fitness Center members.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes employees' applications to participate in NRC's Fitness Center, information on individuals' degree of physical fitness and their fitness activities and goals, and various forms, memoranda, and correspondence related to Fitness Center membership and financial/payment matters. Specific information contained in the application for membership includes the employee applicant's name, gender, age, Social Security number, height, weight, and medical information, including a history of certain medical conditions; the name of the individuals' personal physician and any prescription or over-the-counter drugs taken on a regular basis; and the name and address of a person to be notified in case of emergency.

Forms used to obtain or provide information include the following:

- (1) Application Package
- (2) Release of Medical Information/Physician's Statement
- (3) Fitness Assessment
- (4) Pre-exercise Health Screening
- (5) Account Logs
- (6) Terminated Memberships
- (7) New Memberships
- (8) Monthly Dues Collected
- (9) Accident Report
- (10) "Dear Participant" Letter
- (11) Refund Request
- (12) Regional Employee Sign-in Log
- (13) Member of the Month
- (14) User Evaluation Form

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901; Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

- a. To the individual listed as an emergency contact, in the event of an emergency.
- b. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 or 2906.
- c. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12)

Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681(a)(f)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer media and in paper form in logs and files.

RETRIEVABILITY:

Information is indexed and accessed by an individual's name and/or Social Security number.

SAFEGUARDS:

Records in the primary system are maintained in a building where access is controlled by a security guard force and access to the Fitness Center is controlled by keycard and bar code verification. Records in paper form are stored alphabetically by individuals' names in lockable file cabinets maintained in the NRC Fitness Center where access to the records is limited to agency and Fitness Center personnel whose duties require access. The records are under visual control during duty hours. Automated records are protected by screen saver. Access to automated data requires use of proper password and user identification codes. Only authorized personnel have access to areas in which information is stored.

RETENTION AND DISPOSAL:

Fitness Center records are currently unscheduled and must be retained until the National Archives and Records Administration approves a records disposition schedule for this material.

SYSTEM MANAGER(S) AND ADDRESS:

Safety and Health Program Manager, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as "Notification Procedures."

CONTESTING RECORD PROCEDURES:

Same as "Notification Procedures."

RECORD SOURCE CATEGORIES:

Information in this system of records is principally obtained from the individuals upon whom the records are maintained. Other sources of information include, but are not limited to, the NRC Fitness Center Director and other staff, physicians retained by the NRC, the individuals' personal physicians, and other systems of records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Dated at Rockville, MD, this 20th day of November 1998.

For the Nuclear Regulatory Commission.
A.J. Galante,
Chief Information Officer.
 [FR Doc. 98-31640 Filed 11-25-98; 8:45 am]
 BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-23542]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

November 20, 1998.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of November 1998. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., N.W., Washington, DC 20549 (tel. 202-942-8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 15, 1998, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, N.W., Washington, DC 20549. For Further Information Contact: Diane L. Titus, at (202) 942-0564, SEC, Division of Investment Management, Office of Investment Company Regulation, Mail Stop 5-6, 450 Fifth Street, N.W., Washington, DC 20549. Management of Managers Short Term Municipal Bond Fund [File No. 811-3747]
 Management of Managers Fixed Income Fund [File No. 811-3748]
 Management of Managers Income Equity Fund [File No. 811-3750]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On December 31, 1987, each applicant transferred all of its assets to a corresponding series of the Management of Managers Group of Funds (the "Trust") based on net asset value per share. Reorganization expenses were paid pro rata by each series of the Trust.

Filing Dates: Management of Managers Short Term Municipal Bond Fund filed its application on September 24, 1998, and Management of Managers Fixed Income Fund and Management of Managers Income Equity Fund filed their applications on September 25, 1998. Each applicant amended its application on November 2, 1998.

Applicants' Address: 40 Richards Avenue, Norwalk, Connecticut 06854.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-31646 Filed 11-25-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40687; File No. SR-CHX-98-21]

Self-Regulatory Organizations; Notice of Filing and Order Granting Partial Accelerated Approval of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to the Automatic Stopping of Market Orders

November 18, 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 31, 1998, the Chicago Stock Exchange, Inc. ("CHX" 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant partial accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The exchange proposes to amend Article XX, Rule 37(b) relating to the Exchange's "pending auto stop" program that automatically stops market orders under certain circumstances. The text of the proposed rule change is available at the Office of the Secretary, the CHX, and at the Commission.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

On July 13, 1998, the Commission approved a rule change that: (i) Automates the stopping of certain market orders, and (ii) permits specialists to manually stop marketable limit orders received through the Midwest Automated Execution System ("MAX System").³ This program for automated stopping of market orders is known as the "pending auto stop" program.

Under the pending auto stop program, all MAX System market orders that are between 100 and 599 shares (or a higher amount chosen by a specialist on a stock by stock basis) and that are not automatically executed in the normal course of operations (*i.e.*, because there is insufficient size associated with the Intermarket Trading System ("ITS") best bid or offer ("BBO"), because the order would result in an out of range execution,⁴ or because the order is a professional order⁵ and the specialist has not yet decided whether to accept the order, etc.) are identified as "pending auto stop" orders.⁶

³ Securities Exchange Act Release No. 41096 (July 13, 1998), 63 FR 38866 (July 20, 1998).

⁴ An out of range execution is an execution that results in a new high or a new low for the day.

⁵ The term "professional order" is defined as any order for the account of a broker-dealer, or any account in which a broker-dealer or an associated person of a broker-dealer has any direct or indirect interest. See CHX, Art. XXX, Rule 2, interpretation and policy .04. The term "agency order" means an order for the account of a customer, but does not include professional orders.

⁶ Both agency and professional orders are currently eligible for the "pending auto-stop" feature of MAX; however, all or none orders, odd-lot orders, fill or kill orders, immediate or cancel orders, orders that are or will be stopped under the Enhanced SuperMAX program, and other orders that cannot be entered into the MAX System (*i.e.*, not held orders, sell short exempt orders and

These orders retain their "pending auto-stop" status for 30 seconds. At the end of this 30 second period, the MAX System automatically stops the order and sends a "UR Stopped" message to the firm that sent the order, *unless*, before the end of the 30 second period, the specialist manually executes, cancels or stops the entire order or the specialist puts the order "on hold." If any of these events occurs, the "pending auto-stop" status is removed from the order and the order is not automatically stopped. If an order is "put on hold," the CHX's existing rules for order handling apply.⁷ If the order is automatically stopped, the stop price currently is the ITS BBO at the time the order is received in the MAX System. Furthermore, if the order is automatically stopped, the *entire* order is stopped. The "pending auto-stop" feature of the MAX System currently operates from 8:45 a.m. until 2:57 p.m.

Although the Exchange has only limited experience operating under the pending auto stop program, the Exchange believes that it is appropriate to amend certain aspects of the program. In general, the proposed rule change limits the operation of the program under certain circumstances. The proposed rule change would: (1) Eliminate securities trading at or above \$100 at the time the order is received from being eligible for the program; (2) change the hours of the program so that it will operate from 9 a.m. until 2:30 p.m., Central Time; (3) eliminate professional orders from being eligible for the program; and (4) change the stop price from the ITS BBO to the primary market price when the size associated with the relevant side of the ITS BBO is 100 shares.

The Exchange believes that it is appropriate to limit the operation of the pending auto stop program to a typical trading environment. Each of the above cases involve unique situations. In addition, under the current program, specialists have the ability to manually override the pending auto stop feature. The Exchange believes limiting the pending auto stop program to a typical trading environment alleviates the burden placed on the specialist to continuously monitor orders in the above cases, and if necessary, place the orders on "hold." Each of the proposed changes is discussed in turn.

a. Securities Trading at or Above \$100

The Exchange proposes to exclude securities trading at or above \$100 at the

special settlement orders) will not be eligible to be "pending auto stop" orders.

⁷ See CHX, Article XX, Rules 28 and 37(a).

time the order is received from the pending auto stop program. The CHX states that highly priced securities trade in a manner and in an environment that is different from other lower priced securities. In addition, these securities are geared more toward the institutional market and often are traded with wider spreads, among other things, making them inappropriate for a program that automatically stops the order.

b. Change in Hours of Operation of the Program

Currently, the pending auto stop program operates from 8:45 a.m. to 2:57 p.m., Central Time. As proposed, the pending auto stop program would operate from 9 a.m. to 2:30 p.m., Central Time. The Exchange believes that the periods surrounding the opening and closing are both the most busy and, often, the most volatile periods of the day that require the most amount of specialist attention and action. Having an automatic program that requires the specialist to review these orders and, if necessary, put orders on hold, within 30 seconds during this time period puts undue strain on the specialist's resources by diverting the specialist from his or her core job function of maintaining a fair and orderly market at a time when this function is most critical.

c. Professional Orders

The vast majority of orders received on the Exchange floor through the MAX system are retail sized agency orders.⁸ Giving these customer orders executions that are quicker and better than other market centers is an important priority for the Exchange. The pending auto stop program is targeted specifically at these types of orders. Although trading conditions change throughout the day, the Exchange believes that implementing the pending auto stop program in a manner that requires the least amount of specialist intervention will result in the greatest use of the program and, as a result, the greatest benefit to customers. If specialists believe that the program is sufficiently limited to those orders for which the pending auto stop program is most appropriate, they will be less likely to put orders on hold to evaluate and examine the orders in more detail. Given this philosophy, the Exchange believes that it is appropriate to remove professional orders from the program. Professional orders are not subject to the

⁸ The term "agency order" means an order for the account of a customer, but does not include professional orders defined in CHX, Art. XXX, Rule 2, interpretation and policy .04.

Exchange's Article XX, Rule 37(a) ("BEST Rule"),⁹ or any similar guarantee, if stopped. The Exchange no longer believes that it is appropriate, at this time, to give these orders a better guarantee merely because they are stopped under the pending auto stop program.

d. Use of Primary Market as Stopped Price

Currently, when an order is stopped under the pending auto stop program, the order is stopped at the relevant side of the ITS BBO in existence at the time the order is first received. Under the existing pending auto stop program, an entire order is stopped regardless of the size associated with the ITS BBO. Thus, a 599 share order that is eligible for the pending auto stop program is stopped for 599 shares, even if the ITS BBO is only for 100 or 200 shares. As stated above, this results in better guarantees for the order than are required under the BEST Rule.

The Exchange proposes to change the stop price for an order under the pending auto stop program from the ITS BBO to the primary market quote when the size associated with the relevant side of the ITS BBO is 100 shares. In all other cases, the stop price will remain the ITS BBO. Because the guarantee under the pending auto stop program does not depend on the size of the ITS BBO, the Exchange believes that it is appropriate to exclude 100 share markets for purposes of determining the stop price. In most instances, 100 share markets are not an appropriate indicator of where to stop orders under the pending auto stop program, especially when the execution guarantee is for the full size of the order, notwithstanding the 100 share market being displayed. Thus, in instances where the size of the ITS BBO is 100 shares, the Exchange believes that the most appropriate indicator of the price at which to stop the entire order is the primary market bid and offer.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act¹⁰ in that it is designed to promote just and equitable principles of trade, to remove impediments to and to perfect the

⁹ Under the Exchange's BEST Rule, Exchange specialists are required to guarantee executions of all agency market and limit orders for Dual Trading Systems issues (issues traded on the CHX, through listing on the CHX or unlisted trading privileges and also listed on either the New York Stock Exchange or the American Stock Exchange) from 100 shares up to and including 2099 shares.

¹⁰ 15 U.S.C. 78f(b)(5).

mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange 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 foregoing is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR-CHX-98-21 and should be submitted by [insert date 21 days from the date of publication].

V. Commission's Findings and Order Granting Partial Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change, as it pertains to: (1) Excluding securities at or above \$100 at the time of the trade from the pending auto program; (2) changing the time of operation of the pending auto stop program; and (3) excluding professional orders from the pending auto stop program, is consistent with the requirements of the Act,¹¹ and the rules and regulations thereunder applicable to a national securities exchange.¹² In particular, the Commission believes that these three aspects of the proposed rule change are consistent with section 6(b)(5) of the Act¹³ requiring that the rules of an exchange be designated to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest. The Commission believes that approving a portion of the proposed rule change should streamline the operation of the pending auto stop program and increase the efficiency and productivity of specialists operating within the program. The Commission believes it is appropriate to exclude securities that are at or above \$100 at the time of the trade from the program because of the CHX's representation that such securities tend to trade in an environment different from lower priced securities. Higher priced securities are generally traded by institutional investors with wider spreads. According to the Exchange, wider spreads may deplete a stock's liquidity and require a specialist to risk larger amounts of capital. The Exchange represents that these factors could divert specialist attention away from smaller public customer orders, defeating a primary goal of the pending auto program. Thus, the Commission believes that excluding securities that are at or above \$100 at the time of trade should streamline the program and enhance efficiency.¹⁴

¹¹ 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).

¹² The portion of the proposed rule change relating to the use of the primary market as the stopped price will be subject to the full notice and comment period described in Item IV.

¹³ *Id.*

¹⁴ The Exchange represents that very few of the securities in the pending auto stop program are at or above \$100 at the time of trade. Telephone conversation between David Rusoff, Counsel, Foley & Lardner, and Marc McKayle, Attorney, Division

The Commission also believes that changing the hours of operation for the pending auto stop program from 8:45 a.m. to 2:57 p.m. to 9 a.m. to 2:30 p.m. should allow specialists to focus on their primary duties at the opening and closing of the business day when trading is often most busy and most volatile. The Commission believes that changing the pending auto stop program's hours of operation to alleviate the specialists' duties during the increased activity often associated with the opening and closing of the business day should contribute to the maintenance of a fair and orderly market.

The Commission also believes that eliminating professional orders from the pending auto stop program should benefit the individual and retail investors who are the focus of the program. Professional orders are not subject to the BEST Rule, and have a direct or indirect broker-dealer interest. The Commission believes that the exclusion of professional orders should appropriately streamline the program and help maintain a focus on agency orders which are subject to the BEST Rule. Thus, the Commission believes that eliminating professional orders from the program should enhance the Exchange's ability to meet its stated goal of achieving superior customer executions. Accordingly, the Commission finds good cause for partially approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹⁵ that the proposed rule change (SR-CHX-98-21) as it pertains to: (1) Excluding securities at or above \$100 at the time of the trade from the pending auto program; (2) changing the time of operation of the pending auto stop program; and (3) excluding professional orders from the pending auto stop program is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-31584 Filed 11-25-98; 8:45 am]

BILLING CODE 8010-01-M

of Market Regulation, Commission (October 30, 1998).

¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40689; File No. SR-NASD-98-73]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval of Proposed Rule Change Relating to Fees for Subscribers Who Receive Nasdaq Level 1 and Last Sale Data Through Automated Voice Response Services

November 19, 1998.

On October 1, 1998, the National Association of Securities Dealers, Inc. ("NASD"), through its wholly-owned subsidiary, the Nasdaq Stock Market, Inc. ("Nasdaq") submitted to the Securities and Exchange Commission ("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 NASD Rule 7010 to make permanent its current monthly pilot fee for subscribers who receive Nasdaq Level 1 and Last Sale data through automated voice response services.

The proposed rule change appeared in the **Federal Register** on October 20, 1998.³ The Commission received no comments concerning the proposed rule change. This order approves the proposed rule change.

Nasdaq is proposing to make permanent its \$21.25 monthly per port fee for subscribers who receive Nasdaq Level 1 service through automated voice response services.⁴ These services provide callers with automated voice access to real-time Nasdaq pricing information. The monthly \$21.25 fee

has been in effect as a pilot fee for over 11 years and was originally based on a formulation of a \$5.00 premium above the combined \$16.25 Level 1/Last Sale rate in effect at that time. This fee has not increased despite a subsequent increase of Level 1/Last Sale Rates to the current \$20.00 per month level. Given the continued usage of voice-based quote access services,⁵ Nasdaq believes that the charge for such services should now be made a permanent part of its fee structure.

After careful review, the Commission finds that the proposed rule change is consistent with the provisions of Sections 15A(b)(5)⁶ and 15A(b)(6)⁷ of the Act.⁸ The Commission believes the proposal is consistent with these provisions of the Act because the fee is reasonable and equitable and will apply in a non-discriminatory manner to all member firms that use the Nasdaq Level 1 automated voice response service.

The proposed fee has been in effect since the pilot's inception 11 years ago.⁹ During this time members have paid this fee without complaint. Moreover, the NASD has kept the per port fee constant despite a \$3.75 increase in Level 1/Last Sale rates. Thus, the Commission supports this fee becoming a permanent part of the NASD's fee structure. For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-NASD-98-73) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

[FR Doc. 98-31585 Filed 11-25-98; 8:45 am]

BILLING CODE 6717-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40688; File No. SR-NYSE-97-31]

Self-Regulatory Organizations; Notice of Filing of Amendment No. 2 to Proposed Rule Change by the New York Stock Exchange, Inc. To Amend Its Rule 500 Relating to Voluntary Delistings by Listed Companies

November 18, 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 November 9, 1998, the New York Stock Exchange ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") Amendment No. 2 to the proposed rule change as describe in Items I, II and III below, which Items have been prepared by the NYSE. The Commission is publishing this notice to solicit comments on Amendment No. 2 from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing the second amendment to its proposed rule change to replace existing NYSE Rule 500 with a new Rule 500 to revise the procedures a NYSE-listed company must follow to delist its securities from the Exchange. The test of Amendment No. 2 to the proposed rule change is available at the Office of the Secretary, the NYSE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE 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 NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Rel. No. 40546 (October 13, 1998), 64 FR 56055. There was a misprint in the **Federal Register** version of this release. The **Federal Register** contained the following sentence: "Nasdaq believes that the charge for such services should *not* be made a permanent part of its fee structure." *Id.* at p. 56056 (emphasis added). The correct text, as submitted to the **Federal Register** by the Commission, with emphasis added, is as follows: "Nasdaq believes that the charge for such services should *now* be made a permanent part of its fee structure." This sentence is not in the **Federal Register** release. The correction was published on November 17, 1998, in Securities Exchange Act Rel. No. 40546, 63 FR 63967 (November 17, 1998).

⁴ A vendor's voice port count is defined as the maximum number of callers capable of accessing Nasdaq data at any given time. For example, if a vendor's voice port count is 100 (*i.e.*, capable of handling a maximum of 100 callers at any given time) then the fee accessed would be \$2,125 (\$21.25 x 100). Conference call on October 6, 1998, between Thomas P. Moran, Senior Attorney, Office of General Counsel, Nasdaq, and Mignon McLemore, Attorney and Robert B. Long, Attorney, Division of Market Regulation, Commission.

⁵ There are currently 7,629 voice ports in service.

⁶ Section 15A(b)(5) requires that an association's rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the association operates or controls. 15 U.S.C. 78o-3(b)(5).

⁷ Section 15A(b)(6) requires that an association's rules not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. 15 U.S.C. 78o-3(b)(6).

⁸ The Commission has considered the proposed rule's impact on efficiency, competition and capital formation. The Commission believes that disseminating real-time pricing information through automated voice response systems enhances market efficiency and promotes competition among the markets. 15 U.S.C. 78c(f).

⁹ The Commission notes that 11 years is a significant length of time to determine a pilot's viability. The Commission believes that gathering and analyzing market data to assess such factors as market interest and profitability should be done within a substantially shorter time frame.

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On November 17, 1997, the Exchange submitted the proposed rule change, proposing to amend NYSE Rule 500, which states the procedures a NYSE-listed company must follow before voluntarily delisting its securities from the Exchange. On December 3, 1997, the Exchange submitted Amendment No. 1 to the proposed rule change to the Commission. The amended proposal was published for comment in the **Federal Register** on December 10, 1997.³

NYSE Rule 500 currently requires holders of 66 percent of a security to approve a company's decision to delist the company's securities from the Exchange, with less than ten percent of the individual holders objecting to the delisting. As originally proposed, the amended rule would have permitted a domestic issuer to delist stock if it obtained the approval of: (1) A majority of the company's full board of directors; and (2) the company's audit committee. The issuer then would have been required to provide shareholders with between 45 and 60 calendar days' notice of the delisting. A non-U.S. issuer would have had to obtain board approval to delist its stock. A non-U.S. issuer also would have had to provide holders with reasonable notice of its intention to delist, which would have required the issuer to send written notice to U.S. holders and to follow home-country practice to provide notice to non-U.S. holders.

In response to the Commission's request for comment on the original proposal, the Commission received a number of comments both for and against the proposal. In response to those comments and discussions with Commission staff, the Exchange now proposes the following amendments to the original proposal:

- Permit approval by a company's board of directors according to applicable state law requirements on majority votes (generally the majority of a quorum), rather than requiring approval by a majority of the entire board. The Exchange would continue to require audit committee approval.
- Amend the notice provision to require U.S. companies to provide actual written notice to no less than 35 of their largest record holders (rather than all holders). A foreign issuer would

have to provide such notice to its 35 largest U.S. shareholders.

- Require both U.S. and foreign companies to issue a press release to inform shareholders generally of the proposed delisting.
- Shorten the minimum waiting period from 45 calendar days to 20 business days, and change the maximum waiting period from 60 calendar days to 60 business days, with the ability of companies to extend the period, subject to approval by the Exchange.

The Exchange believes that new Rule 500, as proposed to be amended, will continue to provide investors with adequate procedural protections in the delisting process while providing listed companies with greater flexibility in this area.

2. Statutory Basis

The Exchange believes Amendment No. 2 to the proposed rule change is consistent with the requirements of section 6(b)(5) of the Act,⁴ which requires that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposal does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

In adopting the original proposal to amend Rule 500, the Exchange consulted with numerous Board and advisory committees, pension funds and other Exchange constituents. The Exchange also has informally discussed the current proposals with various of these constituencies.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory

organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2, including whether Amendment No. 2 is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 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 NYSE. All submissions should refer to File No. SR-NYSE-97-31 and should be submitted by December 18, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 98-31582 Filed 11-25-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40686; File No. SR-PCX-98-52]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to Amendments to Rule 2.6(e) on the Prevention of the Misuse of Material, Nonpublic Information

November 18, 1998.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934

³ Securities Exchange Act Release No. 39394 (December 3, 1997) 62 FR 65116.

⁴ 15 U.S.C. 78f(b)(5).

⁵ 17 CFR 200.30-3(a)(12).

("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 5, 1998, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange.³ 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 is proposing to amend Rule 2.6(e) to modify and clarify its current guidelines established for the prevention of the misuse of material, non-public information by members and member organizations for whom the PCX is the Designated Examining Authority ("DEA"). Below is the text of the proposed rule change. The proposed new language is italicized and the deleted language is bracketed.

* * * * *

¶ 3369

Prevention of the Misuse of Material, Nonpublic Information

RULE 2.6(e) Every member or member organization must [shall] establish, maintain and enforce written policies and procedures reasonably designed, taking into consideration the nature of the member or member organization's business, to prevent the misuse of material, non-public information by such member or member organization or persons associated with such member or member organization. Members or member organizations for whom the Exchange is the Designated Examining Authority ("DEA") that are required, pursuant to Rule 2.6, to file SEC Form X-17A-5 with the Exchange on an annual or more frequent basis must [shall] file contemporaneously with [those] the submissions for the calendar year end [attestations signed by such members] ITSFEA compliance acknowledgments stating that the procedures mandated by this Rule have been established, enforced and maintained. Any member or member organization or associated person who becomes aware of a possible misuse of material, non-public information must promptly notify the Exchange's Equities or Options Surveillance Department.

Commentary.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The PCX filed an amendment to the proposed rule change. See Letter from Robert Pacileo, Jr., Staff Attorney, PCX, to Kathy England, Assistant Director, Division of Market Regulation, Commission, dated October 29, 1998 ("Amendment No. 1"). The substance of Amendment No. 1 is incorporated into this Notice.

.01 For purposes of Rule 2.6(e), conduct constituting the misuse of material, non-public information includes, but is not limited to, the following:

A. T[t]rading in any securities issued by a corporation, or in any related securities or related options or other derivative securities, while in possession of material, non-public information concerning that issuer; or

B. T[t]rading in a security or related options or other derivative securities, while in possession of material non-public information concerning imminent transactions in the security or related securities; [and] or

C. D[d]isclosing to another person or entity any material, non-public information involving a corporation whose shares are publicly traded or an imminent transaction in an underlying security or related securities for the purpose of facilitating the possible misuse of such material, non-public information.

.02 The terms "associated person" and "person associated with a member or member organization" mean anyone who directly is engaged in the member or member organization's trading-related activities, including General [any] partners, officers, directors, [or branch] managers [of a member] (or any person occupying a similar status or performing similar functions), or any person directly or indirectly controlling, controlled by, or under common control with a member, or any employee of the [a] member or member organization.

For the purposes of this Rule, the term "employee" includes every person who is compensated directly or indirectly by the member or member organization for the solicitation or handling of business in securities, including individuals trading securities for the account of the member or member organization, whether such securities are dealt in on an exchange or are dealt over-the-counter.

.03 Rule 2.6(e) [requires] provides that [, at a minimum,] each member or member organization for which the Exchange is the DEA should establish, maintain, and enforce [the following] written policies and procedures similar to the following, as applicable:

A. All associated persons must be advised in writing of the prohibition against the misuse of material, non-public information; and

B. All associated persons of the member or [Each] member organization [and all persons associated with that member organization] must sign attestations affirming their awareness of, and agreement to abide by the aforementioned prohibitions. These signed attestations must be maintained for at least three years, the first two years in an easily accessible place; and

C. Each member or member organization must receive and re[main]tain copies of trade confirmations and monthly account statements for each account in which an associated person: [(1)] has a direct or indirect financial interest [,] or [(2)] makes investment decisions. [These account statements and trade confirmations must be maintained for at least three years, the first

two years in an easily accessible place.] The activity in [S]such brokerage accounts should [must] be reviewed at least quarterly by the member or member organization for the express purpose of detecting the possible misuse of material, non-public information; and

D. All associated persons must disclose to the member or member organization whether they, or any person in whose account they have a direct or indirect financial interest, or make investment decision, [is] are an officer, director or 10% shareholder in a company whose shares are publicly traded. Any transaction in the stock (or option thereon) of such company shall be reviewed to determine whether the transaction may have involved a misuse of material non-public information. [("Eligible members" are member organizations and sole PSE members that do not carry or introduce customer accounts and for whom the Exchange is the Designated Examining Authority ("DEA").]

Maintenance of the foregoing policies and procedures may not, in all cases, satisfy the requirements and intent of Rule 2.6(e). The adequacy of each member or member organization's policies and procedures will depend upon the nature of each member or member organization's business.

.04 [The Exchange has developed sample forms, denominated as the "ITSFEA Compliance Procedures" (in reference to the Insider Trading and Securities Fraud Enforcement Act of 1998), that may be used by certain eligible member organizations to facilitate their compliance with the filing and record-keeping requirements of Rule 2.6(e). Use of these forms does not create a presumption by the Exchange that any particular member has satisfied the requirements of this Rule.] An Exchange member who is solely a lessor of a membership and is not registered and not required to register as a broker-dealer under Section 15 of the Exchange Act is not subject to the requirement of Exchange Rule 2.6(e) concerning the establishment, maintenance, and enforcement of written policies and procedures respecting the misuse of material, non-public information.

* * * * *

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 place 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

Purpose

Background: In November 1988, Congress enacted the Insider Trading and Securities Fraud Enforcement Act of 1988 ("ITSFEA"), designed to prevent, deter, and prosecute insider trading. ITSFEA requires broker-dealers to maintain written procedures reasonably designed to prevent the misuse of material, non-public information by broker-dealer or any person associated with them.⁴ ITSFEA also provides for penalties of up to \$1 million or three times the amount gained or amount of loss avoided, whichever is greater, for the misuse of material non-public information.⁵ ITSFEA clearly anticipates liability where written procedures have not been established or have not been enforced. In December 1992, the Commission approved a PCX proposal to adopt new Rule 2.6(e) relating to the establishment, maintenance and enforcement of procedures designated to prevent the misuse of material non-public information.⁶ The Commission also approved similar proposals of other self-regulatory organizations relating to ITSFEA requirements.⁷

Proposal: The Exchange is proposing to modify its Rule 2.6(e) to clarify the guidelines established for the prevention of the misuse of material, non-public information by members and member organizations for whom the PCX is the DEA. Currently, the rule states: "Members that are required, pursuant to Rule 2.6, to file SEC Form X-17A-5 with the Exchange on an annual basis shall file contemporaneously with those submissions attestations signed by such members stating that the procedures mandated by this Rule have been established, enforced and maintained." The proposed rule change would state that only those organizations for which the Exchange is the DEA are required to

file ITSFEA compliance acknowledgments stating that the procedures mandated by this rule have been established, enforced and maintained. In that regard, the rule change will codify the existing practices of the Exchange.

The Exchange also proposes to modify the definition of "associated person" in Rule 2.6(e). The current rule defines associated person as "any partner, officer, directors or branch manager of a member (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by or under common control with a member, or any employee of a member." The Exchange is proposing to change the definition to "anyone who directly is engaged in the member or member organization's trading-related activities, including general partners, officers, directors, managers (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by or under common control with a member, or any employee of the member or member organization." The rule change would exclude limited partners from this definition, unless such limited partners are directly involved in the member organization's trading-related activities. The Exchange believes that the current requirement, which covers limited partners who are not directly involved in the member organization's trading-related activities, goes to far because it would impose unnecessary affirmative obligations on PCX members. For example, if a floor trader's grandmother, who lives across the country, is a small investor in that trader's market making operation, under the current rule, the trader would be required to review his grandmother's securities account statements pursuant to Commentary .03(C), which the Exchange believes would be an unreasonable requirement.

The Exchange further proposes to define "employee" as "every person who is compensated directly or indirectly by the member or member organization for the solicitation or handling of business in securities, including individuals trading securities for the account of the member or member organization, whether such securities are dealt in on the exchange or dealt over-the-counter."⁸ Thus,

⁸ The Commission approved a similar definition that the Philadelphia Stock Exchange proposed in 1997. See Securities Exchange Act Release No. 39178 (October 1, 1997), 62 FR 52804 (October 9, 1997).

independent contractors⁹ as well as actual employees will be subject to the requirements of the rule.

The Exchange proposes to delete superfluous language regarding record keeping in Commentary .03 of Rule 2.6(e). In Commentary .03(C), the Exchange proposes to delete language that reads "These account statements and trade confirmations must be maintained for at least three years, the first two years in an easily accessible place." The Exchange believes this language is superfluous given requirements under Rule 17a-3 of the Act. Specifically, Rule 17a-3 sets requirements for records to be made by certain Exchange Members, Brokers and Dealers and would require the members or member organizations to maintain account statements and trade confirmations.

Finally, the Exchange proposes to clarify that an Exchange member who is a lessor of a membership, and is not registered and required to register as a broker-dealer under Section 15 of the Act, is not subject to the requirements of Exchange Rule 2.6(e) concerning the establishment, maintenance and enforcement of written policies and procedures respecting the misuse of material, non-public information. A lessor of a membership that is not registered as a broker-dealer under section 15 of the Act cannot engage in trading operations and is therefore not required, pursuant to Rule 2.6, to file SEC Form X-17A-5 with the Exchange.

Basis

The Exchange believes the proposed rule change is consistent with section 6(b)¹⁰ of the Act, in general, and furthers the objectives of section 6(b)(5),¹¹ in particular, because it is designed to perfect the mechanisms of a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

⁹ See, e.g., Letter from Douglas Scarff, Director, Division of Market Regulation, SEC to Gordon S. Macklin, President, National Association of Securities Dealers, Inc., dated June 18, 1982 (clarifying the status of independent contractors under the Act).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

⁴ 15 U.S.C. 78o(f).

⁵ 15 U.S.C. 78u-1.

⁶ See Securities Exchange Act Release No. 33171 (November 9, 1993), 58 FR 60892 (November 18, 1993) (SR-PSE-92-20).

⁷ See Securities Exchange Act Release No. 30597 (April 16, 1992), 57 FR 14855 (April 23, 1992) (SR-Phlx-91-47); Securities Exchange Act Release No. 33008 (October 4, 1993), 58 FR 52518 (October 8, 1993) (SR-Phlx-93-36); Securities Exchange Act Release No. 30557 (April 6, 1992) 57 FR 13393 (April 16, 1992) (SR-CBE-91-14); Securities Exchange Act Release No. 33937 (April 20, 1994), 59 FR 22030 (April 28, 1994) (SR-CBOE-93-58). See also New York Stock Exchange Rule 342.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provision of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. 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 SR-PCX-98-52 and should be submitted by December 18, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 98-31586 Filed 11-25-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40685; File No. SR-Phlx-98-48]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Listing and Trading Options on The Street.com Internet Index

November 17, 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 October 23, 1998, the Philadelphia Stock Exchange, Inc. ("Phlx" 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change for interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to list and trade European-style, cash-settled options on The Street.com Internet Index ("Index"),³ an equal dollar-weighted, A.M.-settled, narrow-based index of 20 small to mid-size companies by capitalization that are involved in Internet software, computer data security, and consulting services.⁴ The Phlx is filing this proposal pursuant to Phlx Rule 1009(A), which provides for the commencement of trading of options on the Index 30 days after the date of the filing. The Phlx believes that this proposal is in compliance with Phlx Rule 1009(A) and the standards

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Phlx pre-filed the Index with the Commission in August 1998. The pre-filing was submitted in accordance with the Generic Index Approval Order, *infra* note 5. Subsequent to the pre-filing, the Exchange renamed the Phlx Internet Growth Index as The Street.com Internet Index. The Street.com, Inc. does not guaranty the accuracy or completeness of the Index, makes no express or implied warranties with respect to the Index and shall have no liability for any damages, claims, losses or expenses caused by errors in the Index calculation. The Exchange represents that it will have sole discretion over the calculation of the Index.

⁴ Since the pre-filing, the Phlx represented to the Commission that nothing has changed with the Index, including the stocks selected for the Index; only the name of the Index was changed. Telephone conversation between Nandita Yagnik, Counsel, Phlx, and Joseph Corcoran, Division of Market Regulation, Commission on November 12, 1998.

approved in the Generic Index Option Approval Order ("Generic Index Approval Order").⁵

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposal is to list for trading European style, cash-settled options on The Street.com Internet Index, a new index developed by the Exchange pursuant to Phlx Rule 1009A(b) in accordance with the Generic Index Approval Order for the listing and trading of narrow-based index options. Options on The Street.com Internet Index will provide an important hedging vehicle for basket traders who engage in trading securities that comprise this subsector of the computer industry.

The following is a more detailed description of the proposed Index options:

Ticker Symbol: DOT

Settlement Value Symbol: DOS

Underlying Index: The Street.com Internet Index is an equal dollar-weighted index composed of 20 stocks involved in Internet software, computer data security, and consulting services that are traded on the New York Stock Exchange ("NYSE") and Nasdaq Stock Market ("Nasdaq"), and are therefore, reported securities as defined in Rule "11Aa3-1 under the Act. Further, all of the stocks presently meet the Exchange's listing criteria for equity options contained in Exchange Rule 1009 and are currently the subject of

⁵ See Securities Exchange Act Release No. 34157 (June 3, 1994), 59 FR 30062 (June 9, 1994) (order approving File Nos. SR-Amex-92-35; SR-CBOE-93-59; SR-NYSE-94-17; SR-PSE-94-07; and SR-Phlx-94-10). The Generic Index Approval Order established generic listing standards for options on narrow-based indexes and adopted streamlined procedures for introducing trading in options satisfying the generic listing standards.

¹² 17 CFR 200.30-3(a)(12).

listed options on U.S. options exchanges.

The Exchange notes that all of the companies represented in the Index are U.S. companies. However, if non-U.S. companies are added to the Index (such as American Depositary Receipts) that are not subject to comprehensive surveillance sharing agreements, those components will not account for more than 20% of the weight of the Index.

As of September 30, 1998, the market capitalization of all the stocks in the Index exceeded \$50 billion, with individual capitalizations ranging from \$167 million to \$24 billion. All 20 component issues in the Index had monthly trading volumes in excess of one million shares over each of the months from April through September.

Index Calculation: The methodology used to calculate the Index is an equal dollar-weighted method, meaning that each of the component stocks is represented in the Index in approximately equal dollar amounts. The Exchange believes that this method of calculation is important because it will provide each component issue with equivalent influence on the movement of the Index value instead of allowing one highly capitalized stock to dominate the movement of the Index. To determine the initial dollar weighting of the stocks, the Exchange calculated the number of shares of each that would represent an investment of approximately \$10,000 in each of those stocks comprising the Index based on closing prices on September 30, 1998. The value of the Index equals the current market value of the sum of the assigned number of shares of all of the stocks in the Index divided by the current Index divisor. The Index divisor was set to yield an initial Index value of 200 at the opening on October 1, 1998.

Index Maintenance: To maintain the continuity of the Index, the divisor will be adjusted to reflect nonmarket changes in the price of the component securities as well as changes in the composition of the Index. Changes which may result in divisor adjustments include but are not limited to stock splits, dividends, spin-offs, mergers and acquisitions. In accordance with Phlx Rule 1009A, if any change in the nature of any component (e.g., delisting, merger, acquisition or otherwise) in the Index will change the overall market character of the Index, the Exchange will take appropriate steps to remove the stock or replace it with another stock that the Exchange believes would be compatible with the intended market character of the Index. Any replacement components will be reported securities

as defined in Rule 11Aa3-1 under the Act.

Currently, the Index is comprised of 20 component stocks. Absent Commission approval, the Exchange will not change the number of components to more than 24 or fewer than 16. The Exchange notes that the component stocks comprising the top 90% of the Index, by weight, will each maintain a minimum market capitalization of \$75 million. The remaining 10%, by weight, will each maintain a minimum market capitalization of \$50 million. The component stocks comprising the top 90% of the Index, by weight, will maintain a trading volume of at least 500,000 shares per month. The trading volume for each of the component stocks constituting the bottom 10% of the Index, by weight, will maintain at least 400,000 shares per month. No fewer than 90% of the component issues by weight or fewer than 80% of the total number of the components qualify as stocks eligible for options trading.

If the Index fails at any time to satisfy one or more of the required maintenance criteria, the Exchange will notify the Commission staff immediately and will not open for trading any additional series of options on the Index, unless the above is determined by the Exchange not to be significant and the Commission concurs in that determination, or unless the continued listing of options on The Street.com Internet Index has been approved by the Commission under Section 19(b)(2) of the Act.⁶ In addition to not opening for trading any additional series, the Exchange may, in consultation with the Commission, prohibit opening purchase transactions in series of options previously opened for trading to the extent that the Exchange deems such action necessary or appropriate.⁷

In addition to the maintenance criteria above, no single component of the Index shall account for more than 25% of the Index and the three highest weighted component securities shall not account for more than 60% of the Index. If the Index fails to satisfy the maintenance listing standards set forth above, the Exchange shall not open for trading any additional series of options of that class unless such failure is determined by the Exchange not to be significant and the Commission concurs in that determination, or unless the continued listing of that class of Index options has been approved by the

Commission under Section 19(b)(2) of the Act.

Rebalancing: Following the close of trading on the third Friday of January, April, July and October the Index portfolio will be adjusted by changing the number of whole shares of each component so that each company is gains represented in "equal" dollar amounts. If necessary, a divisor adjustment will be made at the rebalancing to ensure the continuity of the Index's value. The newly adjusted portfolio will then become the basis for the Index's value on the first trading day following the adjustment.

The number of shares of each component stock in the Index portfolio will remain fixed between quarterly rebalances except in the event of certain types of corporate actions, such as the payment of a dividend other than an ordinary cash dividend, stock dividend, stock split, reverse stock split, rights offering, distribution, reorganization, recapitalization, or similar event with respect to the component stocks. In the case of a merger or consolidation of an issuer of a component stock, if the stock remains in the Index, the number of shares of that security in the portfolio may be adjusted to the nearest whole share to maintain the component's relative weight in the Index at the level immediately prior to the corporate action. In the event of a stock addition or replacement, the average dollar value of the remaining portfolio components will be calculated and that amount invested in the stock of new component, to the nearest whole share. In all cases, the divisor will be adjusted, if necessary, to ensure Index continuity. All stock replacements and the handling of non-routine corporate actions will be announced at least ten business days in advance of such effective change, whenever possible. The Exchange will make this information available to the public through dissemination of an information circular.

Unit of Trading: Each option contract will represent \$100, the Index multiplier, times the Index value. For example, an Index value of 200 will result in an option contract value of \$20,000 ($\$100 \times \200).

Exercise Price: The exercise prices will be set in accordance with Phlx Rule 1101A(a).

Settlement: A.M.—settled index options.

Settlement Value: The Index value for purposes of settling outstanding Index option contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day

⁶ See Phlx Rule 1009A.

⁷ See Phlx Rule 1010.

prior to expiration. In the case of National Market securities traded through Nasdaq, the first reported sale price will be used for the final settlement value for expiring Index option contracts. In the event that a component security does not open for trading on the last day before the expiration of a series of Index options, the last sale price for that security will be used in calculating the Index value. However, in the event that the Options Clearing Corporation ("OCC") determines that the current Index value is unreported or otherwise unavailable (including instances where the primary market for securities representing a substantial part of the value of the Index is not open for trading at the time when the current Index value used for exercise settlement purposes would be determined), the OCC shall determine an exercise settlement amount for the Index in accordance with Article XVII, Section 4 of the OCC By-Laws.⁸

Last Trading Day: Last business day prior to the third Friday of the month for options which expire on the Saturday following the third Friday of that month.

Trading Hours: 9:30 a.m. to 4:02 p.m.

Position and Exercise Limits: The Street.com Internet Index is an industry or narrow-based index option. Accordingly, the Exchange will employ position and exercise limits pursuant to Phlx Rules 1001A(b) and 1002A, respectively. The position and exercise limits will be 15,000 contracts.

Expiration Cycles: Three months from the March, June, September, December cycle, plus two additional near-term months.

Exercise Style: European.

Premium Quotations: Premiums will be expressed in terms of dollars and fractions of dollars pursuant to Phlx Rule 1033A. For example, a bid or offer of 1½ will represent a premium per options contract of \$150 (1½ × 100).

The Street.com Internet Index value will be disseminated every 15 seconds during the trading day. The Phlx has retained Bridge Data Inc. to compute and perform all of the necessary maintenance of the Index.⁹ Pursuant to Phlx Rule 1100A, updated Index values will be disseminated and displayed by means of primary market prints reported by the Consolidated Tape Association and over the facilities of the Options Price Reporting Authority. The Index

value will also be available on broker-dealer interrogation devices to subscribers of options information. The Exchange represents that it has the capacity to handle the additional traffic of The Street.com Internet Index. Further, the Options Price Reporting Authority ("OPRA") represents that it has the capacity to handle the additional traffic generated by the Index.¹⁰

The options will be traded pursuant to current Phlx rules governing the trading of index options including provisions addressing sales practices, floor trading procedures, position and exercise limits, margin requirements and trading halts and suspensions.¹¹ The Exchange also represents that surveillance procedures currently used to monitor trading in index options will be applicable to this Index option. These procedures include having complete access to trading activity in the underlying securities which are all traded on the NYSE and Nasdaq. In addition, the Intermarket Surveillance Group ("ISG") Agreement dated July 14, 1983, as amended on January 29, 1990 and June 20, 1994 will be applicable to the trading of options on the Index.

2. Statutory Basis

The Phlx believes that the proposed rule change is consistent with Section 6 of the Act in general, and in particular, with section 6(b)(5),¹² in that it is designed to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and to protect investors and the public interest.

Specifically, the Exchange believes that the introduction of the proposed The Street.com Internet Index will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means of hedging exposure to market risks associated with the securities issued by companies that comprise this subsector of the computer industry. The trading of options on the Index will permit investors to participate in the price movement of the 20 securities on which the Index is based. The trading of options on the

Index will allow investors holding positions in some or all of the securities underlying the Index to hedge the risks associated with these securities. Accordingly, the Exchange believes that options on the Index will provide investors with an additional trading and hedging mechanism that outweighs any potential for manipulation that would diminish public confidence. Further, the Exchange believes that the proposed Index will have a positive impact on efficiency, competition and capital formation consistent with section 3(f) of the Act.¹³

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

Because the foregoing rule change complies with the standards set forth in the Generic Index Approval Order,¹⁴ it has become effective pursuant to section 19(b)(3)(A) of the Act¹⁵ and subparagraph (e) of Rule 19b-4 thereunder.¹⁶ Pursuant to the Generic Index Approval Order, the Exchange may not list options on the Street.com Internet Index prior to thirty days after the date that the proposed rule change was filed with the Commission.

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 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

⁸ See, e.g., OCC Article XVII, Section 4 and Securities Exchange Act Release No. 37315 (June 17, 1996), 61 FR 32471 (June 24, 1996) (order approving File No. SR-OCC-95-19).

⁹ As a back-up to Bridge Data Inc., the Phlx will utilize its own internal calculation system called the Index Calculation Engine ("ICE") System.

¹⁰ See Letter from Joe Corrigan, Executive Director, OPRA, to Michael Walinskas, Deputy Associate Director, Commission dated September 22, 1998.

¹¹ See Phlx Rule 722 and Rule Phlx Rules 1000A through 1102A; See generally Phlx Rules 1000 to 1080.

¹² 15 U.S.C. 78f(b)(5).

¹³ 15 U.S.C. 78c(f).

¹⁴ See note 5, *supra*.

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(e).

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. 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-98-48 and should be submitted by December 18, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-31583 Filed 11-25-98; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Comments should be submitted on or before January 26, 1999.

FOR FURTHER INFORMATION CONTACT: Curtis B. Rich, Management Analyst, Small Business Administration, 409 3rd Street, S.W., Suite 5000, Washington, D.C. 20416. Phone Number: 202-205-6629.

SUPPLEMENTARY INFORMATION:

Title: "Survey of Women-Owned Businesses who are Active Exporters or who are export ready".

Type of Request: New Collection.

Form No: 2082.

Description of Respondents: Women-Owned Businesses that are either Actively exporting or export-ready.

Annual Responses: 500.

Annual Burden: 250.

Comments: Send all comments regarding this information collection to, Sally Clark, Director of Special Initiatives, Office Women Business

Ownership, Small Business Administration, 409 3rd Street S.W., Suite 4400, Washington, D.C. 20416. Phone No: 202-205-6673.

Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

Dated: November 20, 1998.

Vanessa Piccioni,

Acting Chief, Administrative Information Branch.

[FR Doc. 98-31601 Filed 11-25-98; 8:45 am]

BILLING CODE 8025-01-U

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3146]

State of Kansas; (Amendment #2)

In accordance with information received from the Federal Emergency Management Agency, the above-numbered Declaration is hereby amended to establish the incident period for this disaster as beginning on October 30, 1998 and continuing through November 15, 1998.

All other information remains the same, i.e., the deadline for filing applications for physical damage is January 4, 1999 and for economic injury the termination date is August 5, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: November 19, 1998.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 98-31650 Filed 11-25-98; 8:45 am]

BILLING CODE 8025-01-U

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3145]

State of Texas; (Amendment #3)

In accordance with a notice from the Federal Emergency Management Agency dated November 17, 1998, the above-numbered Declaration is hereby amended to include the Counties of Blanco, Jefferson, Medina, and San Patricio in the State of Texas as a disaster area due to damages caused by severe storms, flooding, and tornadoes which occurred October 17 through October 31, 1998.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified

date at the previously designated location:

Gillespie, Llano, Orange, Uvalde, and Zavala in the State of Texas. Any counties contiguous to the above-named primary counties and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is December 19, 1998 and for economic injury the termination date is July 21, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: November 19, 1998.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 98-31649 Filed 11-25-98; 8:45 am]

BILLING CODE 8025-01-U

DEPARTMENT OF STATE

[Public Notice #2933]

Renewal of the Overseas Schools Advisory Council

The Department of State is renewing the Overseas Schools Advisory Council to provide a formal channel for regular consultation and advice from U.S. corporations and foundations regarding American-sponsored overseas schools. The Under Secretary for Management has determined that the committee is necessary and in the public interest.

Members of the committee will be appointed by the Assistant Secretary for Administration. The Committee will follow the procedures prescribed by the Federal Advisory Committee Act (FACA). Meetings will be open to the public unless a determination is made in accordance with the FACA section 10(d) and 5 U.S.C. 552b(c) (1) and (4) that a meeting or a portion of the meeting should be closed to the public. Notice of each meeting will be provided in the **Federal Register** at least 15 days prior to the meeting date.

For further information, contact Dr. Keith D. Miller, Executive Secretary of the committee at 703-875-7800.

Dated: November 16, 1998.

Keith D. Miller,

Executive Secretary, Overseas Schools Advisory Council.

[FR Doc. 98-31580 Filed 11-25-98; 8:45 am]

BILLING CODE 4710-24-U

¹⁷ 17 CFR 200.30-3(a)(12).

DEPARTMENT OF STATE**[Public Notice 2936]****Privacy Act of 1974; As Amended; Removal of System of Records**

Notice is hereby given that the Department of State is removing a system of records, STATE-55—Security Access Control Records, pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a(r)), and in accordance with the record-keeping practices and the reorganization of the Bureau of Diplomatic Security.

As reported in Public Notice 2884 dated August 24, 1998 (98 FR/Vol. 63, No. 176, September 11, 1998, 48779–48781) the records reflected in STATE-55 became part of STATE-36.

Dated: November 6, 1998.

Patrick F. Kennedy,

Assistant Secretary of Administration.

[FR Doc. 98-31579 Filed 11-25-98; 8:45 am]

BILLING CODE 4710-05-M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****RTCA Special Committee 192; National Airspace Review Planning and Analysis**

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 192 meeting to be held December 10, 1998, starting at 9:00 a.m. The meeting will be held at MITRE in the Main Briefing Room—A207, 1820 Dolley Madison Boulevard, McLean, VA 22102. The MITRE host is Lee Brown, at (703) 883-7618 (phone) or lbrownmitre.org (e-mail).

The agenda will be as follows: 9:00 a.m. Plenary Session: (1) Chairman's Introductory Remarks; (2) Review/Approval of Meeting Agenda. 9:30–10:00 a.m. (3) Discuss and Approve New Terms of Reference; 10:00–10:30 a.m. (4) Discuss Work Group Structure; 10:30–12:00 noon (5) Break into Work Groups; 12:00–1:00 p.m. (6) Lunch; 1:00–3:00 p.m. (7) Continue Work Group Activities. 3:00–4:00 p.m. Plenary Session, Continued: (8) Discussion of Future Work Plan; (9) Set Agenda for Next Meeting; (10) Date and Location of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain

information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC, 20036; (202) 883-9339 (phone), (202) 833-9434 (fax), or <http://www.rtca.org> (website). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 20, 1998.

Janice L. Peters,

Designated Official.

[FR Doc. 98-31647 Filed 11-25-98; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION**Research and Special Programs Administration****International Standards on the Transport of Dangerous Goods; Public Meetings**

AGENCY: Research and Special Administration (RSPA), Department of Transportation.

ACTION: Notice of public meetings.

SUMMARY: This notice is to advise interested persons that RSPA will conduct public meetings in preparation for and to report the results of the twentieth session of the United Nations Committee of Experts on the Transport of Dangerous Goods (COE) to be held December 7–16, 1998 in Geneva, Switzerland.

DATES: December 3, 1998, 9:30 a.m.–1:00 p.m.; January 12, 1999, 9:30 a.m.–1:00 p.m.

ADDRESSES: The meeting on December 3, 1998 will be held in room 2230-2232, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. The meeting on January 12, 1999 will be held in room 8236-8240, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Frits Wybenga, International Standards Coordinator, Office of Hazardous Materials Safety, Department of Transportation, Washington, DC 20590; (202) 366-0656.

SUPPLEMENTARY INFORMATION: The primary purpose of the first meeting will be to prepare for the twentieth session of the COE and to discuss U.S. positions on COE proposals. The primary purpose of the second meeting will be to provide a briefing on the outcome of the session and to prepare for the sixteenth session of the Subcommittee of Experts on the Transport of Dangerous Goods which is scheduled for July 5–16, 1999 in Geneva,

Switzerland. Optics to be covered during the public meetings include matters related to restructuring the UN Recommendations on the Transport of Dangerous Goods into a model rule including development of packing instructions prescribing the types of packagings for specific materials, international harmonization of classification criteria and labeling, review of intermodal portable tank requirements, review of the requirements applicable to small quantities of hazardous materials in transport (limited quantities), classification of individual substances, primary and subsidiary labeling requirements, restructuring the COE to address future global harmonization of classification criteria and labeling requirements and the future work program for the COE during its 1999–2000 biennium.

The public is invited to attend without prior notification.

Documents

Copies of documents submitted to the twentieth session of the COE meeting may be obtained from the RSPA Dockets Division (202-366-5046) or by downloading them from the United Nations Transport Division's web site at <http://www.itu.int/itudoc/un/editrans/dgdb/dgscmm.html>. This site may also be accessed through RSPA's Hazardous Materials Safety Homepage at <http://hazmat.dot.gov/uncomtdg.htm>. A summary of the papers and the US positions will be provided at the meetings.

Issued in Washington, DC, on November 20, 1998.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 98-31600 Filed 11-25-98; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY**United States Mint****Dollar Coin Design**

November 23, 1998.

ACTION: Request for comments.

SUMMARY: The United States Mint is in the process of selecting designs for the obverse ("heads") and reverse ("tails") for the new \$1 coin to be issued beginning in 2000. By law, the Secretary of the Treasury, in consultation with Congress, shall select appropriate designs for the coin. The Secretary has determined that the obverse design will be a depiction of Sacagawea, the young

Native American guide who was instrumental to the success of the Lewis and Clark expedition. The reverse of the coin is required by statute to depict an eagle. In September 1998, the Mint invited twenty-three artists, including Mint sculptors and engravers, to submit obverse and reverse designs for the new coin. These submissions have been evaluated and the Mint is now seeking comments from the public on approximately five proposed obverse and five proposed reverse designs. The designs will be displayed on the Mint's web site (<http://www.usmint.gov>) beginning December 7, 1998.

COMMENT DEADLINE: December 21, 1998.

RECEIPT OF COMMENTS: Any member of the public wishing to comment should do so via the Internet by accessing the Mint's web site (<http://www.usmint.gov>) Alternatively,

comments may be submitted in writing to Michael White, 633 3rd Street NW., Room 715, Washington, DC 20220, Fax (202) 874-4083; mail must be received no later than December 21, 1998.

Philip Diehl,

Director, The United States Mint.

[FR Doc. 98-31656 Filed 11-25-98; 8:45 am]

BILLING CODE 4810-37-M

UNITED STATES INFORMATION AGENCY

Fulbright Senior Scholars Program

ACTION: Notice: Amendment to Proposal Submission Instructions for Fulbright Senior Scholars Program.

SUMMARY: The Proposal Submission Instructions referenced in FR Doc. 98-28288 published at 63 FR 56698, Oct.

12, 1998, for the Fulbright Senior Scholars Program, available at <http://www.usia.gov/education/rfps/menu.htm>, fax-on demand at (202) 401-7616 and in print from USIA has been amended as follows:

Tab C of the Proposal Submission Checklist should read:

Narrative (Not to exceed 50 pages). Supplementary addenda are also acceptable. Calendar of activities/itinerary, if applicable.

The Fulbright Senior Scholars Program was announced in the **Federal Register**, Volume 63, Number 204, page 56698, on October 22, 1998.

Dated: November 20, 1998.

Judith Siegel,

Deputy Associate Director for Educational and Cultural Affairs.

[FR Doc. 98-31568 Filed 11-25-98; 8:45 am]

BILLING CODE 8230-01-M

Corrections

Federal Register

Vol. 63, No. 228

Friday, November 27, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. EL99-3-000, et al.]****MidAmerican Energy Company, et al.;
Electric Rate and Corporate Regulation Filings***Correction*

In notice document 98-31110, beginning on page 64694, in the issue of Monday, November 23, 1998, the docket number should read as set forth above.

BILLING CODE 1505-01-D**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 100****[CGD01-98-125]****RIN 2115-AE46****Special Local Regulations: Greenwood Lake Powerboat Classic, Greenwood Lake, New Jersey***Correction*

In proposed rule document 98-30446, beginning on page 63426, in the issue of Friday, November 13, 1998, make the following correction:

On page 63426, in the third column, under **DATES**, in the second line "January 12, 1998" should read "January 12, 1999".

BILLING CODE 1505-01-D

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EDUCATION DEPARTMENT

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ENERGY DEPARTMENT**Energy Efficiency and Renewable Energy Office**

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Interstate ozone transport reduction; Section 126 petitions and Federal implementation plans; comments due by 11-30-98; published 9-30-98

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Class V wells; requirements for motor vehicle waste and industrial waste disposal wells and cesspools in ground water-based source protection areas; comments due by 11-30-98; published 9-29-98

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Novice class and technician plus operator licenses phaseout, etc.; comments due by 12-1-98; published 9-14-98

Radio stations; table of assignments:

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Texas; comments due by 11-30-98; published 10-19-98

HEALTH AND HUMAN SERVICES DEPARTMENT**Food and Drug Administration**

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HEALTH AND HUMAN SERVICES DEPARTMENT**Health Care Financing Administration**

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HEALTH AND HUMAN SERVICES DEPARTMENT
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JUSTICE DEPARTMENT**Immigration and Naturalization Service**

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JUSTICE DEPARTMENT**Parole Commission**

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LABOR DEPARTMENT**Employment and Training Administration**

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nt eliminated; comments due by 11-30-98; published 9-14-98

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Mooney Aircraft Corp.; comments due by 12-4-98; published 10-9-98

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TRANSPORTATION DEPARTMENT**Transportation Statistics Bureau**

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TREASURY DEPARTMENT**Internal Revenue Service**

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LIST OF PUBLIC LAWS

Note: The list of Public Laws for the second session of the 105th Congress has been completed and will resume when bills are enacted into law during the first session of the 106th Congress, which convenes on January 6, 1999.

A cumulative list of Public Laws for the second session of the 105th Congress will be published in the **Federal Register** on November 30, 1998.

Last List November 19, 1998.