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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE150, Special Condition 23–094–SC]

Special Conditions; Raytheon Aircraft Company, Raytheon Model 390 Airplane: Protection of Systems From High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued to Raytheon Aircraft Company, 9709 East Central, Wichita, Kansas 67201–0085 for a type certificate on the Raytheon Model 390 airplane. This airplane will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards. These novel and unusual design features include the installation of electronic flight instrument systems (EFIS) displays for which the applicable regulations do not contain adequate or appropriate airworthiness standards for the protection of these systems from the effects of high intensity radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the applicable airworthiness standards.

DATES: The effective date of these special conditions is December 28, 1998. Comments must be received on or before January 27, 1999.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. CE150, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. CE150. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ervin Dvorak, Aerospace Engineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 426–6941.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and, thus, delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA, therefore, finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: ''Comments to CE150.'' The postcard will be date stamped and returned to the commenter.

Background

On August 1, 1995, Raytheon Aircraft Company (then Beech Aircraft Corporation) made application to the FAA for a type certificate for the Raytheon Model 390 airplane. The proposed configuration incorporates a novel or unusual design feature, such as digital avionics consisting of an EFIS, that is vulnerable to HIRF external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR part 21, § 21.17, Raytheon Aircraft Company must show that the Raytheon Model 390 meets the applicable provisions of the following type certification basis for the Raytheon Model 390 airplane:

Federal Aviation Regulations part 23 effective February 1, 1965, as amended by Amendments 23–1 through 23–52, with Special Conditions to replace much of Subparts B and G; Federal Aviation Regulations part 34 effective September 10, 1990, as amended by the amendment in effect on the date of certification; Federal Aviation Regulations part 36 effective December 1, 1969, as amended by amendment 36–1 through the amendment in effect on the day of certification; The Noise Control Act of 1972; Special Conditions for such items as Protection from High Intensity Radiated Fields (HIRF), Takeoff Out of Trim Warning, and Engine Fire Extinguishing System; and Exemption No. 6558, which was granted December 12, 1996, pertaining to airplane landing gear loads.

Novel or Unusual Design Features

The Raytheon Model 390 will incorporate the following novel or unusual design features: Installation of EFIS for which the airworthiness standards do not contain adequate or appropriate safety standards for protection from the effects of HIRF.

Discussion

If the Administrator finds that the applicable airworthiness regulations, 14 CFR part 23, do not contain adequate or appropriate safety standards for the Raytheon Model 390 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, are issued in accordance with § 11.49, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.17(a)(2).

Special conditions are initially applicable to the model for which they

are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Raytheon Aircraft Company plans to incorporate certain novel and unusual design features into an airplane for which the airworthiness standards do not contain adequate or appropriate safety standards for protection from the effects of HIRF. These features include electronic systems, which are susceptible to the HIRF environment, that were not envisaged by the existing regulations for this type of airplane.

Protection of Systems From High Intensity Radiated Fields (HIRF)

Recent advances in technology have given rise to the application in aircraft designs of advanced electrical and electronic systems that perform functions required for continued safe flight and landing. Due to the use of sensitive solid state advanced components in analog and digital electronics circuits, these advanced systems are readily responsive to the transient effects of induced electrical current and voltage caused by the HIRF. The HIRF can degrade electronic systems performance by damaging components or upsetting system functions.

Furthermore, the HIRF environment has undergone a transformation that was not foreseen when the current requirements were developed. Higher energy levels are radiated from transmitters that are used for radar, radio, and television. Also, the number of transmitters has increased significantly. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit-installed equipment through the cockpit window apertures is undefined.

The combined effect of the technological advances in airplane design and the changing environment has resulted in an increased level of vulnerability of electrical and electronic systems required for the continued safe flight and landing of the airplane. Effective measures against the effects of exposure to HIRF must be provided by the design and installation of these systems. The accepted maximum energy levels in which civilian airplane system installations must be capable of operating safely are based on surveys and analysis of existing radio frequency emitters. These special conditions require that the airplane be evaluated under these energy levels for the protection of the electronic system and its associated wiring harness. These external threat levels, which are lower than previously required values, are believed to represent the worst case to which an airplane would be exposed in the operating environment.

These special conditions require qualification of systems that perform critical functions, as installed in aircraft, to the defined HIRF environment in paragraph 1 or, as an option to a fixed value using laboratory tests, in paragraph 2, as follows:

(1) The applicant may demonstrate that the operation and operational capability of the installed electrical and electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the HIRF environment defined as follows:

FIELD STRENGTH VOLTS/METER

Frequency	Peak	Average
10–100 KHz	50	50
100–500 KHz	60	60
500–2000 KHz	70	70
2–30 MHz	200	200
30–70 MHz	30	30
70–100 MHz	30	30
100–200 MHz	150	33
200–400 MHz	70	70
400–700 MHz	4020	935
700–1000 MHz	1700	170
1–2 GHz	5000	990
2–4 GHz	6680	840
4–6 GHz	6850	310
6–8 GHz	3600	670
8–12 GHz	3500	1270
12–18 GHz	3500	360
18–40 GHz	2100	750

or,

(2) The applicant may demonstrate by a system test and analysis that the electrical and electronic systems that perform critical functions can withstand a minimum threat of 100 volts per meter, peak electrical field strength, from 10 KHz to 18 GHz. When using this test to show compliance with the HIRF requirements, no credit is given for signal attenuation due to installation.

A preliminary hazard analysis must be performed by the applicant, for approval by the FAA, to identify electrical and/or electronic systems that perform critical functions. The term ''critical'' means those functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane. The systems identified by the hazard analysis that perform critical functions are candidates for the application of HIRF requirements. A system may perform both critical and non-critical functions. Primary electronic flight display systems, and their associated components, perform critical functions such as attitude, altitude, and airspeed indication. The HIRF requirements apply only to critical functions.

Compliance with HIRF requirements may be demonstrated by tests, analysis, models, similarity with existing systems, or any combination of these. Service experience alone is not acceptable since normal flight operations may not include an exposure to the HIRF environment. Reliance on a system with similar design features for redundancy as a means of protection against the effects of external HIRF is generally insufficient since all elements of a redundant system are likely to be exposed to the fields concurrently.

Applicability

As discussed above, these special conditions are applicable to the Raytheon Model 390. Should Raytheon Aircraft Company apply at a later date for a supplemental type certificate or amended type certificate to modify any other model that may be included on this type certificate to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR part 21, §§ 21.16 and 21.17; and 14 CFR part 11, §§ 11.28 and 11.49.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Raytheon Aircraft Company Model 390 airplane.

1. *Protection of Electrical and Electronic Systems from High Intensity Radiated Fields (HIRF).* Each system that performs critical functions must be designed and installed to ensure that the operations, and operational capabilities of these systems to perform critical functions, are not adversely affected when the airplane is exposed to high intensity radiated electromagnetic fields external to the airplane.

2. For the purpose of these special conditions, the following definition applies: *Critical Functions:* Functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Kansas City, Missouri on December 11, 1998.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–34162 Filed 12–24–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 24

[T.D. 99–1]

RIN 1515–AC39

Exemption of Israeli Products from Certain Customs User Fees

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect that products of Israel are no longer subject to the merchandise processing fees assessed on imported goods under 19 U.S.C. 58c(a)(9) and (10). This amendment results from publication of a determination by the United States Trade Representative under section 112 of the Customs and Trade Act of 1990 that the Government of Israel has provided reciprocal concessions. The exemption applies to Israeli products entered, or withdrawn from warehouse for consumption, on or after September 16, 1998.

EFFECTIVE DATE: December 28, 1998.

FOR FURTHER INFORMATION CONTACT: William G. Rosoff, Office of Regulations and Rulings (202–927–2077).

SUPPLEMENTARY INFORMATION:

Background

Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended (codified at 19 U.S.C. 58c and hereinafter referred to as the COBRA provision), provides for the collection of various fees for providing Customs services in connection with the arrival of vessels, vehicles, railroad cars, aircraft, passengers and dutiable mail, in connection with the entry or release of merchandise, and in connection with Customs broker permits. The fees pertaining to the entry or release of merchandise are set forth in subsections (a)(9) and (10) of the COBRA provision (19 U.S.C. 58c(a)(9) and (10)) and include an ad valorem fee for each formal entry or release (subject to specific maximum and minimum limits), a surcharge for each manual entry or release, and specific fees for three types of informal entry or release.

Subsection (b)(11) of the COBRA provision (19 U.S.C. 58c(b)(11)) provides that no fee may be charged under subsection (a)(9) or (10) with respect to products of Israel if an exemption with respect to the fee is implemented under section 112 of the Customs and Trade Act of 1990 (the Trade Act, Pub. L. 101–382). Section 112 of the Trade Act provides that, if the United States Trade Representative determines that the Government of Israel has provided reciprocal concessions in exchange for the exemption of products of Israel from the fees imposed under subsections (a)(9) and (10) of the COBRA provision, such fees may not be charged with respect to any product of Israel that is entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date on which the determination is published in the **Federal Register**.

Regulations implementing the COBRA provision regarding merchandise processing fees are contained in § 24.23 of the Customs Regulations (19 CFR 24.23). When § 24.23 was amended in 1991 to, among other things, reflect the changes to the COBRA provision made by the Trade Act (see T.D. 91–33, published in the **Federal Register** at 56 FR 15036 on April 15, 1991, and T.D. 91–95, published in the **Federal Register** at 56 FR 63648 on December 5, 1991), no determination under section 112 of the Trade Act had been published by the United States Trade Representative. Accordingly, the revised text of § 24.23 included, in paragraph (c)(5), a general statement as to the nonapplicability of the merchandise processing fees under the circumstances described in section 112 of the Trade Act, but without any indication of a specific effective date because the conditions set forth in the statute had not yet been met.

On September 1, 1998, the Office of the United States Trade Representative published a notice in the **Federal Register** (63 FR 46496) stating that the United States Trade Representative has determined that the Government of Israel has provided reciprocal concessions for purposes of section 112 of the Trade Act. Accordingly, the notice stated that pursuant to section 112 of the Trade Act and 19 U.S.C. 58c(b)(11), any product of Israel that is entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of publication of that notice will not be charged the fees imposed under 19 U.S.C. 58c(a)(9) and (10).

Paragraph (c)(5) was drafted and included in § 24.23 in general, self-executing terms in order to allow for the future publication of a determination under section 112 of the Trade Act, and for operational implementation thereof by Customs, without having to amend the regulatory text. Nevertheless, for purposes of clarity and in order to provide the most complete information to the public, Customs believes that it would be preferable to amend the regulatory text to reflect the specific date on which the exemption took effect, that is, September 16, 1998.

Inapplicability of Public Notice and Comment and Delayed Effective Date Requirements

Pursuant to the provisions of 5 U.S.C. 553(b)(B), Customs has determined that prior public notice and comment procedures on this regulation are unnecessary and contrary to the public interest. The regulatory change conforms the Customs Regulations to the terms of a statutory provision that is already in effect. In addition, the regulatory change benefits the public by providing specific information regarding the right to an exemption from the payment of certain import fees. For the same reasons, pursuant to the provisions of 5 U.S.C. 553(d)(1) and (3), Customs finds that there is good cause

for dispensing with a delayed effective date.

Executive Order 12866

This document does not meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Drafting Information

The principal author of this document was Francis W. Foote, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 24

Accounting, Claims, Customs duties and inspection, Taxes, User fees, Wages.

Amendment to the Regulations

For the reasons stated in the preamble, part 24 of the Customs Regulations (19 CFR Part 24) is amended as set forth below.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The authority citation for part 24 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1450, 1624; 31 U.S.C. 9701.

* * * * *

§ 24.33 [Amended]

2. In § 24.23, paragraph (c)(5) is amended by removing the words ''the effective date of a determination made under section 112 of the Customs and Trade Act of 1990'' and adding, in their place, the words ''September 16, 1998 (the effective date of a determination published in the **Federal Register** on September 1, 1998, under section 112 of the Customs and Trade Act of 1990)''.

Approved: November 18, 1998.

Raymond W. Kelly,

Commissioner of Customs.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 98–34334 Filed 12–24–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 401 and 402

[Docket No. FR–4298–C–05]

RIN 2502–AH09

Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark-to-Market) and Renewal of Expiring Section 8 Project-Based Assistance Contracts; Technical Corrections

AGENCY: Office of the Secretary, HUD.

ACTION: Interim rule; technical corrections.

SUMMARY: On September 11, 1998, HUD published an interim rule implementing the Mark-to-Market Program and the statutory provisions for renewals of section 8 project-based assistance contracts expiring in Fiscal Year 1999 or later. On October 15, 1998, HUD published a first correction to the interim rule to correct the Internet address given for submitting public comments. This second correction to the interim rule addresses additional matters that were in error when the interim rule was published and in need of correction. This document also corrects one provision of the interim rule as well as preamble language that needs correction because of a change in authorizing legislation since issuance of the interim rule.

EFFECTIVE DATE: December 28, 1998.

FOR FURTHER INFORMATION CONTACT: Dan Sullivan, Department of Housing and Urban Development, 451 7th St., Washington DC 20410. Telephone: 202–708–3555. (This is not a toll-free number.) For hearing- and speech-impaired persons, this number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On September 11, 1998 (63 FR 48926), HUD published an interim rule implementing the Mark-to-Market Program and the statutory provisions for renewals of section 8 project-based assistance contracts expiring in Fiscal Year 1999 or later. The purpose of this program is to preserve low-income rental housing affordability while reducing the long-term costs of Federal rental assistance, including project-based assistance, and minimizing the adverse effect on the FHA insurance funds. The program is authorized by the Multifamily Assisted Housing Reform and Affordability Act of 1997, title V of Pub. L. 105–65 (approved October 27, 1997) (MAHRA).

Corrections Based on Original Legislation (MAHRA)

HUD is making the following corrections based on the MAHRA:

- Several changes are made to the preamble and the rule to eliminate conflicts between the preamble description of the rule and the actual rule text (see corrections 2, 3, and 24).
- Several erroneous or incomplete cross-references in the preamble and the interim rule are corrected (see corrections 3, 7, 12, 17, 19, 20, 21, 22, 25, and 28).
- Repetitive or erroneous extraneous language is removed in various places in the preamble and the interim rule text to provide simplicity and clarity (see corrections 5, 6, 8, 10, and 13).
- One incorrect date in the rule text is corrected (see correction 16).

Corrections Based on Recent Legislation (Pub. L. 105–276)

In addition to the corrections described above, other provisions of the interim rule, although correct when published, now require correction because of the subsequent enactment of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, Pub.L. 105–276 (approved October 21, 1998). Section 597(a)(2) of Pub.L. 105–276 amended MAHRA to change the required methodology for determining restructured rents for certain section 8 moderate rehabilitation projects under the Mark-to-Market Program. This statutory change therefore requires a corresponding change to § 402.5(b)(3) of the interim rule and the applicable preamble discussion. We have made this correction (see corrections 13 and 27).

In the preamble to the interim rule, HUD referred to one pending provision of MAHRA which ultimately was not included in Pub.L. 105–276. The pending provision would have amended section 515(h) of MAHRA to limit the exclusion of projects with State or local primary financing from the Mark-to-Market program. We have corrected the preamble by removing the two sentences that contained reference to the pending provision (see correction 1).

Other relevant provisions of the Pub.L. 105–276 will require corrective rule changes in the future. These changes, however, are not appropriate for a technical correction. Those provisions are as follows.

1. Section 549(a) and (b) of Pub.L. 105–276 removed the requirement of section 8(c)(8) of the United States Housing Act of 1937 (''the 1937 Act'') for owner notice to tenants of rent

increases, and amended the requirement of section 8(c)(9) of that Act (now redesignated as section 8(c)(8) for owner notice to tenants and HUD of section 8 contract termination. Both provisions are referenced in §§ 401.602 and 402.8 of the interim rule and discussed in the preamble. Rule references to the notice required by former section 8(c)(8) should be considered superseded by section 549. Rule changes will be needed to respond to the amendment of former section 8(c)(9) (now section 8(c)(8)) but the subject is too complex to be addressed fully in this correction. We will make appropriate changes in the final rule. In this document, we remove some preamble discussion that is incorrect under the current law (see corrections 11 and 15).

2. Section 549(c) of Pub.L. 105–276 added a new final sentence to section 514(d) of MAHRA regarding an additional owner notice requirement and restrictions on rent increases or evictions. This matter is also complicated and will be addressed in the final rule instead of this correction.

3. Section 599 of Pub.L. 105–276 amended section 202 of the Housing and Community Amendments of 1978, concerning tenant participation in certain multifamily housing projects, to apply to all projects with project-based assistance or section 8 enhanced (''sticky'') vouchers under the Mark-to-Market Program. Tenant participation under section 202 is the subject of 24 part 245. We have begun a separate proposed rulemaking procedure to amend part 245 to reflect section 599 and to make other changes.

Accordingly, FR Doc. 98–242840, Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark-to-Market) and Renewal of Expiring Section 8 Project-Based Assistance Contracts (FR–4298–I–01), published in the **Federal Register** on September 11, 1998 (63 FR 48926), is corrected as follows:

A. Corrections to the Preamble

1. On page 48929, first column, the second and third sentences of the first full paragraph are removed.

2. On page 48931, second column, the second to the last sentence of the first full paragraph, the following language is added immediately after the reference to § 401.453—''and the poor condition of the project is not likely to be remedied in a cost-effective manner through the Restructuring Plan.''

3. On page 48932, the last sentence in the first column, which continues to the second column, is corrected to read ''An owner should also follow this guidance when making a preliminary certification of eligibility under § 401.99 and a comparable market analysis under § 402.6(a)(1).''

4. On page 48933, first column, in the first sentence of the first full paragraph, the words ''covered by a PRA'' are added immediately after the word ''units''.

5. On page 48933, second column, the fourth full sentence is removed, and the third full sentence is revised to read as follows: ''In addition, the PAE must consider the other matters listed in section 515(c)(2)(B) of MAHRA to be assessed as part of the Plan, and the applicable Consolidated Plan developed under 24 CFR part 91.''

6. On page 48933, third column, in the fourth sentence of the first full paragraph, the number ''35'' is removed.

7. On page 48934, second column, in the second sentence of the third full paragraph, the reference to ''517(b)(3)'' is corrected to read ''517(b)(2)''. On page 48934, second column, in the first sentence of the fourth full paragraph, the reference to ''401.700'' is corrected to read ''401.310''.

8. On page 48935, first column, in the first sentence under the heading ''Section 401.471 HUD Payment of Section 541(b) Claim,'' the words ''or HUD-held'' are removed.

9. On page 48935, second column, in the first full sentence, the word ''than'' is corrected to read ''that''.

10. On page 48937 in the preamble, first column, in the fourth sentence under the heading ''Section 401.500 Required Notices to Third Parties; Section 401.501 Who Is Entitled to Receive Notices Under § 401.500?'', the term ''by the owner'' is removed .

11. On page 48937 in the preamble, second column, the second sentence in the second full paragraph which begins with the phrase ''In particular * * *'' is removed.

12. On page 48938 in the preamble, second column, in the first paragraph under the heading ''Section 401.602 Tenant Protections if an Expiring Contract is Not Renewed,'' the regulatory references in the last sentence of that paragraph are corrected as follows: ''§ 401.101 or 401.403'' is corrected to read ''§§ 401.101, 401.403, or 401.405''.

13. On page 48939 in the preamble, third column, the parenthetical statement that follows numbered paragraph (5) is corrected by removing the phrase ''as explained in Part II of this Supplementary Information under § 401.100''.

14. On page 48940 in the preamble, first column, the language in the first partial paragraph that follows the designation ''(3)'' is corrected to read as follows: ''(3) in the case of a contract under the section 8 moderate rehabilitation program (other than for a single room occupancy dwelling), the lesser of existing rents adjusted by an OCAF, fair market rents (less any amounts allowed for tenant-purchased utilities), or comparable market rents.''

15. On page 48940 of the preamble, second column, the entire discussion under the heading ''Section 402.8 Tenant Protections if an Expiring Contract is not Renewed'' is corrected to read as follows: ''Section 402.8 discusses notices that an owner must give when an expiring contract is not renewed, and the consequences of failure to give notice, in a manner similar to § 402.6. Both sections will be revised in the final rule to reflect recent legislation that deleted former section 8(c)(8) of the United States Housing Act of 1937 and amended section 8(c)(9) of that Act (now redesignated as section 8(c)(8)).''

B. Corrections to the Rule

§ 401.99 [Corrected]

16. On page 48944, third column, in § 401.99(b), introductory text, ''January 1'' is corrected to read ''January 13''.

§ 401.100 [Corrected]

17. On page 48944, third column, in § 401.100, the heading—''General eligibility.''—for the introductory paragraph is removed.

§ 401.201 [Corrected]

18. On page 48945, first column, in § 401.201, the term ''State Housing Finance Agencies'' in § 401.201(b) is corrected to read ''State housing finance agencies''.

§ 401.301 [Corrected]

19. On page 48945, first column, in § 401.300, the reference to ''401.309'' is corrected to read ''401.314''.

§ 401.400 [Corrected]

20. On page 48947, first column, in § 401.400(b), ''Section 514'' is corrected to read ''section 514(e)''.

§ 401.403 [Corrected]

21. On page 48947, second column, in § 401.403(b)(2), the words ''and (b)'' are removed.

§ 401.411 [Corrected]

22. On page 48948, second column, in § 401.411(a), the reference to ''514(g)'' is corrected to read ''514(g)(2)''.

§ 401.461 [Corrected]

23. On page 48950, second column, in § 401.461(b)(4), the phrase ''or the owner'' is corrected to read ''or if the owner''.

§ 401.472 [Corrected]

24. On page 48950, third column, in § 401.472(a)(1), the phrase ''residual receipts account, surplus cash account, residual receipts account'' is corrected to read ''residual receipts account, surplus cash account, replacement reserve account''.

§ 401.552 [Corrected]

25. On page 48952, second column, in § 401.552, the reference to ''401.461(b)(2)'' is corrected to read ''401.461(b)(3)(ii)(A)''.

§ 402.1 [Corrected]

26. On page 48954, first column, in § 402.1, the word ''eligible'' is added immediately before the word ''projects'' in the second sentence of that section.

§ 402.5 [Corrected]

27. On page 48954, second column, § 402.5(c)(3) is corrected to read: ''In the case of a contract under the section 8 moderate rehabilitation program (other than single room occupancy dwellings under section 441 of the Stewart B. McKinney Homeless Assistance Act), the lesser of existing rents adjusted by an OCAF, fair market rents (less any amounts allowed for tenant-purchased utilities), or comparable market rents.''

§ 402.6 [Corrected]

28. On page 48954, third column, in § 402.6(b), the reference to ''§ 401.4 or § 401.5(b)(2)'' is corrected to read ''§ 402.4 or § 402.5(b)(2)''.

Dated: December 21, 1998.

Camille E. Acevedo,

Assistant General Counsel for Regulations.

[FR Doc. 98–34314 Filed 12–24–98; 8:45 am]

BILLING CODE 4210–32–P

POSTAL SERVICE

39 CFR Part 111

Expansion of Location-Based Post Office Box Fees

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Domestic Mail Manual is amended to expand the application of location-based fees for post office box service to include specified facilities. The facility-specific fees place greater emphasis on the space cost and utilization of post office box service at individual locations.

EFFECTIVE DATE: January 10, 1999.

FOR FURTHER INFORMATION CONTACT: John Dorsey (202) 268–3295.

SUPPLEMENTARY INFORMATION: Fees for post office box service are scheduled to change on January 10, 1999 as a consequence of the omnibus rate case, Postal Rate Commission (PRC) Docket No. R97–1. This final rule announces changes in fee groups for specific facilities which will also take effect on that date.

Postal Service testimony in that case (USPS–RT–19, which rebutted testimony filed by the PRC's Office of the Consumer Advocate) set forth a means of redefining post office box fee groups to reflect space costs and capacity utilization. Comprehensive information necessary to effectuate the redefinition nationwide was not then available; in keeping with the PRC's suggestion, that information is now being developed.

The Postal Service testimony contemplated changing the fee group assignment of 80 facilities among fee groups A, B, C, and D. Consistent with this testimony, however, the Postal Service has decided to avoid changes between fee groups C and D because of the large fee difference between these groups, and the fact that, on average, group D fees do not cover costs. Using improved data and additional analysis, the Postal Service has identified 29 offices for fee group reassignment among fee groups A, B, and C. These 29 offices meet cost and utilization criteria for transfer among fee groups A, B, and C. In fee groups A and B, facilities being transferred to the next lower fee group incur rental costs lower than $17/square foot and have box utilization of less than 75%. In fee groups C and B, facilities being transferred to the next higher fee group incur rental costs exceeding $30/square foot and have box utilization above 90%. Baseline costs and usage measurement have been validated and will be monitored following implementation to assess impact on customer activity. In addition, 58 ''control'' facilities in neighboring areas will be monitored to serve as a benchmark against which to measure activity in the affected facilities.

This amendment expands the current location-based fee groupings to include 29 specified facilities. Data gathered on the impact of these changes will help guide development of a redesigned fee structure. The new fee group assignments for these offices do not change existing fee assignments for selected ZIP Code areas currently designated for Fee Groups A and B.

List of Subjects in 39 CFR Part 111

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. Revise the following sections of the Domestic Mail Manual which is incorporated by reference in the Code of Federal Regulations (See 39 CFR Part 111) as set forth below:

Domestic Mail Manual (DMM)

D Deposit, Collection and Delivery

* * * * *

D900 Other Delivery Services

* * * * *

D910 Post Office Box Service

* * * * *

5.0 Fee Group Assignments

* * * * *

5.3 Location-Based Fees

[Revise to 5.3 to read as follows:]

The facilities defined by the ZIP Codes in Exhibit 5.3A, and by name in Exhibit 5.3B, constitute exceptions to the fee groupings described in 5.1 and 5.2. Group A, B, or C fees apply as identified.

[Renumber current Exhibit 5.3 as Exhibit 5.3a. Add new Exhibit 5.3b as follows:]

EXHIBIT 5.3B.—LOCATION-BASED BOX FEES BY LOCATION

Group	Facility name	Address
A	Wellesley Hills	337 Washington Street, Wellesley, MA 02181.
	Neptune	532 Neptune Avenue, Brooklyn, NY 11224.
	Will Rogers	1217 Wilshire Boulevard, Santa Monica, CA 90403.
	North Beach	1640 Stockton Street, San Francisco, CA 94133.
B	Prudential Center	800 Boylston Street, Boston, MA 02199.
	Charles Street	136 Charles Street, Boston, MA 02114.
	Cos Cob	152 E. Putnam Avenue, Cos Cob, CT 06807.
	Glenville	25 Glen Ridge Road, Greenwich, CT 06831.
	Englewood Cliffs	650 E. Palisade Avenue, Englewood Cliffs, NJ 07632.

EXHIBIT 5.3B.—LOCATION-BASED BOX FEES BY LOCATION—Continued

Group	Facility name	Address
	Port Authority	76 9th Avenue, New York, NY 10011.
	Morningside	232 W. 116th Street, New York, NY 10026.
	Island	694 Main Street, New York, NY 10044.
	Heathcote	1112 Wilmot Road, Heathcote, NY 10583.
	Old Village	661 Middle Neck Road, Great Neck, NY 11023.
	Fourth Avenue	336 4th Avenue, Pittsburgh, PA 15222.
	Buckhead	3393 Peachtree Road, N.E., Atlanta, GA 30326.
	Station A	335 S. County Road, Palm Beach, FL 33480.
	Station #3	2510 Packard Street, Ann Arbor, MI 48103.
	Pacific Palisades	15243 La Cruz, Pacific Palisades, CA 90272.
	Woodside	2995 Woodside Road, Redwood City, CA 94062.
	18th Street	4304 18th Street, San Francisco, CA 94114.
	Arden	2801 Arden Way, Sacramento, CA 95825.
	Kapahulu Contract Station	870 Kapahulu Avenue, Honolulu, HI 96816.
	Wellesley	1 Grove Street, Wellesley, MA 02181.
C	Boston University	775 Commonwealth Avenue, Boston, MA 02215.
	Stapleton	160 Tompkins Avenue, Staten Island, NY 10304.
	Red Hook	615 Clinton Street, Brooklyn, NY 11231.
	Bush Terminal	900 3rd Avenue, Brooklyn, NY 11232.
	Ryder	1739 E. 45th Street, Brooklyn, NY 11234.

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 98–34221 Filed 12–24–98; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 142

[FRL–6210–7]

OMB Approval Numbers Under the Paperwork Reduction Act and Technical Correction to Consumer Confidence Report Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this technical amendment amends the table that lists the Office of Management and Budget (OMB) control numbers issued under the PRA for the Consumer Confidence Report Rule, which EPA issued under the Safe Drinking Water Act. This amendment also corrects a typographical error in the rule.

EFFECTIVE DATE: This final rule is effective December 28, 1998.

FOR FURTHER INFORMATION CONTACT: Françoise M. Brasier (phone: 202–260–5668 or e-mail brasier.francoise@epa.gov) or Rob Allison (phone: 202–260–9836 or e-mail allison.rob@epa.gov).

SUPPLEMENTARY INFORMATION: EPA is today amending the table of currently approved information collection request (ICR) control numbers issued by OMB for various regulations. This action also corrects an incorrect citation in § 142.78 (b).

Today's amendment updates the table to list those information requirements promulgated under the Consumer Confidence Report Rule, which appeared in the **Federal Register** on August 19, 1998 (63 FR 44511). The affected regulations are codified at 40 Code of Federal Regulations (CFR) parts 141 and 142.

EPA will continue to present OMB control numbers in a consolidated table format codified at 40 CFR part 9 of the Agency's regulations, and in each CFR volume containing EPA regulations. The table lists the section numbers with reporting and recordkeeping requirements, and the current OMB control numbers. This listing of the OMB control numbers and their subsequent codification in the CFR satisfy the requirements of the PRA (44 U.S.C. 3501 et seq.) and OMB's implementing regulations at 5 CFR part 1320.

This ICR was subject to public notice and comment prior to OMB approval. As a result, EPA finds that there is ''good cause'' under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)) to amend this table without prior notice and comment. Due to the technical nature of the table, further notice and comment would be unnecessary. Similarly, because this action does not affect the substantive provisions of this rule, EPA believes that there is good cause to make this rule effective immediately, as provided in 5 U.S.C. 553(d)(3).

EPA inadvertently cited § 144.155(a) in the final sentence of § 142.78(b). Today, EPA corrects that citation by replacing ''§ 144.155(a)'' with ''§ 141.155(a).'' EPA believes this correction to be technical and non-controversial, and therefore not needing additional notice-and-comment or a delayed effective date.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by OMB. In addition, this action does not impose any enforceable duty or contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4); establish any technical standards subject to the section 12(d) of the National Technology Transfer and Advancement Act; or require prior consultation with State, local, or tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or with officials of Indian tribal governments as specified by Executive Order 13084 (63 FR 27655, May 10, 1998).

This action does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it does not establish an environmental standard intended to mitigate health or safety risks. Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C.

601 et seq.). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the August 19, 1998 **Federal Register** action.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of December 28, 1998. 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 in the **Federal Register**. This action is not a major rule as defined by 5 U.S.C. 804(2).

Dated: December 18, 1998.

J. Charles Fox,

Assistant Administrator, Office of Water.

For the reasons set out in the preamble, title 40 chapter I of the Code of Federal Regulations is amended as follows:

PART 9—[AMENDED]

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

Authority: 7 U.S.C. 135 et seq., 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 et seq., 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 et seq., 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. Section 9.1 is amended by adding the new entries in numerical order under the indicated heading in the table to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control number
* * * * * * *	
National Primary Drinking Water Regulations	
* * * * * * *	
141.153–141.155	2040–0201
* * * * * * *	
National Primary Drinking Water Regulations Implementation	
* * * * * * *	
142.16(f)	2040–0201
* * * * * * *	

PART 142—[AMENDED]

3. The authority citation for part 142 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

4. Section 142.78 is amended by revising paragraph (b) to read as follows:

§ 142.78 Procedure for processing an Indian Tribe's application.

* * * * *

(b) A tribe that meets the requirements of § 141.72 of this chapter is eligible to apply for development grants and primacy enforcement responsibility for a Public Water System Program and associated funding under section 1443(a) of the Act and for primary enforcement responsibility for public water systems under section 1413 of the Act and for the authority to waive the mailing requirement of § 141.155(a) of this chapter.

[FR Doc. 98–34304 Filed 12–24–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6210–3]

RIN 2060–AH66

National Emission Standards for Hazardous Air Pollutants: Wood Furniture Manufacturing Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: This action promulgates amendments to the ''National Emission Standards for Hazardous Air Pollutants; Final Standards for Hazardous Air Pollutant Emissions from Wood Furniture Manufacturing Operations,'' originally promulgated in the **Federal Register** on December 7, 1995. The amendments to the rule were proposed pursuant to three agreements reached in settlement of the following petitions for review: Chemical Manufacturers Association v. EPA, No. 96–1031 (D.C. Cir.); Halogenated Solvents Industry Alliance, Inc. v. EPA, No. 96–1036 (D.C. Cir.); and Society of the Plastics Industry, Inc. v. Browner, No. 96–1038 (D.C. Cir.). This action also finalizes clarifying amendments, as well as technical amendments to certain sections of the rule.

DATES: This rule is effective December 28, 1998.

ADDRESSES: *Docket.* Interested parties may review items used to support this notice at: Air and Radiation Docket and Information Center (6102), Attention, Docket No. A–93–10, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: For information concerning the standards and the changes, contact Mr. Paul Almodóvar, Coatings and Consumer Products Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone (919) 541–

0283. For information regarding the applicability of this action to a particular entity, contact Mr. Robert Marshall, Manufacturing Branch, Office of Compliance (2223A), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; telephone (202) 564–7021.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are owners or operators of facilities that are engaged, either in part or in whole, in wood furniture manufacturing operations and that are major sources as defined in 40 CFR part 63, subpart A, section 63.2. Regulated categories include:

Category	Examples of regulated entities
Industry	Facilities which are major sources of hazardous air pollutants (HAP) and manufacture wood furniture or wood furniture components.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities that the EPA is now aware potentially could be regulated by this action. Other types of entities not listed in the table also could be regulated. To determine whether your facility (company, business, organization, etc.) is regulated by this action, you should carefully examine the applicability criteria in section 63.800 of the national emission standards for hazardous air pollutants (NESHAP) for wood furniture manufacturing operations (Wood Furniture NESHAP) that was promulgated in the **Federal Register** on December 7, 1995 (60 FR 62930) and codified at 40 CFR 63 subpart JJ. If you have questions regarding the applicability of this action to a particular entity, consult Mr. Robert Marshall at the address listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

The information presented below is organized as follows:

I. Background
II. Comments Received on Proposed Changes and EPA Response to Comments
III. Summary of Changes
IV. Administrative Requirements
A. Docket
B. Paperwork Reduction Act
C. Executive Order 12866 Review
D. Regulatory Flexibility
E. Submission to Congress and the General Accounting Office
F. Unfunded Mandates Reform Act
G. National Technology Transfer and Advancement Act
H. Executive Order 12875: Enhancing Intergovernmental Partnership
I. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
J. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments

I. Background

On December 7, 1995 (60 FR 62930), the EPA promulgated the Wood Furniture NESHAP. These standards were codified as subpart JJ in 40 CFR part 63. These standards established emission limits for, among other things, coating and gluing of wood furniture and wood furniture components. Three different parties, the Chemical Manufacturers Association (CMA), the Halogenated Solvents Industry Alliance, Inc. (HSIA), and the Society of the Plastics Industry, Inc. (SPI), petitioned for judicial review of the final rule under section 307(b) of the Clean Air Act (the Act).

The EPA executed settlement agreements with each of these petitioners on December 18, 1997. In accordance with section 113(g) of the Act, the EPA published notice of the petitions in the **Federal Register** on December 24, 1997 (62 FR 67360). The notice provided a 30-day opportunity for public comment. One comment supporting the agreements was submitted.

The settlement agreement between the EPA and the CMA requires the EPA to conduct notice and comment rulemaking proposing that certain glycol ethers be removed from the list of volatile hazardous air pollutants (VHAP) of potential concern in table 6 of the Wood Furniture NESHAP. The agreement also provides that the de minimis value in table 5 for 2-ethoxyethyl acetate be changed from 5.0 tons per year to 10.0 tons per year.

The settlement agreement between the EPA and the HSIA requires the EPA: (1) to conduct notice-and-comment rulemaking in accordance with section 307(d) of the Act proposing that perchloroethylene and trichloroethylene be deleted from the list of pollutants prohibited from use in cleaning and washoff solvents under section 63.803(e) of the regulations (table 4 of the Wood Furniture NESHAP); and (2) to give great weight to the recommendations of the Science Panel of the Joint Methylene Chloride Characterization Task Force regarding whether a reassessment of the cancer hazard for methylene chloride should be undertaken based on current scientific information. The settlement agreement also requires the EPA to conduct additional notice and comment rulemaking with respect to methylene chloride if methylene chloride is reassessed and certain findings are made as a result of that reassessment.

The settlement agreement between the EPA and the SPI requires the EPA to propose technical amendments to the Wood Furniture NESHAP that would remove the subheadings of ''Nonthreshold Pollutants,'' ''High-Concern Pollutants,'' and ''Unrankable Pollutants'' in table 6, and remove footnote ''a'' to table 6 which relates to these hazard ranking classifications.

This action promulgates changes to the Wood Furniture NESHAP proposed to address the settlement agreements discussed above. This action also finalizes clarifying changes and corrections which were identified as being necessary after promulgation of the original rule.

II. Comments Received on Proposed Changes and EPA Response to Comments

Six comment letters were received on the proposed changes to the final wood furniture manufacturing operations. These comments have been included in the docket to the Wood Furniture NESHAP (Docket No. A–93–10) as items VI–D–01 through VI–D–04, and IV–G–01 through IV–G–03. This preamble serves as the only summary of the comments received on the proposed changes to the final rule.

Five of the commenters supported the EPA's proposed changes to the final rule based on the settlement agreements. One commenter suggested clarifying changes in addition to those that were proposed. This commenter suggested clarifying the requirements in the Formulation Assessment Plan for VHAP of potential concern, the applicability requirements of this rule, and the removal of the emission limit for thinners. The EPA will give further consideration to the suggested changes, but cannot finalize them at this time. The EPA believes that additional rulemaking would be necessary to provide the public with opportunity to comment on the suggested changes. The intent of this rulemaking was to address specific issues identified in the settlement agreements with the CMA, the HSIA, and the SPI, and make minor technical corrections rather than completely reopen the original rule for comment.

One commenter expressed concern that the EPA was proposing to delete perchloroethylene from the list of pollutants prohibited from use in cleaning and washing solvents and was ''moving perc[hloroethylene] down a category in terms of risk classification.'' In particular, the commenter asserted

that the EPA has identified perchloroethylene as posing potential health risks, and has long considered it a ''probable human carcinogen,'' citing a recent document from the EPA's Design for the Environment project on dry cleaning, an International Agency for Research on Cancer (IARC) monograph supporting a finding that perchloroethylene is a ''probable human carcinogen,'' and a May 1998 report of the Children's Health Protection Advisory Committee.

Contrary to the commenter's concern, the EPA is not ''moving perc[hloroethylene] down a category in terms of risk classification.'' At present, this chemical is not classified as to its carcinogenicity in the EPA's Integrated Risk Information System. The EPA is currently reassessing the potential carcinogenicity of perchloroethylene. Since a definitive assessment of carcinogenicity of this chemical has not been finalized by the EPA and since only chemicals classified as Type A and B carcinogens are prohibited in cleaning and washoff solvents, the EPA is removing perchloroethylene from the list of prohibited chemicals in table 4. This change in table 4 does not imply that the EPA has changed its judgment or, indeed, reached any judgment in its current scientific evaluation of this chemical, nor does it carry any weight with respect to policies adopted toward this chemical in other regulatory contexts. The EPA is aware of the IARC monograph on perchloroethylene, as well as assessments conducted by other groups, and will consider this information in its scientific reassessment. After this reassessment, the EPA will revisit, as needed, its decision to delete perchloroethylene from the list of chemicals prohibited in cleaning and washoff solvents.

The EPA does not believe that perchloroethylene, as a washoff or cleaning solvent in wood furniture manufacturing, poses a sufficiently significant risk to warrant prohibition under this rule at this time. Wood furniture manufacturers do not commonly use perchloroethylene as a washoff or cleaning solvent. Wood furniture manufacturers using water-borne coatings would probably use a water-based solvent as a cleaning solvent. Wood furniture manufacturers using solvent-borne coatings would use the same solvents contained in the coatings, such as methanol and mineral spirits for their washoff and cleaning operations. Therefore, the risk of exposure to perchloroethylene in wood furniture manufacturing operations is currently very low, and should continue to be low.

III. Summary of Changes

The EPA is finalizing the proposed changes to table 6 of the Wood Furniture NESHAP. Table 6 lists those VHAP that are thought to pose a high concern for chronic toxicity. The regulations require affected sources to track the usage levels of these chemicals as part of their formulation assessment plans. The EPA, as a result of the negotiated rulemaking process for the original rule, included in the table 6 list only those chemicals with a toxicity composite score of 20 or higher.

The original table 6 contained subheadings for ''nonthreshold'' pollutants, ''high-concern'' pollutants, and ''unrankable'' pollutants. These subheadings followed the hazard ranking classification scheme proposed in regulations to implement the offsetting provisions of section 112(g) of the Act. The EPA now believes, however, that these subheadings, and footnote ''a'' which relates to these subheadings, serve no substantive function in this rule and have been removed from table 6. The definition of ''VHAP of potential concern'' has also been revised to reflect this change in table 6.

Section 63.803(l)(6) is revised to eliminate the reference to the 112(g) regulations. This cross-reference is not necessary because table 6 has been revised to include the de minimis value for each chemical. The de minimis values provided in table 6 are not changed from the current values extrapolated from the proposed section 112(g) regulations.

The EPA is also finalizing the proposed changes to tables 4 and 5. The EPA is finalizing the proposed changes to table 5 to change the de minimis level for 2-ethoxyethyl acetate from 5.0 to 10.0 tons per year. The EPA is finalizing the proposed changes to table 4 of the Wood Furniture NESHAP by removing trichloroethylene and perchloroethylene from the list of prohibited cleaning and washoff solvents.

The EPA is taking this opportunity to make additional technical and clarifying corrections to the final rule. The EPA has removed caprolactam from the list of VHAP in table 2 of the rule because this chemical has been delisted from the HAP list in section 112(b)(1) of the Act (61 FR 30816).

The EPA has revised the definition of ''organic solvent'' to reflect the EPA's intent in the final rule to regulate only those organic solvents considered HAP. The definition in the final rule should be limited to those organic solvents which are HAP. Therefore, the EPA has added the term ''hazardous air pollutant'' to the definition of organic solvent (e.g., organic HAP solvent). Elsewhere in the text of the rule, the EPA has replaced the term ''organic solvent'' with the term ''organic HAP solvent.''

IV. Administrative Requirements

A. Docket

Docket A–93–10 is an organized and complete file of all of the information submitted to, or otherwise considered by, the EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public to readily identify and locate documents to enable them to participate effectively in the rulemaking process. The contents of the docket serve as the record for purposes of judicial review (except for interagency review materials) (section 307(d)(7)(A) of the Act, 42 U.S.C. 7607(d)(7)(A)).

B. Paperwork Reduction Act

There are no additional information collection requirements contained in this action. Therefore, approval under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, is not required.

C. Executive Order 12866 Review

Under Executive Order 12866, the EPA must determine whether a regulatory action is ''significant'' and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines ''significant'' regulatory action as one that is likely to lead to a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety in State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of the Executive Order, it has been determined that this final rule is not a ''significant regulatory action'' within the meaning of the

Executive Order. These amendments do not add any new control requirements.

D. Regulatory Flexibility

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with these final amendments to the rule. The EPA has also determined that these amendments will not have a significant economic impact on a substantial number of small entities. The changes should actually ease the compliance burden of the Wood Furniture NESHAP. The amendments issued today are expected to reduce the regulatory burden on facilities by relaxing requirements related to specified chemical compounds and by increasing one of the de minimis levels triggering regulatory action.

E. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. section 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 United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

F. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the action promulgated today 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 in any one year. The changes finalized in this action will generally ease compliance for entities owning or operating wood furniture manufacturing facilities. The rule does not impose enforceable duties on State, local, or tribal governments. Therefore, the requirements of sections 202 and 205 of the UMRA do not apply to this action.

The EPA has likewise determined that the action promulgated today does not include any regulatory requirements that might significantly or uniquely affect small governments. Today's action does not impose any enforceable duties on small governments. Thus, today's action is not subject to the requirements of section 203 of the UMRA.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. No. 104–113, section 12(d) (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. The NTTAA requires the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This regulatory action makes amendments to the final rule that do not involve any technical standards that would require the EPA to consider voluntary consensus standards pursuant to section 12(d) of the NTTAA.

H. Executive Order 12875: Enhancing Intergovernmental Partnership

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, 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 amendments to the rule do not create a mandate on State, local, or tribal governments. The amendments do not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

I. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

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 Executive Order 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 EPA 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 final rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

J. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

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 amendments to the rule do not significantly or uniquely affect the communities of Indian tribal governments. The amendments issued today do not add any new requirements that are significantly or uniquely applicable to tribal communities or governments, or that will impose substantial compliance costs on these communities. Today's action will generally ease the compliance burden of wood furniture manufacturers subject to this rule. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements, Wood furniture manufacturing.

Dated: December 18, 1998.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for Part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart JJ—National Emissions Standards for Wood Furniture Manufacturing Operations

2. Section 63.801 is amended by revising the definitions for ''Cleaning operations,'' ''Disposed offsite,'' ''Equipment leak,'' ''Recycled onsite,'' ''Strippable spray booth material,'' ''VHAP of potential concern,'' and ''Washoff operations'' and by removing the definition of ''Organic solvent'' and adding a definition of ''Organic HAP solvent'' to read as follows:

§ 63.801 Definitions.

* * * * *

Cleaning operations means operations in which organic HAP solvent is used to remove coating materials or adhesives from equipment used in wood furniture manufacturing operations.

* * * * *

Disposed offsite means sending used organic HAP solvent or coatings outside of the facility boundaries for disposal.

* * * * *

Equipment leak means emissions of VHAP from pumps, valves, flanges, or other equipment used to transfer or apply coatings, adhesives, or organic HAP solvents.

* * * * *

Organic HAP solvent means a HAP that is a volatile organic liquid used for dissolving or dispersing constituents in a coating or contact adhesive, adjusting the viscosity of a coating or contact adhesive, or cleaning equipment. When used in a coating or contact adhesive, the organic HAP solvent evaporates during drying and does not become a part of the dried film.

* * * * *

Recycled onsite means the reuse of an organic HAP solvent in a process other than cleaning or washoff.

* * * * *

Strippable spray booth material means a coating that:

(1) Is applied to a spray booth wall to provide a protective film to receive over spray during finishing operations;

(2) That is subsequently peeled off and disposed; and

(3) By achieving (1) and (2) of this definition reduces or eliminates the need to use organic HAP solvents to clean spray booth walls.

* * * * *

VHAP of potential concern means any VHAP from the list in table 6 of this subpart.

* * * * *

Washoff operations means those operations in which organic HAP solvent is used to remove coating from wood furniture or a wood furniture component.

* * * * *

3. Section 63.803 is amended by revising paragraphs (c)(1), (d), (f), (i), (j), and (l)(6) to read as follows:

§ 63.803 Work practice standards

* * * * *

(c) * * *

(1) A minimum visual inspection frequency of once per month for all equipment used to transfer or apply coatings, adhesives, or organic HAP solvents;

* * * * *

(d) *Cleaning and washoff solvent accounting system.* Each owner or operator of an affected source shall develop an organic HAP solvent accounting form to record:

(1) The quantity and type of organic HAP solvent used each month for washoff and cleaning, as defined in § 63.801 of this subpart;

(2) The number of pieces washed off, and the reason for the washoff; and

(3) The quantity of spent organic HAP solvent generated from each washoff and cleaning operation each month, and whether it is recycled onsite or disposed offsite.

* * * * *

(f) *Spray booth cleaning.* Each owner or operator of an affected source shall not use compounds containing more than 8.0 percent by weight of VOC for cleaning spray booth components other than conveyors, continuous coaters and their enclosures, or metal filters, or plastic filters unless the spray booth is being refurbished. If the spray booth is being refurbished, that is the spray booth coating or other protective material used to cover the booth is being replaced, the affected source shall use no more than 1.0 gallon of organic HAP solvent per booth to prepare the surface of the booth prior to applying the booth coating.

* * * * *

(i) *Line cleaning.* Each owner or operator of an affected source shall pump or drain all organic HAP solvent used for line cleaning into a normally closed container.

* * * * *

(j) *Gun cleaning.* Each owner or operator of an affected source shall collect all organic HAP solvent used to clean spray guns into a normally closed container.

* * * * *

(l) * * *

(6) If, after November 1998, an affected source uses a VHAP of potential concern listed in table 6 of this subpart for which a baseline level has not been previously established, then the baseline level shall be established as the *de minimis* level provided in that same table for that chemical. The affected source shall track the annual usage of each VHAP of potential concern identified in this paragraph that is present in amounts subject to MSDS reporting as required by OSHA. If usage of the VHAP of potential concern exceeds the *de minimis* level listed in table 6 of this subpart for that chemical, then the affected source shall provide an explanation to the permitting authority that documents the reason for the exceedance of the *de minimis* level. If the explanation is not one of those listed in paragraphs (l)(4)(i) through (l)(4)(iv) of this section, the affected source shall follow the procedures in paragraph (l)(5) of this section.

4. Table 2 of subpart JJ is revised to read as follows:

TABLE 2.—LIST OF VOLATILE HAZARDOUS AIR POLLUTANTS

Chemical name	CAS No.
Acetaldehyde	75070
Acetamide	60355
Acetonitrile	75058
Acetophenone	98862
2-Acetylaminofluorine	53963
Acrolein	107028
Acrylamide	79061
Acrylic acid	79107
Acrylonitrile	107131
Allyl chloride	107051
4-Aminobiphenyl	92671
Aniline	62533
o-Anisidine	90040
Benzene	71432
Benzidine	92875
Benzotrichloride	98077
Benzyl chloride	100447
Biphenyl	92524
Bis (2-ethylhexyl) phthalate (DEHP)	117817
Bis (chloromethyl) ether	542881
Bromoform	75252
1,3-Butadiene	106990
Carbon disulfide	75150
Carbon tetrachloride	56235

TABLE 2.—LIST OF VOLATILE HAZARDOUS AIR POLLUTANTS—Continued

Chemical name	CAS No.
Carbonyl sulfide	463581
Catechol	120809
Chloroacetic acid	79118
2-Chloroacetophenone	532274
Chlorobenzene	108907
Chloroform	67663
Chloromethyl methyl ether	107302
Chloroprene	126998
Cresols (isomers and mixture)	1319773
o-Cresol	95487
m-Cresol	108394
p-Cresol	106445
Cumene	98828
2,4–D (2,4-Dichlorophenoxyacetic acid, including salts and esters)	94757
DDE (1,1-Dichloro-2,2-bis(p-chlorophenyl)ethylene)	72559
Diazomethane	334883
Dibenzofuran	132649
1,2-Dibromo-3-chloropropane	96128
Dibutylphthalate	84742
1,4-Dichlorobenzene	106467
3,3'-Dichlorobenzidine	91941
Dichloroethyl ether (Bis(2-chloroethyl)ether)	111444
1,3-Dichloropropene	542756
Diethanolamine	111422
N,N-Dimethylaniline	121697
Diethyl sulfate	64675
3,3'-Dimethoxybenzidine	119904
4-Dimethylaminoazobenzene	60117
3,3'-Dimethylbenzidine	119937
Dimethylcarbamoyl chloride	79447
N,N-Dimethylformamide	68122
1,1-Dimethylhydrazine	57147
Dimethyl phthalate	131113
Dimethyl sulfate	77781
4,6-Dinitro-o-cresol, and salts	534521
2,4-Dinitrophenol	51285
2,4-Dinitrotoluene	121142
1,4-Dioxane (1,4-Diethyleneoxide)	123911
1,2-Diphenylhydrazine	122667
Epichlorohydrin (1-Chloro-2,3-epoxypropane)	106898
1,2-Epoxybutane	106887
Ethyl acrylate	140885
Ethylbenzene	100414
Ethyl carbamate (Urethane)	51796
Ethyl chloride (Chloroethane)	75003
Ethylene dibromide (Dibromoethane)	106934
Ethylene dichloride (1,2-Dichloroethane)	107062
Ethylene glycol	107211
Ethylene oxide	75218
Ethylenethiourea	96457
Ethylidene dichloride (1,1-Dichloroethane)	75343
Formaldehyde	50000
Glycolethers [a]	.....
Hexachlorobenzene	118741
Hexachloro-1,3-butadiene	87683
Hexachloroethane	67721
Hexamethylene-1,6-diisocyanate	822060
Hexamethylphosphoramide	680319
Hexane	110543
Hydrazine	302012
Hydroquinone	123319
Isophorone	78591
Maleic anhydride	108316
Methanol	67561

TABLE 2.—LIST OF VOLATILE HAZARDOUS AIR POLLUTANTS—Continued

Chemical name	CAS No.
Methyl bromide (Bromomethane)	74839
Methyl chloride (Chloromethane)	74873
Methyl chloroform (1,1,1-Trichloroethane)	71556
Methyl ethyl ketone (2-Butanone)	78933
Methylhydrazine	60344
Methyl iodide (Iodomethane)	74884
Methyl isobutyl ketone (Hexone)	108101
Methyl isocyanate	624839
Methyl methacrylate	80626
Methyl tert-butyl ether	1634044
4,4′-Methylenebis (2-chloroaniline)	101144
Methylene chloride (Dichloromethane)	75092
4,4′-Methylenediphenyl diisocyanate (MDI)	101688
4,4′-Methylenedianiline	101779
Naphthalene	91203
Nitrobenzene	98953
4-Nitrobiphenyl	92933
4-Nitrophenol	100027
2-Nitropropane	79469
N-Nitroso-N-methylurea	684935
N-Nitrosodimethylamine	62759
N-Nitrosomorpholine	59892
Phenol	108952
p-Phenylenediamine	106503
Phosgene	75445
Phthalic anhydride	85449
Polychlorinated biphenyls (Aroclors)	1336363
Polycyclic Organic Matter [b]	.....
1,3-Propane sultone	1120714
beta-Propiolactone	57578
Propionaldehyde	123386
Propoxur (Baygon)	114261
Propylene dichloride (1,2-Dichloropropane)	78875
Propylene oxide	75569
1,2-Propylenimine (2-Methyl aziridine)	75558
Quinone	106514
Styrene	100425
Styrene oxide	96093
2,3,7,8-Tetrachlorodibenzo-p-dioxin	1746016
1,1,2,2-Tetrachloroethane	79345
Tetrachloroethylene (Perchloroethylene)	127184
Toluene	108883
2,4-Toluenediamine	95807
Toluene-2,4-diisocyanate	584849
o-Toluidine	95534
1,2,4-Trichlorobenzene	120821
1,1,2-Trichloroethane	79005
Trichloroethylene	79016
2,4,5-Trichlorophenol	95954
2,4,6-Trichlorophenol	88062
Triethylamine	121448
Trifluralin	1582098
2,2,4-Trimethylpentane	540841
Vinyl acetate	108054
Vinyl bromide	593602
Vinyl chloride	75014
Vinylidene chloride (1,1-Dichloroethylene)	75354
Xylenes (isomers and mixture)	1330207
o-Xylene	95476
m-Xylene	108383

TABLE 2.—LIST OF VOLATILE HAZARDOUS AIR POLLUTANTS—Continued

Chemical name	CAS No.
p-Xylene	106423

[a] Includes mono- and di-ethers of ethylene glycol, diethylene glycols and triethylene glycol; R-(OCH_2CH_2) RR–OR where:
n = 1, 2, or 3,
R = alkyl or aryl groups
R′= R, H, or groups which, when removed, yield glycol ethers with the structure: R-$(OCH_2CH_2)_n$—OH. Polymers are excluded from the glycol category.

[b] Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100°C.

5. Table 4 of subpart JJ is revised to read as follows:

TABLE 4.—POLLUTANTS EXCLUDED FROM USE IN CLEANING AND WASHOFF SOLVENTS

Chemical name	CAS No.
4-Aminobiphenyl	92671
Styrene oxide	96093
Diethyl sulfate	64675
N-Nitrosomorpholine	59892
Dimethyl formamide	68122
Hexamethylphosphoramide	680319
Acetamide	60355
4,4′-Methylenedianiline	101779
o-Anisidine	90040
2,3,7,8-Tetrachlorodibenzo-p-dioxin	1746016
Beryllium salts	.....
Benzidine	92875
N-Nitroso-N-methylurea	684935
Bis (chloromethyl) ether	542881
Dimethyl carbamoyl chloride	79447
Chromium compounds (hexavalent)	.....
1,2-Propylenimine (2-Methyl aziridine)	75558
Arsenic and inorganic arsenic compounds	99999904

TABLE 4.—POLLUTANTS EXCLUDED FROM USE IN CLEANING AND WASHOFF SOLVENTS—Continued

Chemical name	CAS No.
Hydrazine	302012
1,1-Dimethyl hydrazine	57147
Beryllium compounds	7440417
1,2-Dibromo-3-chloropropane	96128
N-Nitrosodimethylamine	62759
Cadmium compounds	.....
Benzo (a) pyrene	50328
Polychlorinated biphenyls (Aroclors)	1336363
Heptachlor	76448
3,3′-Dimethyl benzidine	119937
Nickel subsulfide	12035722
Acrylamide	79061
Hexachlorobenzene	118741
Chlordane	57749
1,3-Propane sultone	1120714
1,3-Butadiene	106990
Nickel refinery dust	.....
2-Acetylaminoflourine	53963
3,3′-Dichlorobenzidine	53963
Lindane (hexachlorcyclohexane, gamma)	58899
2,4-Toluene diamine	95807
Dichloroethyl ether (Bis(2-chloroethyl) ether)	111444
1,2-Diphenylhydrazine	122667
Toxaphene (chlorinated camphene)	8001352
2,4-Dinitrotoluene	121142
3,3′-Dimethoxybenzidine	119904
Formaldehyde	50000
4,4′-Methylene bis (2-chloroaniline)	101144
Acrylonitrile	107131
Ethylene dibromide (1,2-Dibromoethane)	106934
DDE (1,1-p-chlorophenyl 1–2 dichloroethylene)	72559
Chlorobenzilate	510156
Dichlorvos	62737
Vinyl chloride	75014
Coke Oven Emissions	.....
Ethylene oxide	75218

TABLE 4.—POLLUTANTS EXCLUDED FROM USE IN CLEANING AND WASHOFF SOLVENTS—Continued

Chemical name	CAS No.
Ethylene thiourea	96457
Vinyl bromide (bromoethene)	593602
Selenium sulfide (mono and di)	7488564
Chloroform	67663
Pentachlorophenol	87865
Ethyl carbamate (Urethane)	51796
Ethylene dichloride (1,2-Dichloroethane)	107062
Propylene dichloride (1,2-Dichloropropane)	78875
Carbon tetrachloride	56235
Benzene	71432
Methyl hydrazine	60344
Ethyl acrylate	140885
Propylene oxide	75569
Aniline	62533
1,4-Dichlorobenzene(p)	106467
2,4,6-Trichlorophenol	88062
Bis (2-ethylhexyl) phthalate (DEHP)	117817
o-Toluidine	95534
Propoxur	114261
1,4-Dioxane (1,4-Diethyleneoxide)	123911
Acetaldehyde	75070
Bromoform	75252
Captan	133062
Epichlorohydrin	106898
Methylene chloride (Dichloromethane)	75092
Dibenz (ah) anthracene	53703
Chrysene	218019
Dimethyl aminoazobenzene	60117
Benzo (a) anthracene	56553
Benzo (b) fluoranthene	205992
Antimony trioxide	1309644
2-Nitropropane	79469
1,3-Dichloropropene	542756
7, 12-Dimethylbenz(a) anthracene	57976
Benz(c) acridine	225514
Indeno(1,2,3-cd)pyrene	193395
1,2:7,8-Dibenzopyrene	189559

6. Table 5 of subpart JJ is revised to read as follows:

TABLE 5.—LIST OF VHAP OF POTENTIAL CONCERN IDENTIFIED BY INDUSTRY

CAS No.	Chemical name	EPA de minimis, tons/yr
68122	Dimethyl formamide	1.0
50000	Formaldehyde	0.2
75092	Methylene chloride	4.0
79469	2-Nitropropane	1.0
78591	Isophorone	0.7
1000425	Styrene monomer	1.0
108952	Phenol	0.1
111422	Dimethanolamine	5.0
109864	2-Methoxyethanol	10.0
111159	2-Ethoxyethyl acetate	10.0

7. Table 6 of subpart JJ is revised to read as follow:

TABLE 6.—VHAP OF POTENTIAL CONCERN

CAS No.	Chemical name	EPA de minimis, tons/yr*
92671	4-Aminobiphenyl	1.0
96093	Styrene oxide	1.0
64675	Diethyl sulfate	1.0
59892	N-Nitrosomorpholine	1.0
68122	Dimethyl formamide	1.0
680319	Hexamethylphosphoramide	0.01
60355	Acetamide	1.0
101779	4,4′-Methylenedianiline	1.0
90040	o-Anisidine	1.0
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin	0.00000006
92875	Benzidine	0.00003
684935	N-Nitroso-N-methylurea	0.00002
542881	Bis(chloromethyl) ether	0.00003
79447	Dimethyl carbamoyl chloride	0.002
75558	1,2-Propylenimine (2-Methyl aziridine)	0.0003
57147	1,1-Dimethyl hydrazine	0.0008
96128	1,2-Dibromo-3-chloropropane	0.001
62759	N-Nitrosodimethylamine	0.0001
50328	Benzo (a) pyrene	0.001
1336363	Polychlorinated biphenyls (Aroclors)	0.0009
76448	Heptachlor	0.002
119937	3,3′-Dimethyl benzidine	0.001
79061	Acrylamide	0.002
118741	Hexachlorobenzene	0.004
57749	Chlordane	0.005
1120714	1,3-Propane sultone	0.003
106990	1,3-Butadiene	0.007
53963	2-Acetylaminoflourine	0.0005
91941	3,3′-Dichlorobenzidine	0.02
58899	Lindane (hexachlorocyclohexane, gamma)	0.005
95807	2,4-Toluene diamine	0.002
111444	Dichloroethyl ether (Bis(2-chloroethyl)ether)	0.006
122667	1,2—Diphenylhydrazine	0.009
8001352	Toxaphene (chlorinated camphene)	0.006
121142	2,4-Dinitrotoluene	0.002
119904	3,3′-Dimethoxybenzidine	0.01
50000	Formaldehyde	0.2
101144	4,4′-Methylene bis(2-chloroaniline)	0.02
107131	Acrylonitrile	0.03
106934	Ethylene dibromide(1,2-Dibromoethane)	0.01
72559	DDE (1,1-p-chlorophenyl 1–2 dichloroethylene)	0.01
510156	Chlorobenzilate	0.04
62737	Dichlorvos	0.02
75014	Vinyl chloride	0.02
75218	Ethylene oxide	0.09
96457	Ethylene thiourea	0.06
593602	Vinyl bromide (bromoethene)	0.06
67663	Chloroform	0.09
87865	Pentachlorophenol	0.07
51796	Ethyl carbamate (Urethane)	0.08
107062	Ethylene dichloride (1,2-Dichloroethane)	0.08
78875	Propylene dichloride (1,2-Dichloropropane)	0.1
56235	Carbon tetrachloride	0.1
71432	Benzene	0.2
140885	Ethyl acrylate	0.1
75569	Propylene oxide	0.5
62533	Aniline	0.1
106467	1,4-Dichlorobenzene(p)	0.3
88062	2,4,6-Trichlorophenol	0.6
117817	Bis (2-ethylhexyl) phthalate (DEHP)	0.5
95534	o-Toluidine	0.4
114261	Propoxur	2.0
79016	Trichloroethylene	1.0
123911	1,4-Dioxane (1,4-Diethyleneoxide)	0.6
75070	Acetaldehyde	0.9
75252	Bromoform	2.0
133062	Captan	2.0
106898	Epichlorohydrin	2.0
75092	Methylene chloride (Dichloromethane)	4.0
127184	Tetrachloroethylene (Perchloroethylene)	4.0
53703	Dibenz (ah) anthracene	0.01

TABLE 6.—VHAP OF POTENTIAL CONCERN—Continued

CAS No.	Chemical name	EPA de minimis, tons/yr*
218019	Chrysene	0.01
60117	Dimethyl aminoazobenzene	1.0
56553	Benzo (a) anthracene	0.01
205992	Benzo (b) fluoranthene	0.01
79469	2-Nitropropane	1.0
542756	1,3-Dichloropropene	1.0
57976	7,12-Dimethylbenz (a) anthracene	0.01
225514	Benz(c)acridine	0.01
193395	Indeno(1,2,3-cd)pyrene	0.01
189559	1,2:7,8-Dibenzopyrene	0.01
79345	1,1,2,2-Tetrachloroethane	0.03
91225	Quinoline	0.0006
75354	Vinylidene chloride (1,1-Dichloroethylene)	0.04
87683	Hexachlorobutadiene	0.09
82688	Pentachloronitrobenzene (Quintobenzene)	0.03
78591	Isophorone	0.7
79005	1,1,2-Trichloroethane	0.1
74873	Methyl chloride (Chloromethane)	1.0
67721	Hexachloroethane	0.5
1582098	Trifluralin	0.9
1319773	Cresols/Cresylic acid (isomers and mixture)	1.0
108394	m-Cresol	1.0
75343	Ethylidene dichloride (1,1-Dichloroethane)	1.0
95487	o-Cresol	1.0
106445	p-Cresol	1.0
74884	Methyl iodide (Iodomethane)	1.0
100425	Styrene	1.0
107051	Allyl chloride	1.0
334883	Diazomethane	1.0
95954	2,4,5—Trichlorophenol	1.0
133904	Chloramben	1.0
106887	1,2—Epoxybutane	1.0
108054	Vinyl acetate	1.0
126998	Chloroprene	1.0
123319	Hydroquinone	1.0
92933	4-Nitrobiphenyl	1.0
56382	Parathion	0.1
13463393	Nickel Carbonyl	0.1
60344	Methyl hydrazine	0.006
151564	Ethylene imine	0.0003
77781	Dimethyl sulfate	0.1
107302	Chloromethyl methyl ether	0.1
57578	beta-Propiolactone	0.1
100447	Benzyl chloride	0.04
98077	Benzotrichloride	0.0006
107028	Acrolein	0.04
584849	2,4—Toluene diisocyanate	0.1
75741	Tetramethyl lead	0.01
78002	Tetraethyl lead	0.01
12108133	Methylcyclopentadienyl manganese	0.1
624839	Methyl isocyanate	0.1
77474	Hexachlorocyclopentadiene	0.1
62207765	Fluomine	0.1
10210681	Cobalt carbonyl	0.1
79118	Chloroacetic acid	0.1
534521	4,6-Dinitro-o-cresol, and salts	0.1
101688	Methylene diphenyl diisocyanate	0.1
108952	Phenol	0.1
62384	Mercury, (acetato-o) phenyl	0.01
98862	Acetophenone	1.0
108316	Maleic anhydride	1.0
532274	2-Chloroacetophenone	0.06
51285	2,4-Dinitrophenol	1.0
109864	2-Methyoxy ethanol	10.0
98953	Nitrobenzene	1.0
74839	Methyl bromide (Bromomethane)	10.0
75150	Carbon disulfide	1.0
121697	N,N-Dimethylaniline	1.0
106514	Quinone	5.0
123386	Propionaldehyde	5.0
120809	Catechol	5.0

TABLE 6.—VHAP OF POTENTIAL CONCERN—Continued

CAS No.	Chemical name	EPA de minimis, tons/yr*
85449	Phthalic anhydride	5.0
463581	Carbonyl sulfide	5.0
132649	Dibenzofurans	5.0
100027	4-Nitrophenol	5.0
540841	2,2,4-Trimethylpentane	5.0
111422	Diethanolamine	5.0
822060	Hexamethylene-1,6-diisocyanate	5.0
	Glycol ethers[a]	5.0
	Polycyclic organic matter[b]	0.01

* These values are based on the de minimis levels provided in the proposed rulemaking pursuant to section 112(g) of the Act using a 70-year lifetime exposure duration for all VHAP. Default assumptions and the de minimis values based on inhalation reference doses (RfC) are not changed by this adjustment.

[a] Except for ethylene glycol butyl ether, ethylene glycol ethyl ether (2-ethoxy ethanol), ethylene glycol hexyl ether, ethylene glycol methyl ether (2-methoxyethanol), ethylene glycol phenyl ether, ethylene glycol propyl ether, ethylene glycol mono-2-ethylhexyl ether, diethylene glycol butyl ether, diethylene glycol ethyl ether, diethylene glycol methyl ether, diethylene glycol hexyl ether, diethylene glycol phenyl ether, diethylene glycol propyl ether, triethylene glycol butyl ether, triethylene glycol ethyl ether, triethylene glycol methyl ether, triethylene glycol propyl ether, ethylene glycol butyl ether acetate, ethylene glycol ethyl ether acetate, and diethylene glycol ethyl ether acetate.

[b] Except for benzo(b)fluoranthene, benzo(a)anthracene, benzo(a)pyrene, 7,12-dimethylbenz(a)anthracene, benz(c)acridine, chrysene, dibenz(ah) anthracene, 1,2:7,8-dibenzopyrene, indeno(1,2,3-cd)pyrene, but including dioxins and furans.

[FR Doc. 98–34308 Filed 12–24–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6210–5]

RIN 2060–AH74

National Emission Standards for Hazardous Air Pollutants for Source Categories: Pulp and Paper Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Under the authority of the Clean Air Act, as amended, the EPA has promulgated standards (63 FR 18504, April 15, 1998) to reduce hazardous air pollutant (HAP) emissions from the pulp and paper production source category. This rule is known as the Pulp and Paper national emission standards for hazardous air pollutants (NESHAP) and is the air component of the integrated air and water rules for the pulp and paper industry, commonly known as the Pulp and Paper Cluster Rules. The rule applies to pulp and paper production processes included under the Standard Industrial Classification (SIC) code 26.

In this action, the EPA is taking direct final action amending the interim NESHAP for chloroform emissions from mills which have enrolled in the Voluntary Advanced Technology Incentives Program (VATIP) to include, as a compliance alternative, meeting the baseline Best Available Technology (BAT) requirements for 2,3,7,8-tetrachloro-dibenzo-p-dioxin (TCDD) and adsorbable organic halides (AOX). This standard could apply instead of the present, exclusive requirement of no increase in application rate of chlorine or hypochlorite above a specified baseline.

DATES: *Effective Date.* These amendments will be effective without further notice on February 26, 1999, unless the EPA receives adverse comments by January 27, 1999. Should the Agency receive such comments, the EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: *Comments.* Interested parties having adverse comments on this action may submit these comments in writing (in duplicate, if possible) to Docket No. A–92–40 at the following address: Air and Radiation Docket and Information Center (MC–6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The EPA requests that a separate copy of the comments also be sent to the contact person listed below.

Today's document and other materials related to this direct final rulemaking are available for review in the docket. Copies of this information may be obtained by request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Silverman, Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, telephone number (202) 260–7716. For technical information regarding the NESHAP, contact Mr. Stephen Shedd, Emissions Standards Division, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541–5397 or e-mail at shedd.steve@epa.gov.

SUPPLEMENTARY INFORMATION: *Regulated entities.* Entities potentially regulated by this action include:

Category	SIC code	Examples of regulated entities
Industry	26	Pulp mills and integrated mills (mills that manufacture pulp and paper/paperboard) that chemically pulp wood fiber.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be interested in the amendments to the regulation affected by this action. This table lists the types of entities that the EPA is now aware could potentially be regulated by this action. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in part 63, subparts A and S of Title 40 of the Code of Federal Regulations.

Information contacts. If you have questions regarding the applicability of

this action to a particular situation or questions about compliance approaches, permitting, enforcement, and rule determinations, please contact the appropriate regional representative below.

Region I

Greg Roscoe, Chief, Air Pesticides and Toxics Enforcement Office, Office of Environmental Stewardship, U.S. EPA, Region I, JFK Federal Building (SEA), Boston, MA 02203, (617) 565–3221. Technical Contact for Applicability Determination, Susan Lancey, (617) 565–3587, (617) 565–4940 (Fax)

Region II

Mosey Ghaffari, Air Compliance Branch, U.S. EPA, Region II, 290 Broadway, New York, NY 10007–1866, (212) 637–3925, (212) 637–3998 (Fax)

Region III

Makeba Morris, U.S. EPA, Region III, 3AT10, 1650 Arch Street, Philadelphia, PA 19103, (215) 814–2187

Region IV

Lee Page, U.S. EPA, Region IV, Atlanta Federal Center, 100 Alabama Street, Atlanta, GA 30303, (404) 562–9131

Region V

Christina Prasinos (AE–17J), U.S. EPA, Region V, 77 West Jackson Street, Chicago, IL 60604–3590, (312) 886–6819, (312) 353–8289 (Fax)

Region VI

Michelle Kelly, Air Enforcement Branch (6EN–AA), U.S. EPA, Region VI, Suite 1200, 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–7580, (214) 665–7446 (Fax)

Region VII

Gary Schlicht, Air Permits and Compliance Branch, U.S. EPA, Region VII, ARTD/APCO, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 551–7097

Region VIII

Tami Thomas-Burton, Air Toxics Coordinator, U.S. EPA, Region VIII, Suite 500, 999 18th Street, Denver, CO 80202–2466, (303) 312–6581, (303) 312–6064 (Fax)

Region IX

Ken Bigos, U.S. EPA, Region IX, A–5, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1240

Region X

Andrea Wallenweber, Office of Air Quality, U.S. EPA, Region X, OAQ–107, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–8760, (206) 553–0404 (Fax)

Technology Transfer Network. The Technology Transfer Network (TTN) is a network of the EPA's electronic bulletin boards. The TTN provides information and technology exchange in various areas of air pollution control. Information regarding the basis and purpose of this rule and other relevant documents can be found on the pulp and paper page of the EPA's Unified Air Toxics website (UATW) at ''www.epa.gov/ttn/uatw/pulp/pulppg.html''. For more information on the TTN, call the HELP line at (919) 541–5384.

Docket. Docket A–92–40 contains the supporting information for the original NESHAP and this action. Today's notice and other materials related to this proposal are available for review in the docket. The docket is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday except for Federal holidays at the Air and Radiation Docket and Information Center (MC–6102), U.S. Environmental Protection Agency, 401 M Street, SW, Room M–1500, Washington, DC 20460. Copies of docket information also may be obtained by request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

I. Description of Amendments

In today's action, the EPA is amending certain regulatory text in the NESHAP regarding the interim standard for chloroform emissions from bleaching systems at mills that have enrolled in the Voluntary Advanced Technology Incentives Program (VATIP). The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. However, in the **PROPOSED RULES** section of today's **Federal Register**, we are publishing a separate document that will serve as the proposal to this action if adverse comments are filed. This rule will be effective on February 26, 1999 without further notice unless we receive adverse comment by January 27, 1999. If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

Under the authority of the Clean Air Act (CAA), as amended, the EPA has promulgated standards (63 FR 18504, April 15, 1998) to reduce HAP emissions from the pulp and paper production source category. This rule is known as the Pulp and Paper NESHAP and is the air component of the integrated air and water rules for the pulp and paper industry, commonly known as the Pulp and Paper Cluster Rules. Both the air and effluent standards work together to reduce pollutant releases to air and water. There are close connections throughout the rule between the CAA NESHAP for air emissions and the Clean Water Act (CWA) effluent limitations guidelines for aqueous discharges.

An instance where this connection is particularly close is the standards for bleaching systems. Reducing chlorine used to bleach pulp will reduce HAP emissions from the bleach plant equipment vents and the wastewater treatment system, and will also reduce pollutants discharged in the water. The maximum achievable control technology (MACT) standard for bleaching system chloroform emissions requires mills to achieve the BAT requirements for dioxin, furan, chloroform, 12 chlorinated phenolic compounds, and AOX, in order to ensure that the removals represented by the MACT technology are attained. See 40 CFR 63.445(d)(1)(ii); 63 FR 18527 and 18551. This is because the control technologies upon which the BAT effluent limitations guidelines are based are identical to the control technologies used to comply with MACT; therefore, compliance with BAT will control air emissions to the MACT level of control. *Id*.

The CWA rules also create a voluntary incentive program—the Voluntary Advanced Technology Incentives Program—to encourage mills to install systems to achieve pollutant reductions at levels surpassing BAT requirements. The MACT standards, in a number of instances, establish alternatives to encourage mills to make this election. Of direct relevance here, the MACT standards for chloroform emissions from bleaching systems are structured to accommodate mills that have made the binding election to participate in the incentives program. Thus, MACT for chloroform emissions from participating fiber lines at such mills' bleaching systems is established in two parts. Under the incentives program, mills must achieve, among other requirements, the ultimate VATIP limitations for the tier they select by the dates prescribed in the rule, as well as enforceable interim milestones imposed

by the permit writer. See 40 CFR 430.24(b) (2), (3), and (4). For example, by April 16, 2004, all VATIP mills must achieve interim BAT limitations equivalent to the baseline BAT limitations. See 40 CFR 430.24(b)(3). As explained above, achievement of those limitations equals MACT. See 63 FR 18528 and § 63.440(d)(ii)(A). There is also an interim MACT standard which takes effect on April 15, 2001 (and is in effect until the ultimate MACT standard takes effect on April 15, 2004): VATIP fiber lines are not allowed to increase their application rates of chlorine or hypochlorite above the average rates determined for the 3-month period prior to June 15, 1998 (so called ''anti-backsliding'' provision). See § 63.440(d)(3)(ii)(B) at 63 FR 18617. It is this last provision that is affected by the present rule.

This amendment creates a third alternative to the interim MACT standards in § 63.440(d)(3) for chloroform emissions from bleach plants at VATIP facilities. Specifically, the amendment provides an alternative to the current exclusive requirement of no increase in chlorine or hypochlorite application rate. Under the alternative, mills participating in the incentives program would be required to comply with the baseline BAT provisions for two of the regulated pollutant parameters, specifically the chlorinated dioxin regulated under the rules (namely, 2,3,7,8-tetrachloro-dibenzo-p-dioxin, or TCDD) and AOX. The CWA requirements would be expressed as permit conditions imposed as a form of best professional judgment milestones required by 40 CFR 430.24(b)(2). (If the permitting authority determines that the mill can achieve the baseline limitations for TCDD and AOX sooner than April 15, 2001, then it may impose a more expeditious deadline.) Section 430.24(e) requires compliance with the baseline BAT limit for TCDD to be demonstrated at the bleach plant itself, and requires that TCDD be below the analytical minimum level of 10 parts per quadrillion. Compliance with the baseline AOX limitation is measured at end-of-pipe, and must reflect the end-of-pipe AOX contribution from pulp production bleached in the participating fiber line.

Control of TCDD and (to a lesser degree) AOX in bleaching plant effluent will likewise assure that chloroform air emissions are incidentally controlled during the transition period prior to April 15, 2004. This is because, first, control of TCDD and AOX will likewise control formation of other chlorinated compounds given the similarities of formation mechanisms of chlorinated organic compounds. Second, as the EPA noted when promulgating the Cluster Rules, control of chlorinated chemicals to BAT levels will almost certainly mean that mills will be applying some type of MACT technology such as process substitution. See 63 FR 18528. This conclusion holds true for control of TCDD (and AOX) to BAT levels. The Agency thus expects that to achieve the TCDD limit, there will have to be at least reduced usage, if not elimination, of hypochlorite usage, and very careful control and minimized use of elemental chlorine, or use of chlorine dioxide, or other alternative bleaching chemicals. This process substitution will in turn control chloroform formation and hence potential emission. See 63 FR 18527.

Thus, today's amendment is consistent with the basis for the existing bleaching system MACT standards for chloroform emissions: MACT and BAT to control bleaching system emissions are the same. By applying BAT-types of technologies to TCDD and AOX, therefore, will also achieve interim control of chloroform emissions. Although elemental chlorine usage could increase under this alternative, the EPA does not expect that it will increase significantly, since other chlorinated constituents in water discharges similarly would increase and the TCDD or AOX limits could be exceeded.

In addition, and importantly, this amendment achieves BAT level of control for TCDD and AOX, and interim control of chloroform emissions during the transition period leading to the ultimate VATIP limits. As explained earlier, mills participating in the incentives program are not required to achieve the baseline BAT level control for TCDD or AOX until April 15, 2004. Mills wishing to use the alternative in today's rule would have to meet baseline BAT limitations for TCDD and AOX no later than April 15, 2001. Chloroform emissions will necessarily be limited incidentally at the same time. The EPA believes that this more rapid compliance with BAT for TCDD and AOX, make this an appropriate alternative from an environmental standpoint. Although bleaching systems at such mills could increase chlorine or hypochlorite usage (until April 15, 2004 when the final MACT standard takes effect), the EPA believes the alternative is appropriate in light of the earlier compliance with BAT limits for TCDD and AOX, as well as the interim incidental control of chloroform emissions these limits will provide.

Finally, the EPA believes that this amendment is justified to encourage plants to participate in the incentives program. As noted throughout the rulemaking, this program has the potential to lead to significant and long-term decreases in pollutant discharges beyond the significant reductions required by BAT. See 63 FR 18514. One company which has stated that it otherwise would elect to participate in the program has identified the anti-backsliding provision in the MACT rules as an impediment to doing so because the provision may foreclose desirable business opportunities. The company has already achieved control surpassing baseline BAT on a portion of its production so that the company is in a good position to comply with the conditions established in this rule, as well as the Tier I VATIP provisions. Since the EPA views today's amendment as environmentally desirable in the long term in any case, and also wishes to encourage maximum participation in the incentives program in order to achieve further reductions in pollutant discharges, the Agency believes amending the rules to encourage the VATIP election further supports today's amendment. The EPA emphasizes that today's amendment is generally applicable so that any mill meeting the conditions specified can take advantage of the new MACT compliance alternative.

II. Administrative Requirements

A. Docket

The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file, because material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket, except for certain interagency documents, will serve as the record in case of judicial review. See CAA § 307(d)(7)(A).

B. Paperwork Reduction Act

The information requirements of the previously promulgated NESHAP were submitted for approval to the Office of Management and Budget (OMB) on April 27, 1998 under the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by the EPA (ICR No. 1657.03), and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division; U.S.

Environmental Protection Agency (2137); 401 M St., SW., Washington, DC 20460 or by calling (202) 260–2740. The information requirements are not effective until OMB approves them.

Today's amendments to the NESHAP will have no impact on the information collection burden estimates made previously. The amendments establish no new information collection requirements. Consequently, the ICR has not been revised.

C. Executive Order 12866: ''Significant Regulatory Action'' Determination

Under Executive Order 12866, the EPA must determine whether the regulatory action is ''significant'' and, therefore, subject to OMB review and the requirements of the Executive Order. The order defines a ''significant'' regulatory action as one that is likely to lead to a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, public health or safety in State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The NESHAP subpart S rule published on April 15, 1998 was considered significant under Executive Order 12866, and EPA accordingly prepared a regulatory impact analysis (RIA). Today's amendments provide an additional means of complying with one of the rule's requirements. The OMB has evaluated this action and determined it to be nonsignificant; thus, it did not require OMB review.

D. 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. The EPA determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this action. These amendments would not result in increased impacts to small entities and the changes to the rule in today's action do not add new control requirements to the April 15, 1998 rule. The amendments in fact create a compliance alternative and to that degree lessen the impact of the April 15, 1998 rule.

E. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), 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 the 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 today's action 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. The action in fact somewhat lessens the impacts of the rule, as explained above. Therefore, the requirements of the Unfunded Mandates Act do not apply to today's action.

F. Executive Order 12875: Enhancing the Intergovernmental Partnership

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 EPA consults with those governments. If the EPA complies by consulting, Executive Order 12875 requires 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.''

While the final rule published on April 15, 1998 does not create mandates upon State, local, or tribal governments, the EPA involved State and local governments in its development. Because today's action amends the existing rule to establish more compliance flexibility to achieve MACT, today's action does not impose any mandate upon State, local, or tribal governments.

G. Applicability of Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 applies to any rule that the EPA determines (1) is economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the EPA 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 EPA.

Today's action is not subject to Executive Order 13045 because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

H. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

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 officals 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 action does not significantly or uniquely affect the communities of Indian tribal governments. The final rule published on April 15, 1998 does not create mandates upon tribal governments. Because today's action amends the rule to establish another means of complying with MACT standards, today's action does not create a mandate on tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like the EPA to provide Congress, through the OMB, with explanations when an agency decides not to use available and applicable voluntary consensus standards.

This action does not involve any new technical standards or the incorporation by reference of existing technical standards. Therefore, consideration of voluntary consensus standards is not relevant to this action.

J. 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 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).

III. Legal Authority

These regulations are amended under the authority of sections 112, 114, and 301 of the Clean Air Act, as amended (42 U.S.C. sections 7412, 7414, and 7601).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations.

Dated: December 18, 1998.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart S—National Emission Standards for Hazardous Air Pollutants From the Pulp and Paper Industry

2. Amend § 63.440 by revising paragraphs (d)(3)(ii) introductory text and (d)(3)(ii)(B), as follows:

§ 63.440 Applicability.

* * * * *

(d) * * *

(3) * * *

(ii) Comply with paragraphs (d)(3)(ii)(A), (d)(3)(ii)(B), and (d)(3)(ii)(C) of this section.

* * * * *

(B) The owner or operator of a bleaching system shall comply with the requirements specified in either paragraph (d)(3)(ii)(B)(*1*) or (d)(3)(ii)(B)(*2*) of this section.

(*1*) Not increase the application rate of chlorine or hypochlorite in kilograms (kg) of bleaching agent per megagram of ODP, in the bleaching system above the average daily rates used over the three months prior to June 15, 1998 until the requirements of paragraph (d)(3)(ii)(A) of this section are met and record application rates as specified in § 63.454(c).

(*2*) Comply with enforceable effluent limitations guidelines for 2,3,7,8-tetrachloro-dibenzo-p-dioxin and adsorbable organic halides at least as stringent as the baseline BAT levels set out in 40 CFR 430.24(a)(1) as expeditiously as possible, but in no event later than April 16, 2001.

* * * * *

[FR Doc. 98–34306 Filed 12–24–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95–49, RM–8558]

Radio Broadcasting Services; Llano and Marble Falls, TX

AGENCY: Federal Communications Commission.

ACTION: Final Rule; petition for reconsideration.

SUMMARY: This document denies the joint petition for reconsideration filed by Roy E. Henderson and Tichenor License Corporation and affirms our action in the *Report and Order*, 62 FR 31008 (June 6, 1997), which substituted Channel 285C3 for Channel 284C3 at Llano, Texas, reallotted Channel 285C3 to Marble Falls, Texas, and modified the license of Station KBAE(FM), Llano, to specify operation on Channel 285C3 at Marble Falls. In reaching this result, the document explains that the staff properly dismissed the petitioners' counterproposal as violating Section 1.420(i) of the Commission's Rules. With this action this proceeding is terminated.

EFFECTIVE DATE: December 28, 1998.

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order, MM Docket No. 95–49, adopted December 14, 1998, and released December 18, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., N.W., Washington D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, N.W. Washington D.C. 20036.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Charles W. Logan,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–34229 Filed 12–24–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

48 CFR Part 5350

Types of Contracts

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending Title 48, Chapter 53 of the CFR by removing Part 5350, Extraordinary Contractual Actions. This rule is removed because it is outdated and was deleted from the Air Force Federal Acquisition Regulation Supplement (AFFARS) by Air Force Acquisition Circular (AFAC) 96–1 in June 1997.

EFFECTIVE DATE: December 14, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. David Powell, SAF/AQCP, 1060 Air Force Pentagon, Washington, DC 20330–1060, telephone (703) 588–7062.

SUPPLEMENTARY INFORMATION:

Authority: 5 U.S.C. 301 and FAR 1.301.

PART 5350—[REMOVED]

Accordingly, 48 CFR, Chapter 53, is amended by removing Part 5350.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 98–34192 Filed 12–24–98; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–98–4934]

RIN 2127—AH24

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

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

ACTION: Final rule, correcting amendment.

SUMMARY: This document amends a final rule that was published in March 1997 that expedites the depowering of air bags. This correcting amendment clarifies that: The ''corridor'' defining the bounds of permissible sled acceleration will be shifted to contain the time at which the sled acceleration first reaches 0.5 g, to account for ''lag'' in the components of the sled system. This will make the sled test easier to conduct because early variations in sled acceleration lag will not in themselves cause the sled pulse to be outside the required acceleration corridor. While the neck injury criteria for flexion bending moment and extension bending moment are intended to be measured by the six-axis load cell, located in the dummy head, the values measured at that point will be mathematically corrected to reflect the corresponding values at the occipital condyle, a lower point near the base of the dummy's skull. Prior to testing, the engine, transmissions, axles, exhaust, vehicle frame, and vehicle body must be rigidly secured to the vehicle and/or the sled. Fluids, batteries and unsecured components will be removed. These steps will prevent spikes in the acceleration curve during the test that would result from these components moving.

DATES: *Effective Date:* The amendments made to this final rule are effective December 28, 1998.

Petitions: Petitions for reconsideration must be received by February 11, 1999.

ADDRESSES: Petitions for reconsideration should refer to the docket number of this rule and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For information about air bags and related rulemaking: Visit the NHTSA web site at http://www.nhtsa.dot.gov and click on the icon ''Air Bag Page''.

For technical issues: Mr. John Lee, Office of Safety Performance Standards, NPS–10, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone (202) 366–4924. Fax: (202) 493–2739.

For legal issues: Mr. Paul Atelsek, Office of Chief Counsel, NCC–20, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone (202) 366–2992. Fax: (202) 366–3820.

SUPPLEMENTARY INFORMATION:

I. Background

On March 19, 1997, NHTSA published a final rule amending Federal Motor Vehicle Safety Standard 208, ''Occupant Crash Protection'' to temporarily permit a supplemental test procedure for air bag restraint systems (62 FR 12960–12975). The intent of the optional test procedure, known as the sled test, was to enable vehicle manufacturers to expedite their efforts to depower the air bags in their vehicles by 20 to 35 percent. The agency estimated that this amount of depowering would reduce the risk of injury and death to out-of-position child passengers, and small statured drivers and passengers.

In the final rule, the agency added a new section to Federal Motor Vehicle Safety Standard 208, ''Occupant Crash Protection,'' S13, ''Alternative unbelted test for vehicles manufactured before September 1, 2001.'' This new optional compliance test can be used as a substitute for the 30 mile-per-hour unbelted barrier test for air bag-equipped vehicles. The new sled test procedure involved mounting a full (i.e., completed) vehicle equipped with two unbelted 50th percentile adult male Hybrid III dummies on a sled. The sled is accelerated very rapidly backwards (relative to the direction that the occupants would be facing) by a piston mounted in front of the sled, thus simulating the deceleration that would be experienced in a 30 mph crash. The standard specifies the ranges within which the level of acceleration must fall at stated time intervals. This is referred to as the ''sled pulse.'' The standard specifies ranges, instead of an exact single level of acceleration since defining an exact sled pulse is impracticable due to vehicle and equipment variations. The ranges of acceleration at each moment of the test collectively define a corridor within which the actual test acceleration must fall. The air bags are triggered 20 ms after the sled acceleration reaches 0.5 g. The standard also specifies neck injury criteria for the dummies.

When the final rule was issued, neither the agency nor the automotive industry had much experience with full-vehicle sled testing. Therefore, some of the test conditions and definitions used in the procedure were only partially defined. When manufacturers began to follow the optional sled test procedure, they encountered problems. Recently, several manufacturers approached the agency requesting clarifications of technical issues involving the final rule. The following is a discussion of these technical issues.

II. Issues

Two manufacturers and a vehicle test laboratory have approached the agency with specific questions concerning the

sled test. In April, Morton International Automotive Safety Products (Morton) approached the agency with questions concerning the test setup and the neck injury criteria. On June 10, 1997, Honda visited NHTSA and presented specific concerns similar to the Morton questions, dealing with the test setup and the neck injury measurement. Honda has also submitted a request for interpretation for three of their issues, in a letter dated June 30, 1997. On September 12, 1997, the Motor Industry Research Association (MIRA) sent NHTSA a letter reporting a problem with the definition of ''time zero.'' The following is a discussion of these issues.

1. Practicality of Sled Testing a Full Vehicle

Morton and Honda believe that a full vehicle may exceed the system size and weight capacity of a smaller sled system powered by a 12-inch piston. Sled systems are classified by the size of the propulsion system. For example, they are referred to as a 12-inch or a 24-inch diameter piston. The larger a piston's diameter, the more weight the sled can handle without exceeding its design parameters. The agency's Vehicle Research and Test Center uses the Transportation Research Center (TRC) sled, which is equipped with a 24-inch piston. Most other sled facilities are equipped with a 12-inch piston. Morton and Honda suggested that the weight of a vehicle plus a 2000-pound carriage may exceed the 7,000 pound capacity of some 12-inch sled systems.

The agency considered this issue in the final rule (at 62 FR 12971):

AAMA, Subaru, and Volvo stated that manufacturers typically conduct partial vehicle tests. Nevertheless, AAMA stated that such sled tests could be conducted on either the full vehicle or partial vehicle. Similarly, Ford stated that ''audit testing with an entire vehicle on a sled would be acceptable, even though vehicle manufacturers typically test with only the passenger compartment or the front portion of the passenger compartment.'' AVS [Technologies] and Morton stated that it is impractical and infeasible to test the entire vehicle on the sled given a vehicle's weight and size.

* * *

The agency's Vehicle Research Test Center (VRTC) has analyzed the size and power of the equipment used to conduct sled tests. Based on the available information, the agency believes that the current-design sled at Transportation Research Center (TRC) can be used to evaluate a full vehicle's response to a 125 ms pulse. Memoranda in the docket summarize discussions between agency and General Motors personnel indicating that the readily available 12 inch diameter cylinder sled is capable of producing the required acceleration pulse for any complete vehicle subject to Standard No. 208.

The agency still does not have specific evidence to indicate that a full range of vehicle sizes cannot be tested on the smaller test sleds. Neither Morton nor Honda reported that the full-vehicle test would exceed the power requirement or the safety parameters of their sleds.

The agency notes that manufacturers can reduce the weight of the vehicles in their tests if they choose, because only the agency compliance tests are required to use the full vehicle. Vehicle manufacturers are sufficiently familiar with their vehicles to be able to remove vehicle components during certification testing that would not contribute to the vehicle structure, and therefore would not affect the restraint system performance during NHTSA's compliance test. For example, the agency does not believe that the engine block head contributes to the performance of the restraint system during the sled test. To stay within the corridor, NHTSA will normally have to secure the engine. In addition, S13.4 specifies that NHTSA will remove the tires and wheels prior to the sled test. Removing these components could reduce the mass of the test vehicle, if the manufacturers so chose.

Both Morton and Honda stated that the excessive weight would make it difficult or impossible for their facilities to achieve the specified pulse within the specified corridor. This final rule clarifies the definition of ''Time-Zero,'' to make it easier for test facilities to achieve the specified pulse.

Morton and Honda also raised the issue of whether the lengths of some vehicles would exceed the 12-foot-sled length. Apparently, some facilities are designed with the front of the sled directly in contact with a wall. This is sufficient when testing partial vehicles, but a full vehicle may hang over the front of the sled, and interfere with the sled contacting the propulsion system. The agency believes any test laboratory could overcome this problem by adding an extension either to the front of the sled or to the end of the piston driving the sled.

2. Securing the Vehicle Parts

To ensure that the specified sled pulse is achieved, the vehicle and its components must accelerate as a rigid unit. Both Morton and Honda asked whether they could secure the transmission and engine to the frame of the vehicle. Honda provided comparative sled pulse plots showing the variation, including an acceleration trace spike, caused by the ''floating'' components.

The agency agrees that it is appropriate to secure masses that are not rigidly secured prior to the sled test. As Honda pointed out, large parts that shift during a test will cause sled acceleration trace variations and repeatability problems. Shifting masses will cause vibrations and variations in the acceleration traces. These vibrations will appear as ''blips'' in the traces. They may even be significant enough to go outside of the test corridor. In one of the agency's research sled tests, the agency observed shifting of the vehicle body.

This conclusion about the appropriateness of securing masses that are likely to shift during the test was evident in the final rule, in which the agency noted in response to similar concerns from Ford that ''if necessary, the frame of a vehicle will be rigidly attached to the vehicle body during testing such that the specified pulse is registered on the vehicle body.'' This conclusion was reflected in the agency compliance test procedure (TP–208S–01, Laboratory Test Procedure for FMVSS 208, Occupant Crash Protection Sled Test) which includes instructions for securing ''the engine, transmission, axles, and exhaust to either the vehicle body, vehicle frame, interface frame or sled. If the vehicle has a frame, rigidly attach the body to the frame. If the vehicle is not attached directly to the sled, rigidly attach the vehicle/interface frame unit to the sled.''

However, the agency now agrees that the specification of rigid securement should have been reflected in the standard itself, rather than just in the compliance test procedure. Therefore, NHTSA is adding a provision to the standard on vehicle securing. The agency emphasizes that the sole objective of securing the vehicle components, and of removing some unsecured components, is to produce a crash pulse within the corridor. Which components are secured or removed and how they are secured is within NHTSA's discretion. Any crash pulse within the corridor is sufficient evidence that the test procedures were followed and that the vehicle's components were rigidly secured and that shifting of masses was adequately addressed.

Morton had suggested cutting the vehicle at the firewall and welding it to a bulkhead-type fixture. The agency intended no such radical alteration of the vehicle structure, and will not do this in its compliance tests. There is no clear way of defining this alteration. Further, the alteration may change the performance of the vehicle restraint system. The agency notes again that the

vehicle manufacturer has the option of using data from certification testing which deviates from NHTSA's compliance test procedure in the way Morton suggests. However, in this case, the manufacturer may want to have a larger margin of compliance to compensate for the greater deviation from the test procedures.

3. Potential Residual Test-Buck Damage Resulting From ''Pulse Tuning''

In determining whether the sled pulse will stay within the specified pulse corridor, laboratories have been conducting pre-test sled runs. These ''dry runs'' may potentially result in residual damage, such as roof deformation, that would affect test repeatability. Morton requested permission to remove all non-structural underbody components, the rear-end suspension assembly, and the engine, and then add an L-shaped mounting surface and secure the structural stability of the frame, including the roof line.

The agency does not intend to conduct pre-runs or preliminary sled tests during compliance tests. The agency is concerned with the repeatability of the results of a test using a vehicle that has already been exposed to the effects of a pre-run or preliminary sled test. Therefore, NHTSA will not base any enforcement action on the failure of a vehicle to meet the sled test requirements unless that vehicle failed its initial test.

As to the request by Morton to permit vehicle modifications to ensure repeatability in multiple tests, a change in the test procedure is not necessary to enable Morton to make those changes. While Morton can deviate from the specified test procedure, vehicle modifications such as the removal of structural components may lead to test setup confusion and test variability. Since the agency does not plan to make such modifications, it does not need to amend the standard to permit the agency to make them.

4. Where to Measure for Neck Injury Criteria

Paragraph S13.2 of the final rule specifies the neck moments be ''measured with the six axis load cell.'' Morton and Honda pointed out that the final rule's neck measurement procedure and the procedure under S572.33 (the neck section in Part 572, *Anthropomorphic Test Devices,* or test dummies) may appear to differ. In 572.33, the neck moments are defined at the occipital condyle (Moment=My $-$ 0.058 $\times$ Fe). (The occipital condyle is located on the skull where it meets the first vertebra, instead of higher up where the load cell is located.) Morton and Honda believe the proper procedure should have been the one specified in S572.33.

Honda and Morton are correct. Although the measurement is indeed made with the load cell, the value ultimately calculated is the moment at the occipital condyle, instead of the moment at the load cell. The NPRM, and the source document referenced in the NPRM (AGARD Conference Proceedings of NATO, July 1996, titled ''Anthropomorphic Dummies for Crash and Escape Systems'') base the criteria for the flexion bending moment and the extension bending moment on the values measured by the load cell as corrected to represent the moment at the dummy's occipital condyle. However, there was no mention of this correction in the final rule. Biomechanical references [1] deal with the measurement at the occipital condyle, not at the transducer, as the appropriate location when referring to neck-head movement on a dummy. Additionally, the location of the transducer may shift, depending on the dummy design, and may be difficult to define. An additional indication of the agency's intention was the subsequent May 20, 1997 Interim Final Rule (62 FR 27511), which upgraded the neck instrumentation on the Hybrid III dummy. It specified the conversion calculation in S572.31(a)(3) for adjusting the neck moment from the point of measurement within the transducer to the occipital condyle. Therefore, there is ample evidence that the neck moment injury criteria value was intended to be the value at the occipital condyle, not at the transducer. The rule is being amended to specify this explicitly.

5. Definition of Time Zero

Honda and MIRA stated that the final rule was unclear regarding the definition of the Time-Zero (T–0, or start) for the actual sled test. They asked whether Time-Zero in Figure 6 of the final rule sled pulse represents (a) the instant when the sled system in activated, or (b) the instant when the sled reaches 0.5 g's. They believe there are problems in either case. If T–0 is the time when the sled is activated, some sleds will have extreme difficulty fitting in the corridor. If T–0 is the point at which the sled reaches 0.5 g's, initial noise in the acceleration curve as the sled begins moving makes measurement difficult. (This point was raised above, in issue 1). Some laboratories reportedly use 1.0 g's as a timing point, with adjustments back to the approximate 0.5 g point.

For the purposes of discussion, four start times could conceivably be used: (1) $T–0_{Activation}$, the moment the sled electronics are activated, (2) $T–0_{Movement}$, when the sled begins moving, which also represents the start of the test calculating a Delta V value, (3) $T–0_{Test}$, which represents the start of the test for fitting the pulse corridor to the acceleration curve, and (4) $T–0_{Air\text{-}bag}$, start of timing for the air bag deployment count-down.

The time when the sled system is activated, $T–0_{Activation}$, is not relevant to the performance criteria of the sled pulse. When the system is activated, there is a lag time until the system actually starts moving. This response lag is due to the fact that the electrical and mechanical systems of the sled do not react instantaneously.

Figure 6 of the March 19 final rule indicates that the test begins when the sled actually starts to move, at 0.0 g acceleration, but that too is impractical. In its June 10 presentation, Honda provided initial sled pulse traces for both the VRTC 24-inch piston and a 12-inch piston. These traces indicated that the 24-inch cylinder sled took 18.1 milliseconds to achieve 0.5 g's, yet the corridor ends at the 0.5 g's level at 6.5625 ms. Therefore, even the faster acceleration of the 24-inch sled would be outside the corridor, if $T–0_{Test}$ started at 0.0 g acceleration, when the sled starts to move. It appears that even after the sled begins moving (although it moves only the width of a pencil line), the time lag before it begins significant acceleration is so great that no existing sled can produce an acceleration curve that stays within the corridor. This time lag has no counterpart in rigid barrier vehicle crash tests because the deceleration is instantaneous when the vehicle hits the barrier. The figure in the final rule portrayed unrealistically rapid increases in acceleration from the start of movement.

The intent of the sled pulse corridor is to ensure a specific change of acceleration (g) with respect to time. The important portion of the curve for determining fit within the corridor is not the small acceleration that occurs while the sled systems fully charge, but the rapid acceleration that occurs afterward. The final rule assumed that manufacturers would be able to produce

[1] ''To assess the fore-and-aft bending biofidelity of the neck * * *. The resulting moment about the occipital condylar axis versus the head to pendulum angle must lie within the prescribed corridor.'' Advisory Group for Aerospace Research and Development (AGARD) Advisory Report 330, Anthropomorphic Dummies for Crash and Escape System Testing, AGARD–AR–330, North Atlantic Treaty Organization.

sled test acceleration curves within the corridor.

To carry out this intent, it makes sense to shift the corridor with respect to time to align it with the true sled pulse, rather than having the sled pulse aligned with the corridor. As long as the shape of the corridor is not changed, the crash pulse will be no different from the standpoint of designing safe air bags. It will just be easier to run the test, without affecting the outcome. To accomplish the process of fitting the corridor to the sled pulse, $T–0_{Test}$ should be determined by a specific acceleration level for the sled which corresponds to a time at which the most rapid acceleration begins, at about 0.5 g's. Computationally shifting the corridor to align with the curve is far easier than trying to mechanically get the sled pulse curve to begin rapid acceleration within the corridor. Starting at 0.5 g will also eliminate much of the problem mentioned above in issue 1 concerning noise during the earliest part of the test acceleration.

Therefore, S13.1 and Figure 6 are being amended to reflect that the sled test start time for purposes of meeting the requirement of being in the corridor, $T–0_{Test}$, is when the sled achieves 0.5 g's. Many test laboratories use $T–0_{Test}$ equal to a specific acceleration (g) level, often 0.5 g's. The vehicle will still have to achieve the specified range of acceleration during the test. Similarly, the time at which the air bag fires is only relevant if it relates to when the sled starts accelerating at a significant rate, such as 0.5 g's. Therefore, the air bag deployment timing should also be timed from the time at which the sled reaches 0.5 g acceleration. $T–0_{Test}$ and $T-0_{Air\text{-}bag}$ coincide.

6. Delta V Requirement

Honda asks whether the agency had intended to require the sled to achieve a velocity of 28 to 30 miles per hour, or just to stay in the corridor. In other words, it asks whether the final velocity specified in S13.1 and Figure 6 of the final rule is a guideline or a requirement. If the final velocity is a requirement, then Honda believes it is very difficult to consistently stay in the corridor. It also asks whether the velocity may be calculated by integrating the acceleration data or must the actual velocities be measured with a speed device.

The agency clearly intended the specifications for the final velocity to be included in the standard as a requirement during agency compliance testing. The change in velocity is specified in S13.1 and in Figure 6 of the final rule as Delta V=30 (+0, −2) miles per hour, or between 28 and 30 mph. As discussed in the preceding section, the agency has made a correction that allows the pulse corridor to be moved to fit the sled pulse. This should assist the test laboratories in keeping within this sled pulse corridor.

The agency has not specified a method of determining the Delta V. TRC measures the velocity directly. However, laboratories without the capability to directly measure velocity may mathematically calculate the change in velocity by integrating the entire sled pulse starting from zero acceleration ($T–0_{Movement}$). As in the March 19th final rule, the agency does not recommend a specific procedure.

The agency notes that, even though the regulation is a specification of the parameters to be used in agency compliance tests, there is nothing to preclude vehicle manufacturers from actually exceeding the change in velocity specified in the standard. The agency would consider a test at a higher-than-required Delta V to be an acceptable basis for certification.

7. Signal Problems, Filtering

Honda reports that it is hard for some laboratories to determine the exact 0.5 g level, because of test startup noise. Probably the most significant problem is that the air bag initiation time is determined by adding 20 milliseconds (+/−2 ms) after the sled achieves 0.5 g acceleration. If the instrumentation is incapable of discerning the point at which 0.5 g acceleration is reached, the air bag activation time may be incorrect. Honda pointed out that much of the noise in the instrumentation occurs only at the beginning of the test, and that the problem immediately clears up. Honda reports that some laboratories are timing the air bag activation from 1.0 g, by applying a mathematical time conversion factor to account for the time back to the approximate 0.5 g point, based on experience with the equipment.

NHTSA will follow the Standard No. 208 test requirements during compliance testing. However, manufacturers may use any method during testing that gives them confidence enough to assure that the vehicle will comply when tested by the agency. No clarification of the rule is necessary.

8. Loading Requirements and Test Attitude

Honda asks whether the loaded requirement should be applied to the actual sled test, or to be used just prior to the test to determine the vehicle attitude.

The load requirement specified in S8.1 of FMVSS 208, as it applies to the sled test, is only specified for pre-test loading, to determine the vehicle attitude. The vehicle attitude is then used for defining the sled-mounting attitude. As discussed in Issues 1 and 2, the sled configuration may be slightly modified by removing fluids, battery, and unsecured weight, and securing loose parts, but these modifications will not affect the test attitude.

III. Effective Date

The agency finds that there is good cause to make this rule effective immediately. These amendments do not impose any new requirements. Instead, they relieve some of the testing burden imposed on the manufacturers by the March 19, 1997 final rule. It will be easier for manufacturers to test by aligning the corridor with the sled pulse, as specified in these amendments. Also, the smooth sled pulse that will result from rigidly securing the engine, transmissions, axles, exhaust, vehicle frame, and vehicle body and removing the fluids, batteries and unsecured components will make testing easier. A delayed effective date would impose a needless compliance burden on the vehicle manufacturing industry and would provide no safety benefits.

IV. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this correcting amendment under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed by the Office of Management and Budget (OMB) under E.O. 12866, ''Regulatory Planning and Review.'' This document amends an action that was determined to be ''significant'' under the Department of Transportation's regulatory policies and procedures because of the degree of public interest in this subject. However, today's rule simply clarifies the existing requirements and makes the test procedures easier to perform. This correcting amendment does not alter the costs or benefits of that rule significantly. It merely clarifies the intended application of the rule and provides guidance regarding test procedures. Therefore, a regulatory analysis is not warranted.

Regulatory Flexibility Act

NHTSA has considered the effects of this rulemaking action under the

Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. As explained above, this rule will not have an economic impact on any manufacturer or other entity, except for a small beneficial impact in promoting ease of testing.

This correcting amendment slightly increases manufacturer flexibility in testing. Most of the changes are interpretations and clarifications of the existing language, not changes in requirements that impose new burdens. The changes in requirements are designed to make vehicles with air bags easier for manufacturers to test their vehicles, not to change the vehicle performance. As a result, some businesses that otherwise would have had to buy sophisticated testing equipment will not need to do so. Therefore, there will be no new significant impact on small businesses.

Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), there are no requirements for information collection associated with this final rule.

The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. This rule does not meet the definition of a Federal mandate, because it adds no additional cost to the completely permissive final rule which it is clarifying.

Civil Justice Reform

This final rule has no retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 595

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, NHTSA amends 49 CFR part 571 as follows:

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

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30122 and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.208 is amended by replacing the 8th sentence of § 13.1 with the four sentences shown below, by revising § 13.2, and by adding § 13.5 to read as follows:

* * * * *

§ 571.208 Occupant Crash Protection.

* * * * *

§ 13.1. *Instrumentation Impact Test—Part 1—Electronic Instrumentation.* * * * The total change in velocity (Delta V) shall be determined from the integration of the entire acceleration versus time curve from the sled. The Delta V shall include the period of time in which the sled is accelerating to 0.5 g. All points on the acceleration versus time curve at and beyond 0.5 g must be contained within or on the corridor defined in Figure 6. The agency may shift the curve with respect to time in order to fit the curve within the corridor. * * *

§ 13.2 *Neck injury criteria.* A vehicle certified to this alternative test requirement shall, in addition to meeting the criteria specified in § 13.1, meet the following injury criteria for the neck, measured with the six axis load cell (ref. Denton drawing C–1709) that is mounted between the bottom of the skull and the top of the neck as shown in Drawing 78051–218, in the unbelted sled test:

(a) Flexion Bending Moment (calculated at the occipital condyle)—190 Nm. SAE Class 600.

(b) Extension Bending Moment (calculated at the occipital condyle)—57 Nm. SAE Class 600.

* * * * *

§ 13.5. *Vehicle Securing.* The engine, transmissions, axles, exhaust, vehicle frame, and vehicle body may be rigidly secured to the vehicle and/or the sled, and fluids, batteries and unsecured components may be removed, in order to assure that all points on the crash pulse curve are within the corridor defined in Figure 6.

* * * * *

3. Figure 6 is revised to appear as follows:

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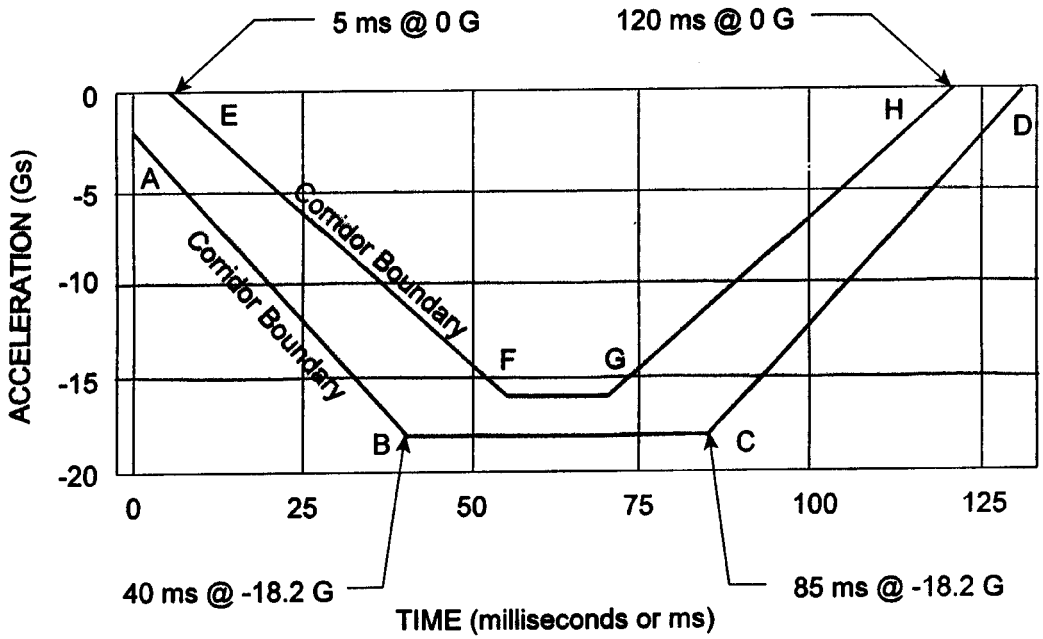
SLED PULSE WITH MAXIMUM AND MINIMUM CORRIDORS



Sled pulse for delta V = 30(+0,-2) mph. The Time Zero for the test is defined by the point when the sled acceleration achieves -0.5 G's.

SLED PULSE AND COORDINATES

REFERENCE POINT	t (ms)	ACCELERATION (G)
A	0	-2
B	40	-18.2
C	85	-18.2
D	130	0
E	5	0
F	55	-16
G	70	-16
H	120	0.00

Figure 6 - Sled Pulse and Coordinates

Issued on: December 18, 1998.

Ricardo Martinez,

Administrator.

[FR Doc. 98–34249 Filed 12–24–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1146 and 1147

[STB Ex Parte No. 628]

Expedited Relief for Service Inadequacies

AGENCY: Surface Transportation Board.

ACTION: Final rules.

SUMMARY: The Surface Transportation Board (Board) is issuing final rules establishing procedures for obtaining temporary alternative rail service when there has been a substantial measurable deterioration or other demonstrated inadequacy in rail service provided by the incumbent carrier.

DATES: These rules are effective January 27, 1999.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: In April 1998, the Board conducted hearings, at the request of Congress, to examine issues of rail access and competition in today's railroad industry. A recurring complaint voiced by rail shippers at those hearings was the delay and ineffectiveness of existing procedures for obtaining relief from localized service failures, and the railroads agreed that we should reexamine how such service failures can best be addressed.[1] Accordingly, in a notice of proposed rulemaking in this proceeding served May 12, 1998, and published in the **Federal Register** on May 18, 1998 (63 FR 27253) (*May Notice*), we sought comments on a proposal to establish expedited procedures for shippers to obtain localized temporary alternative rail service from another carrier when the incumbent carrier cannot properly serve them.

Under the proposed procedures, parties could seek alternative rail service, under 49 U.S.C. 10705, 11102, or 11123, when, over an identified time period, there has been a substantial measurable deterioration in the rail service provided by an incumbent carrier. We did not list particular factors to be used in making that assessment, or propose a specific test period, but rather sought to retain the flexibility needed to address widely varying circumstances. We explained, however, that these procedures were not meant to redress minor service disruptions, but rather would be directed only at substantial service problems that cannot readily be resolved by the incumbent railroad. Petitioners would be required to first discuss and assess with the incumbent carrier whether adequate service would be restored within a reasonable time (and, if not, to explain why not); to obtain from another railroad the necessary commitment'should it be afforded access—to meet the service needs; and to describe how the new service could be provided safely, without degrading service to its existing customers and without unreasonably interfering with the incumbent's overall ability to provide service. Where relief is granted and the incumbent carrier can later demonstrate that it has restored, or is prepared to restore, adequate service, it could petition to terminate that relief.

In a supplemental notice of proposed rulemaking served October 15, 1998, and published in the **Federal Register** on October 20, 1998 (63 FR 55996) (*October Notice*), we sought comments on a request by the American Short Line and Regional Railroad Association (ASLRRA) for similar expedited procedures for Class II and Class III railroads to obtain temporary access to an additional carrier under similar circumstances.

We have received comments in response to both the *May Notice*[2] and the *October Notice*.[3] The comments express near-universal support for both proposals,[4] although the commenting parties differ somewhat on what the rules should provide and how they should be applied. After considering the comments,[5] we are clarifying and modifying the earlier proposals and are adopting the rules set forth below, to be codified at 49 CFR Parts 1146 and 1147.

Discussion and Conclusions

Overview

The procedures we are adopting here are designed to enable the Board to provide temporary relief from serious, localized railroad service problems more quickly and effectively. They do not provide permanent remedies; to the contrary, they include specific procedures for terminating the relief as soon as the incumbent carrier is ready and able to serve the traffic again. Moreover, they are not intended to address demands for more competitive service. The ''competitive access'' regulations, at 49 CFR 1144, remain available for obtaining more permanent relief where the incumbent railroad has acted in a way ''that is contrary to the competition policies of 49 U.S.C. 10101[] or is otherwise anticompetitive,'' 49 CFR 1144.5(a)(1)(i).

Choice of Remedies

In the *May Notice* we proposed a single set of procedures under which parties could seek temporary alternative rail service under either the ''access'' provisions of sections 10705 or 11102 or the ''emergency service'' provisions of

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[1] *See Review of Rail Access and Competition Issues,* STB Ex Parte No. 575 (STB served Apr. 17, 1998) (*Review*), slip op. at 6–7.

[2] Comments were submitted by ACE Cogeneration Company (ACE); Alliance for Rail Competition; AmerenUE; ASLRRA; Arkansas, Louisiana & Mississippi Railroad Company (AL&M); Association of American Railroads (AAR); BHP Copper Inc. (BHP); California Public Utilities Commission (CPUC); Cemex USA Management, Inc. (Cemex); Chemical Lime Company (CLC); Chemical Manufacturers Association (CMA); Edison Electric Institute, Farmland Industries, Inc. and The Fertilizer Institute (Edison-Farmland-Fertilizer); Empire Electric District Company (Empire); Entergy Services, Inc. and Entergy Arkansas, Inc. (Entergy); International Paper Company (IPC); Lower Colorado River Authority and the City of Austin, TX (LCRA); National Grain and Feed Association (NGFA); National Industrial Traffic League (NITL); National Lime and Stone Company; National Mining Association (NMA); North Dakota Grain Dealers Association, North Dakota Public Service Commission, and North Dakota Wheat Commission (North Dakota); Ohio Rail Development Commission, Public Utilities Commission of Ohio, and Ohio Attorney General Antitrust Section; PP&L, Inc. (PP&L); Shell Oil Company and Shell Chemical Company (Shell); Society of Plastics Industry, Inc. (SPI); Swanson-Superior Forest Products, Inc.; United States Department of Agriculture; United States Department of Transportation (DOT); United Transportation Union (UTU); U.S. Clay Producers Traffic Associations, Inc. (US Clay); Joseph C. Szabo, for and on behalf of United Transportation Union-Illinois Legislative Board (UTU–IL); and Western Coal Traffic League (WCTL).

Replies were filed by AL&M; AAR; BHP; CPUC; Empire; Entergy; IPC; LCRA; NITL, CMA, Edison-Farmland-Fertilizer, NMA, SPI, US Clay, AmerenUE, and PP&L (NITL et al.); Shell; and WCTL.

[3] Supplemental comments were filed by AL&M; CPUC; Cemex; Edison-Fertilizer; Empire; Farmrail System, Inc. (Farmrail); NGFA; NITL; Reagent Chemical & Research, Inc.; UTU; UTU–IL; WCTL; and Western Railroad Company, Inc.

Supplemental replies were filed by AAR; ASLRRA; Edison-Fertilizer; Farmrail; and DOT.

[4] UTU–IL is the only commenter opposing the proposals. It argues that new procedures are unnecessary. Its assertion, however, is belied by the overwhelming consensus, expressed in the comments of the shipper and railroad communities alike, that such procedures would be useful and would assist parties in overcoming temporary service problems.

We also note that the national UTU, while voicing ''serious concerns'' about issues that could arise in individual cases regarding safety and adverse effects on rail employees, does not oppose the proposals.

[5] Individual suggestions or arguments not specifically referenced here are embraced by our general discussion in this decision setting forth the positions of various groups and our response thereto.

section 11123. Under section 10705(a), the Board has broad authority to prescribe alternative through routes when we ''consider[] it desirable in the public interest.'' Similarly, under section 11102, we have broad authority to order the use of another carrier's terminal facilities (in subsection (a)) or to order switching arrangements (in subsection (c)) when we find such arrangements ''to be practicable and in the public interest.''[6] Finally, we have very broad authority under section 11123 to direct the handling of traffic and the use of rail facilities for a limited time (not more than 270 days) when there is an ''emergency situation'' causing ''substantial adverse effects on shippers,'' or ''on rail service in a region'' of the country, or when a rail carrier ''cannot transport the traffic offered to it in a manner that properly serves the public.''[7] We explained that providing a choice of relief would afford flexibility in addressing individual circumstances.[8]

AAR argues that temporary relief for service problems may only be afforded under section 11123, and not under sections 10705 or 11102. AAR reasons that, because section 11123 addresses emergency situations requiring expedited action and embraces the types of service relief that would be available under sections 10705 or 11102, we cannot circumvent the limitations imposed under section 11123—the 30-day reappraisal requirement and the 270-day total time limit[9]—by providing the same relief under sections 10705 or 11102.

We agree with AAR, but only in part. We conclude that it would not be appropriate to provide emergency service relief under sections 10705 or 11102 based on an accelerated or summary process, as section 11123 is specifically tailored for that purpose. Indeed, section 11123 permits us to act immediately, without observing normal due process procedures, 49 U.S.C. 11123(b)(1), but our actions under those circumstances must therefore be short-term (not to exceed 270 days). Under the rules that we had proposed, and those that we have decided to adopt in Part 1146 for requests brought under section 11123, significant process will in fact be provided,[10] but under very short time frames given the urgency of the situations for which they are designed. It is therefore appropriate that the relief granted be limited to a specific duration, as it will be based upon the limited record that can be developed under such a tight schedule.

However, contrary to AAR's position, the statute does not preclude us from prescribing alternative service under sections 10705 and 11102 to alleviate service problems on a fuller, less hastily developed record. Inherent in the power to provide permanent relief under those sections is the authority to provide the lesser included remedy of temporary alternative service. Accordingly, we have decided to adopt separate rules, in Part 1147, under which requests for temporary alternative service under sections 10705 and 11102 based on service problems will be entertained under less pressing time frames, and under which the authority granted will be temporary but not limited to a specific duration.

Upon the adoption of these new rules, we will have three different sets of rules under which parties may seek alternative rail service. Each set of rules will serve a different purpose. The Part 1146 rules will apply to requests for expedited, short-term emergency relief under section 11123.[11] The Part 1147 rules will apply to requests for temporary alternative service under sections 10705 or 11102, on a more fully developed record, to address serious (but not necessarily emergency) service problems. The Part 1144 rules will remain available for requests for more permanent alternative service under sections 10705 or 11102 to address competitive abuses.

These various procedures are not mutually exclusive; parties may seek relief under more than one set of rules. For example, parties may need temporary access under Part 1147 to address serious ongoing service problems while they prepare a case for more permanent alternative arrangements under Part 1144 to address a more basic underlying competitive problem. Or, in emergency situations, parties may need immediate, short-term relief under Part 1146, while they pursue longer-term relief through the necessarily slower proceedings under Part 1147 and/or Part 1144. In short, to obtain both immediate and complete relief, multiple proceedings may be needed, requiring a separate record to be developed in each proceeding. This is necessary, however, so that the speed of the process, and extent of the showing required, can be appropriately tailored to the nature and extent of the relief sought. Moreover, we believe that the resulting selection of procedures—Part 1146 for expedited, short-term emergency relief; Part 1147 for temporary, service-based access; and Part 1144 for permanent, competition-based access—will be both fair to the interests of the affected railroads and responsive to the transportation needs of the shippers involved.

Nature and Extent of Service Problems

The comments reflect differing views on the nature and extent of service problems to be addressed by these rules. AAR, supported by UTU, argues for a somewhat more restrictive approach than we had envisioned, while various shippers advocate a broader approach than we believe is appropriate. We emphasize that the temporary service relief to be offered under these rules is meant only to address serious service problems and only to the extent necessary to meet a demonstrated need for rail service; it is to be used for restorative or alleviative purposes only, and not as a punitive or preventive measure.

Thus, we reject AAR's attempt to exclude from the reach of these rules those service problems for which the incumbent railroad is not at fault.[12]

[6] We may also order switching arrangements upon a finding that they are ''necessary to provide competitive service.'' 49 U.S.C. 11102(c). However, as noted above, the rules adopted here are not designed to address such needs. A party seeking relief based on a desire for more competitive service must proceed under the ''competitive access'' rules at 49 CFR 1144.5(a). *See Intramodal Rail Competition*, 1 I.C.C. 2d 822 (1985), *aff'd sub nom. Baltimore Gas & Elec. Co.* v. *United States*, 817 F.2d 108 (D.C. Cir. 1987) (adopting the competitive access rules); *Midtec Paper Corp.* v. *Chicago & N.W. Transp. Co.*, 3 I.C.C.2d 171 (1986), *aff'd sub nom. Midtec Paper Corp.* v. *United States*, 857 F.2d 1487 (D.C. Cir. 1988).

[7] As we explained in the *May Notice*, although section 11123 typically has been used to respond to regional service emergencies, it is not limited to regional emergencies, but by its terms is also available to address more localized situations.

[8] We noted that the relief available under sections 10705 and 11102 is limited in nature (for example, trackage rights can only be granted to terminal facilities), whereas the emergency relief available under section 11123 is limited in duration (restricted to a maximum 270-day period) but not in nature.

[9] 49 U.S.C. 11123(c)(1).

[10] The incumbent railroad will be served with a copy of the petition for relief and afforded an opportunity to reply. Moreover, while the time for filing a reply is short, the incumbent will receive additional actual notice, because the petitioner is required to discuss the service problems with the incumbent carrier prior to filing the petition for relief. In addition, we will issue a written decision addressing the record and containing our findings.

[11] Our adoption of the Part 1146 rules for handling requests for localized immediate service relief is not intended to preclude us from handling broader, regional service emergencies, as we have in the past, under ad hoc, case-by-case procedures, as in *Joint Pet. for Service Order*, STB Service Order No. 1518 (Oct. 31, 1997), modified and extended (Dec. 4, 1997), further modified and extended (Feb. 17 and 25, 1998), terminated with wind-down period (July 31, 1998) (*UP/SP Service Order*).

[12] AAR seeks to carve out service reductions caused by a change in demand for rail service or by other shifts in market conditions. AAR offers the following examples of what it considers to be major market shifts: the Russian grain purchases of the

Continued

After all, the potentially ruinous impacts on affected shippers and connecting carriers of not having adequate rail transportation generally do not depend upon the root cause of the carrier's service problems. Moreover, because this temporary relief is not a punishment against the incumbent railroad—the relief is terminable as soon as that carrier is ready and able to provide adequate service itself—we need not assign fault for service problems in order to provide relief from them.

Similarly, these rules are designed only to address serious ongoing service disruptions. They are not intended to anticipate problems that have not yet occurred (and might not occur), as mentioned by AL&M. Nor are they meant for situations where service is adequate, but simply not up to the level that a particular shipper or connecting carrier might desire. In other words, while transportation needs are crucial, individual service desires are not necessarily the proper determinant of the adequacy or inadequacy of rail service, as some shippers have suggested.

Many comments addressed the level of service problems that would warrant relief under these rules. AAR argues that relief should be restricted to instances of ''severe'' service deterioration [13] occurring over a meaningful time period [14] as measured against an appropriate comparison period.[15] Various other parties advocate a looser standard based upon the particular needs and viewpoint of the shippers involved. Still others would have us set out in advance more definitive service standards, presumptions or benchmarks that would entitle petitioners to relief.

We do not believe that it is possible or appropriate to attempt to delineate or define in the abstract what constitutes adequate service for all traffic under all circumstances at all times. Rather, we remain convinced that such issues are best addressed on a case-by-case basis, under flexible general rules, because transportation needs and service difficulties can vary substantially. Moreover, we believe that the ''substantial measurable deterioration'' language we had proposed appropriately describes serious, objectively determinable service declines for which relief should be available under these rules.

However, we are persuaded by the comments that there may be an equally compelling need for relief in instances where there has been no deterioration from prior service levels because service has been continuously inadequate or because there are new rail transportation needs (by newly located shippers or existing shippers with changed transportation needs) for which adequate service is not being provided. To address such situations, we are also providing for relief from ''other demonstrated inadequacy in rail service provided by the incumbent carrier.'' [16]

Available Traffic

AAR argues that we lack authority to provide any relief for transportation that has been exempted from our regulation pursuant to 49 U.S.C. 10502 or that is the subject of a rail transportation contract under 49 U.S.C. 10709.

AAR is clearly wrong with respect to exempt traffic. We retain full jurisdiction to deal with exempted transportation, as we can revoke the exemption at any time, in whole or in part, under section 10502(d). *G&T Terminal Packaging Co.* v. *Consolidated Rail Corp.*, 830 F.2d 1230, 1235 (3rd Cir. 1987), *cert. denied*, 485 U.S. 988 (1988). We will do so to the extent required to provide relief shown to be justified under these rules.

As for transportation that is provided under a rail transportation contract, AAR is correct that we cannot enforce, interpret, or disturb the contracts themselves, nor can we directly regulate transportation that is provided under such a contract. 49 U.S.C. 10709(b), (c). However, where no transportation is being provided, we do not believe that the mere existence of a contract precludes us from providing for temporary emergency service, upon a proper showing, so that traffic can move while any contract-related issues are being litigated in the courts. Moreover, there may be other instances where it is possible and appropriate to exercise our broad regulatory authority to ensure that traffic can move, as in the recent *UP/SP Service Order*. Thus, we are not inclined to disavow in advance any possible exercise of jurisdiction. Such jurisdictional issues are best left to a case-by-case examination and, again, our assertion of jurisdiction in any specific case will be subject to judicial review.

Discussions With the Incumbent Carrier

AAR supports the requirement that prospective petitioners discuss service problems in advance with the incumbent railroad, and that their petitions address the reasons why the incumbent carrier is unlikely to restore adequate rail service in a reasonable period of time. AAR suggests adding a further requirement that the petitioner act responsibly, cooperate reasonably with the incumbent railroad to allow provision of adequate service, and not be allowed to reject reasonable alternatives proposed by the incumbent carrier to solve the service problems.

Some commentors take a different view. WCTL objects to imposing an additional burdens on petitioners. AL&M submits that the advance discussions with the incumbent should

1970s; shifts in traffic due to coal type changes resulting from the Clean Air Act; and the primary market for Pacific Northwest lumber changing from Asia to the Eastern United States.

AAR also argues that car supply issues—such as car acquisition, allocation, and maintenance—should not addressed in these rules, as they can be addressed under 49 U.S.C. 11121 (under which we may, after a hearing, require a railroad to furnish safe and adequate car service if we make certain findings). We do not believe that section 11121 precludes us from taking other, temporary measures to enable traffic to move by other means while a carrier confronts its own car supply problems. Indeed, section 11123 expressly includes a ''shortage of equipment'' among the urgent situations to be addressed under that section.

[13] AAR advocates using the adjective ''severe'' so as to limit relief to instances of a major service decline and to prevent the rules from being used as a subterfuge for universal ''open access.'' It further suggests that this is necessary to avoid chilling railroads from taking initiatives to improve service, out of fear that any improvement in service that cannot be sustained will serve as a new benchmark for a later determination that service has since deteriorated. We plan to administer these rules in such a manner that these fears should not be realized, and our application of these rules in individual cases is, of course, subject to judicial review.

[14] AAR argues that this time period should be 90 days, to distinguish a sustained decline in service quality from the ordinary variability of rail service. AAR concedes, however, that a shorter test period could be appropriate where there have been ''extreme and undisputed service breakdowns,'' as in bankruptcies.

ASLRRA suggests a 30-day time period, arguing that for a small railroad such a period is ''extremely damaging and intolerable . . . [and] long enough to rule out temporary, minor or fleeting service problems.'' Various shippers urge even shorter time periods.

BHP and IPC argue against a specific test period, and for maintaining the flexibility to address varying situations. We agree that it is not necessary or appropriate at this time to prescribe a minimum period. We note, however, that petitioners have the burden of demonstrating the inadequacy of the existing service, and, presumably, the longer problems continue, the easier it should be for petitioners to document those problems and to demonstrate the gravity of the situation.

[15] AAR suggests that the base period for comparison should consist of several equivalent time intervals over a span of prior years, in order to guard against a ratcheted approach where every temporary improvement in service that results from seasonality and traffic ups and downs could establish a new baseline standard. Such concerns, however, can and should be addressed on a case-by-case basis. Both petitioners and the incumbent carriers should submit any relevant evidence of instructive base periods in making their respective presentations.

[16] This change is consistent not only with sections 10705 and 11102, but also section 11123(a), which refers to transportation ''that properly serves the public,'' and with the railroads' overarching common carrier obligation, embodied in 49 U.S.C. 11101(a), to provide service upon reasonable request.

be simply for the purpose of establishing facts about the service problem, such as its causes, magnitude, and the forecast for service restoration; in an expedited process, they argue, parties should not have to engage in deeper discussions. Shell expresses concern that requiring projections of when service will be restored may lead the incumbent railroad to project dates that it knows it cannot meet in order to forestall the introduction of an alternative service provider.

We see no need to reduce, expand, or otherwise place conditions on the requirement that was proposed. Advance discussions between the parties are indispensable. They may help solve or ameliorate the service problems; narrow the issues in dispute; or, at a minimum, enable a more complete and informative record to be developed upon which we can assess the situation and the proposal for relief. Thus, it is in all parties' interests to engage in full, good faith discussions.[17] Any allegations that either party is acting unreasonably or in bad faith can and will be considered on a case-by-case basis.

Arrangements With an Alternative Carrier

Several commentors express concern about the requirement that a petition include a commitment from another carrier to provide the alternative service. CMA suggests that a potential alternative carrier may be unwilling to participate because taking on new business for a short period of time may be unattractive financially. Or a carrier may be hesitant to serve for fear of retaliation by the incumbent carrier, particularly if the alternative carrier is a small railroad. CMA and CPUC suggest that an unwilling carrier be required to explain its objections and, unless they are reasonable, we should order it to provide service. Because the cooperation of the alternative carrier is essential, we must reject this suggestion. As we explained in the *May Notice*, at 6, even temporary access is a serious remedy, given the potentially significant operational, safety, and financial implications for the carriers involved. Forcing a second carrier to provide service unwillingly could create safety concerns, impair service to its customers, or hurt its finances.

BHP and IPC seek clarification that a shipper can seek alternative service from any entity that is ready, willing, and able to provide service, including third-party rail switchers or other entities that may not be certificated carriers.[18] AAR objects, arguing that a carrier is not in a position to help if it does not own its own infrastructure. We do not foreclose the possibility that third-party rail switchers and others can provide genuine service relief in certain circumstances, and we will allow any competent carrier to serve, provided it can do so safely. However, inasmuch as an entity authorized under these provisions will be required to interface directly and fully with other rail carriers as common carriers by rail, the entity authorized to provide alternative service should be a carrier certificated by the Board. That is not to say, as noted, that noncarrier entities would be foreclosed from participation, only that such entities would be required to use our 7-day notice procedures (at 49 CFR 1150.31) to obtain the requisite operating authority. In these circumstances, and in order to expedite the process and minimize burdens on temporary operators, filing fees for such authority will be waived.

AAR seeks clarification that the alternative carrier must be able to provide better service than the incumbent carrier is currently providing. We consider that to be implicit in the reason for providing relief under these rules, and we will deal with this matter on a case-by-case basis. We will authorize relief where the combination of the alternative carrier and the incumbent carrier will provide better service than the incumbent carrier is providing by itself. In this regard, we note that providing authority to an alternative carrier does not supplant the service furnished by the existing carrier, but rather supplements it.

AAR further suggests that these rules should apply only to exclusively-served petitioners, and not to those that already have access to an alternative carrier. We agree that as a general rule no relief is necessary for petitioners that can already access another carrier capable of handling the service needs. If neither of the incumbent carriers is providing adequate service, however, relief under these rules is not foreclosed.

Safe Implementation

Petitions for relief under these rules must show how the alternative carrier would provide the service safely and without degrading service to its existing customers or unreasonably interfering with the incumbent's overall ability to provide service. Several of the comments specifically addressed this requirement.

AAR voiced a concern that alternative service remedies could be counterproductive, because the incumbent carrier's crews would have to train the crews of the alternative carrier, or the incumbent carrier's crews might have to be diverted from other service in order to run the trains of the alternative carrier. UTU expressed concern that, particularly where the incumbent's lines are already congested, the inexperience of employees of the alternative carrier on the incumbent's trackage could lead to greater delays or accidents. UTU asks that new crews be given significant training whenever an alternative carrier enters another carrier's lines. BHP and IPC agree that having the crews of the incumbent carrier train the new crews or run the alternative carrier's trains may may be necessary for safety reasons, but they argue that we should not deny a request for alternative service relief on that basis. And of course, as NITL notes, there should be little effect on an incumbent carrier's operations and safety when only reciprocal switching or through route/joint rate remedies are sought.

NITL argues that, to avoid delay, it should be the responsibility of the incumbent carrier, not the petitioner, to identify and address likely safety issues, as it would be more difficult for a shipper to anticipate and address operational issues. While the incumbent carrier will undoubtedly wish to address any such issues, the alternative carrier is expected to anticipate and address them as well. Therefore, we believe that it is appropriate to have the petition describe the alternative carrier's operational plans and discuss how the proposed operations can be conducted safely.[19] Moreover, the carriers involved need to discuss with each other how they can work together to make the alternative service work smoothly, and any problems or disputes should be raised and dealt with as early in the process as possible.

Given the importance of safety issues, DOT asks that a copy of petitions be served on the Federal Railroad

[17] We agree with AAR that, as part of the pre-petition communications, the parties should not withhold, but rather should make fully available to each other, any documentation of the service history.

[18] BHP and IPC assert that third-party rail switchers are fully capable of operating on rail lines and moving cars in and out of a shipper's plant and, in emergencies, can safely operate over an incumbent railroad's track for short distances to interchange points.

[19] The simple one-page commitment suggested by US Clay (consisting merely of a pledge to adequately and safely serve the traffic) would not be sufficient. Advance planning will be necessary to assure safe integration of the operations of the alternative carrier and the incumbent carrier. We believe it is appropriate for us to require the respective carriers to demonstrate that they have undertaken the requisite planning.

Administration (FRA) and that the parties be required to cooperate with FRA to ensure that safety is not compromised. We agree and are adding a requirement for service on FRA,[20] and we expect parties to cooperate fully with FRA.

Finally, AAR argues that we should impose the least intrusive remedy that will address the particular service problem presented.[21] Cemex, on the other hand, asks that we provide the best, most expeditious, available relief. We believe it is best to maintain the flexibility to weigh issues of intrusiveness, feasibility, effectiveness, and speed of relief on a case-by-case basis. However, it is worth repeating at this juncture that the remedy provided is designed to most effectively address identified service problems, not to punish the incumbent carrier.

Compensation, Rates and Divisions

NITL argues that the Board, rather than the carriers, should set the amount of compensation to be paid to the incumbent carrier for the use of its property. However, that would be contrary to the statute, which authorizes the Board to set compensation only if the parties cannot agree on terms. 49 U.S.C. 11102(a), (c), 11123(b)(2).

Various parties address the need for the incumbent carrier to be fairly compensated if it is required to provide services and/or facilities to the alternative carrier. NITL et al. argue that any payment to the incumbent carrier should be limited to costs incurred by the incumbent, including a return on investment, and not include compensation for lost profits. They suggest that fair compensation can be developed from our railroad cost accounting system, known as URCS. We agree that the incumbent railroad is entitled to fair compensation for whatever services and facilities it provides, but not for lost profits for service it is not providing. Because the type of access to an incumbent carrier's facilities and the services the incumbent will be required to provide to an alternative carrier will vary widely, depending on the service inadequacy and the relief that is fashioned, we will not attempt to prescribe in the abstract a compensation formula applicable to all situations. Rather, where appropriate we will be guided by established precedent, taking into account the circumstances of the particular case.

BHP and IPC argue that affected shippers should not have to pay more for receiving the alternative service than would be paid for the incumbent carrier's service, and NITL argues that affected shippers should not have to pay more than the URCS variable costs for moving their traffic. We do not have the authority, however, to prescribe the rates that a carrier will charge to a shipper unless we first find that the carrier has market dominance over the traffic involved and that the rate selected by the carrier is unlawful. 49 U.S.C. 10701(c), (d), 10704(a)(1), 10709. Thus, the rates to be charged for the alternative service are a matter for discussion between the shipper and alternative carrier. We would note, however, that attempting to limit what the alternative railroad may charge to what the incumbent would have charged, even though the alternative carrier will incur different costs, could disserve the shippers' interests by discouraging carriers from offering to provide alternative service.

Finally, ACE asks that we set standards for determining the division between the carriers of any joint rates. We have such standards in place, at 49 CFR 1137, and see no need to revise them at this time. We note, however, that those regulations are meant to serve as a last resort only; carriers are encouraged to negotiate divisions among themselves.[22]

Case Procedures

We proposed very short time frames for the development of a record under Part 1146—with a reply by the incumbent railroad due in 5 business days, and any rebuttal by the petitioner due 3 business days later—to enable us to provide prompt relief for service emergencies. As noted above, we have decided to lengthen the time periods in Part 1147 applicable to petitions for temporary, service-based access under sections 10705 and 11102 of the statute—with a reply by the incumbent railroad due in 30 days, and any rebuttal by the petitioner due 15 days later.

With respect to the abbreviated time frames proposed for Part 1146, some commenters seek to lengthen the schedule,[23] while others would have us shorten it even more.[24] We do not believe that a shorter time frame is feasible, given the nature of the relief sought, the need for an adequately developed record regarding the factual predicate for such action, and the ability of the parties to implement the proposed arrangement safely and without harm to either railroad or their other shippers. By the same token, we are not persuaded that a longer time frame is necessary or appropriate given the emergency nature of the situations for which the Part 1146 rules are reserved. (We remind the commenters that parties will actually have additional notice of the controversy, because they are required to discuss the service problems prior to the filing of the petition.) To ensure that the limited time provided can be used effectively, however, we adopt the NITL suggestion that service of all pleadings be by hand or by overnight delivery.

Finally, several parties ask that we set a time for Board action on a petition for temporary alternative service.[25] Our goal is to issue a decision as soon as possible after the record closes, taking into account the degree of urgency involved in the particular request before us. We are not persuaded that this goal will be furthered by prescribing in advance an arbitrary deadline for Board action in all such cases.

Duration of Relief

The relief available under Part 1146 is, of course, subject to both the 30-day reappraisal requirement and the maximum 270-day time limit for actions taken under section 11123. Part 1146 contains a rebuttable presumption that an emergency for which relief is granted will extend beyond the initial 30-day period, unless otherwise indicated in the Board's initial order. AAR argues against such a presumption, on the ground that we cannot avoid the requirement in section 11123 for a reappraisal of the situation at the end of the first 30 days. Contrary to AAR's impression, the presumption was not intended to obviate the need for a

[20] UTU–IL asks that petitioners also be required to serve their petitions on employee organizations and to include unspecified employee information in the petition. However, UTU–IL—a local legislative body located in Illinois—would not be the entity to receive such petitions under its proposal, and no entity that would has joined in the request. We are reluctant to impose unnecessary burdens on the filing of these petitions. Moreover, we are confident that safety issues can and will be addressed fully without these additional requirements.

[21] AAR notes that a new through route can be less disruptive or costly than other remedies, and that in most cases reciprocal switching is less intrusive than trackage rights.

[22] *Official-Southwestern Divisions In the Matter of Joint Rates Between Official and Southwestern Territories*, Docket No. 29886 (Sub-No. 1) (ICC served Jan. 28, 1987).

[23] AAR suggests that the reply be due in 14 days, and petitioner's rebuttal 7 days thereafter. As NITL points out, that would serve to triple the originally proposed time frame. North Dakota suggests that petitioners have 5 business days for rebuttal.

[24] BHP and IPC would have us require the filing and service of pleadings (on a designated ''service officer'' for the incumbent railroad) by facsimile, with a reply due within 2 calendar days. To further speed the process, they suggest that we appoint an ombudsman of the Board to receive and quickly act on such petitions, with appeals available to the Board.

[25] The dates suggested ranged from 5 (Shell and CPUC) to 7 (CLC) to 15 (US Clay) days after rebuttal.

further Board order at the end of the 30-day period. Rather, it is designed to simplify and expedite the 30-day reexamination by avoiding a rehashing of the original inquiry into whether relief is appropriate and limiting the evidentiary presentations and our analysis to the issue of whether the emergency is over so that the relief is no longer needed. The presumption can be rebutted by the incumbent railroad. Moreover, the presumption will not apply in those cases where the Board in its original order finds that the emergency is unlikely to continue for more than 30 days.

Of course, under both Parts 1146 and 1147, the incumbent railroad will be free to petition to terminate the relief as soon as the emergency is over, regardless of when that occurs. The statement in the proposed rules that would have discouraged carriers from filing a petition to terminate relief less than 90 days after the relief is granted, absent special circumstances, would not have barred earlier termination petitions. Rather, we intended for it to serve as an admonition to carriers not to file such petitions too hastily or prematurely. Accordingly, we have changed the language to express that purpose more directly and clearly.

Some shippers seek a minimum period of relief to which the petitioner would be entitled.[26] While we appreciate their concern, we do not believe that establishing a minimum time would be appropriate, given the nature and (non-punitive, restorative) purpose of actions taken under Parts 1146 or 1147.[27] As discussed above, parties desiring alternative service that extends beyond correction of any serious service problems may proceed under Part 1144.

Railroad Petitioners

We agree with AAR that the rules as originally proposed did not preclude railroads (of any size) from seeking relief under the rules, and the rules will so specify. As ASLRRA points out, there may well be situations where a railroad is seriously affected by the service disruptions of a connecting (incumbent) carrier and may need to obtain a connection with a second (alternative) carrier and access (by either the petitioning or alternative carrier) over track of the incumbent carrier for a reasonable distance to reach the alternative carrier. The primary issues[28] regarding railroad- (as opposed to shipper-) initiated petitions relate to mandatory interchange requirements and relief from ''paper barriers''[29] or other contractual impediments to access.[30]

ASLRRA asserts that a railroad-petitioner should not need an advance commitment from an alternative carrier, in view of the mandatory interchange requirements applicable to all railroads in 49 U.S.C. 10742. AAR argues against compelling an unwilling second railroad to participate in an emergency service arrangement. AAR asserts that the principal, if not only, reason that a second railroad would decline to handle additional traffic via a new connection would be operating considerations, which are a significant factor in determining whether to grant relief. AAR argues that requiring the willingness of the second carrier will filter out those situations where there are operational problems. DOT suggests an intermediate position short of requiring a binding commitment from a prospective connecting railroad—that the prospective railroad be consulted to ensure that any relief granted would not unduly affect its operations.[31] ASLRRA concedes that as a practical matter the petitioning railroad will need to work closely with the alternative carrier to work out the details of how traffic would be handled efficiently and safely in a manner acceptable to each. We agree and thus we would expect the carriers normally to have worked out an agreement. If for some reason they have not been able to reach agreement, we will take that into consideration, on a case-by-case basis, in determining whether the relief sought is operationally feasible and safe and will not harm service to existing customers.

AAR agrees that contract terms that would directly prevent the exercise of the remedy granted by the Board should be superseded, but argues that broader relief is inappropriate. Such issues are likely to be fact-dependent, and are thus best left to consideration on any individual case basis.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources. Moreover, we certify that this action will not have a substantial impact upon a significant number of small entities.

List of Subjects in 49 CFR Parts 1146 and 1147

Railroads, Service.

Decided: December 18, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, the Board adds new parts 1146 and 1147 to title 49, chapter X, of the Code of Federal Regulations, to read as follows:

PART 1146—EXPEDITED RELIEF FOR SERVICE EMERGENCIES

Authority: 49 U.S.C. 721, 11101, and 11123.

§ 1146.1. Prescription of alternative rail service.

(a) *General.* Alternative rail service will be prescribed under 49 U.S.C. 11123(a) if the Board determines that, over an identified period of time, there has been a substantial, measurable deterioration or other demonstrated inadequacy in rail service provided by the incumbent carrier.

(b)(1) *Petition for Relief.* Affected shippers or railroads may seek the relief described in paragraph (a) of this section by filing an appropriate petition containing:

(i) A full explanation, together with all supporting evidence, to demonstrate that the standard for relief contained in paragraph (a) of this section is met;

(ii) A summary of the petitioner's discussions with the incumbent carrier of the service problems and the reasons why the incumbent carrier is unlikely to restore adequate rail service consistent with current transportation needs within a reasonable period of time;

(iii) A commitment from another available railroad to provide alternative service that would meet current transportation needs (or, if the

[26] NITL argues for a 90-day minimum period, arguing that any shorter period will be insufficient to justify the time and expense spent by alternative carriers in providing service. Others proposed minimum periods ranging from 30 days (AL&M) to 180 days (SPI) to one year (PP&L and AmerenUE).

[27] For the same reason, we do not believe it is necessary or appropriate to place an outside limit on the duration of relief that is provided under Part 1147. (Relief granted under Part 1146 is statutorily limited to 270 days.) Unitl the incumbent railroad is ready to provide adequate service on its own, the basis and need for frelief continue.

[28] ASLRRA's suggestion that we assess qualifying service disruptions based upon a preset (30-day) time period, and AAR's attempt to remove car supply issues from the service problems for which relief may be granted, are rejected for the reasons discussed above under ''Nature and Extent of Service Problems.''

[29] ''Paper barriers'' refer to contractual restrictions that limit the ability of some small carriers to interchange traffic with carriers other than their primary connecting carrier. See Review, at 8.

[30] DOT and Farmrail agree that there may be other contractual impediments that limit the service that a small railroad can provide, such as car supply requirements and exclusive rate making authority by the larger, connecting carrier.

[31] WCTL agrees that the petitioning railroad should be required to show, as any petitioner would, that the requested relief is operationally feasible, but should not be required to ''pre-clear its petition with the second carrier's marketing department.'' WCTL Supplemental Comments at 6.

petitioner is a railroad and does not have an agreement from the alternative carrier, an explanation as to why it does not), and an explanation of how the alternative service would be provided safely without degrading service to the existing customers of the alternative carrier and without unreasonably interfering with the incumbent's overall ability to provide service; and

(iv) A certification of service of the petition, by hand or by overnight delivery, on the incumbent carrier, the proposed alternative carrier, and the Federal Railroad Administration.

(2) *Reply.* The incumbent carrier must file a reply to a petition under this paragraph within five (5) business days.

(3) *Rebuttal.* The party requesting relief may file rebuttal no more than three (3) business days later.

(c) *Presumption of continuing need.* Unless otherwise indicated in the Board's order, a Board order issued under paragraph (a) of this section shall establish a rebuttable presumption that the transportation emergency will continue for more than 30 days from the date of that order.

(d)(1) *Petition to terminate relief.* Should the Board prescribe alternative rail service under paragraph (a), of this section the incumbent carrier may subsequently file a petition to terminate that relief. Such a petition shall contain a full explanation, together with all supporting evidence, to demonstrate that the carrier is providing, or is prepared to provide, adequate service. Carrier are admonished not to file such a petition prematurely.

(2) *Reply.* Parties must file replies to petitions to terminate filed under this subsection within five (5) business days.

(3) *Rebuttal.* The incumbent carrier may file any rebuttal no more than three (3) business days later.

(e) *Service.* All pleadings under this part shall be served by hand or overnight delivery on the Board, the other parties, and the Federal Railroad Administration.

PART 1147—TEMPORARY RELIEF UNDER 49 U.S.C. 10705 AND 11102 FOR SERVICE INADEQUACIES

Authority: 49 U.S.C. 721, 10705, 11101, and 11102.

§ 1147.1. Prescription of alternative rail service.

(a) *General.* Alternative rail service will be prescribed under 49 U.S.C. 11102(a), 11102(c) or 10705(a) if the Board determines that, over an identified period of time, there has been a substantial, measurable deterioration or other demonstrated inadequacy in rail service provided by the incumbent carrier.

(b)(1) *Petition for Relief.* Affected shippers or railroads may seek relief described in paragraph (a) of this section by filing an appropriate petition containing:

(i) A full explanation, together with all supporting evidence, to demonstrate that the standard for relief contained in paragraph (a) of this section is met;

(ii) A summary of the petitioner's discussions with the incumbent carrier of the service problems and the reasons why the incumbent carrier is unlikely to restore adequate rail service consistent with current transportation needs within a reasonable period of time;

(iii) A commitment from another available railroad to provide alternative service that would meet current transportation needs (or, if the petitioner is a railroad and does not have an agreement from the alternative carrier, an explanation as to why it does not), and an explanation of how the alternative service would be provided safely without degrading service to the existing customers of the alternative carrier and without unreasonably interfering with the incumbent's overall ability to provide service; and

(iv) A certification of service of the petition, by hand or by overnight delivery, on the incumbent carrier, the proposed alternative carrier, and the Federal Railroad Administration.

(2) *Reply.* The incumbent carrier must file a reply to a petition under this paragraph within thirty (30) days.

(3) *Rebuttal.* The party requesting relief may file rebuttal no more than fifteen (15) days later.

(c)(1) *Petition to terminate relief.* Should the Board prescribe alternative rail service under paragraph (a) of this section, the incumbent carrier may subsequently file a petition to terminate that relief. Such a petition shall contain a full explanation, together with all supporting evidence, to demonstrate that the carrier is providing, or is prepared to provide, adequate service to affected shippers. Carriers are admonished not to file such a petition prematurely.

(2) *Reply.* Parties must file replies to petitions to terminate filed under this subsection within five (5) business days.

(3) *Rebuttal.* The incumbent carrier may file any rebuttal no more than three (3) business days later.

(d) *Service.* All pleadings under this part shall be served by hand or by overnight delivery on the Board, other parties, and the Federal Railroad Administration.

[FR Doc. 98–34187 Filed 12–24–98; 8:45 am]

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Proposed Rules

Federal Register
Vol. 63, No. 248
Monday, December 28, 1998

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 944

[Docket No. FV98–944–1 PR]

Fruits; Import Regulations; Exemption of Grape Varieties From the Table Grape Import Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: This proposed rule would change the table grape import regulation by adding several grape varieties to the list of varieties specifically exempted from the grade, size, quality, and maturity requirements of the grape import regulation. The grape import regulation is based on the requirements implemented under a Federal marketing order for grapes grown in southeastern California. Currently, any variety of vinifera species table grapes, except Emperor, Calmeria, Almeria, and Ribier varieties, are subject to the requirements of the marketing order and the import regulation. The Emperor, Calmeria, Almeria, and Ribier varieties of grapes are exempted from regulations established under the marketing order and therefore the import regulation because they are not produced in the California production area. The grape varieties proposed to be added to the list of exempted varieties are genetically related to and/or possess characteristics similar to the four named varieties, and are not produced in the production area covered under the Federal marketing order. Also, one variety previously not produced in the production area would no longer be exempt because it is currently produced in the area covered by the marketing order. A complete list of exempted varieties would clarify the grape import regulation and make it easier for exporters and importers to make marketing decisions.

DATES: Comments must be received by February 26, 1999.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO. Box 96456, Washington, DC 20090–6456; Fax: (202) 205–6632; or E-mail: moabdocket__clerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: George J. Kelhart, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525–S, PO. Box 96456, Washington, DC 20090–6456; Telephone: (202) 720–2491; Fax: (202) 205–6632. Small businesses may request information on compliance with this proposed regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; Telephone: (202) 720–2491; Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This proposal to change the table grape import regulation (7 CFR 944.503; 63 FR 28475, May 26, 1998) is issued under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposal is not intended to have retroactive effect. This proposed rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this proposed rule.

Section 8e of the Act specifies that whenever certain specified commodities, including table grapes, are regulated under a Federal marketing order, imports of that commodity into the United States are prohibited unless they meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestically produced commodity. Marketing Order No. 925 (7 CFR part 925) regulates the handling of grapes grown in a designated area of southeastern California. Grade, size, quality, and maturity requirements are implemented under that order for all varieties of vinifera species table grapes, except Emperor, Calmeria, Almeria, and Ribier, during the period April 20 through August 15 each year. Thus, the requirements applied to the regulated, nonexempt varieties of vinifera species grapes under the marketing order also must apply to these varieties when they are offered for importation during that time period. The four named varieties are exempt from marketing order requirements because they are not grown in the production area covered by the marketing order.

This proposed rule would clarify the grape import regulation by adding eleven grape varieties to the list of varieties of vinifera species table grapes specifically exempted in the import regulation. The eleven additional grape varieties are genetically related to and/or possess characteristics similar to Emperor, Calmeria, Almeria, or Ribier variety grapes, and are not produced in the production area covered under Marketing Order No. 925. Providing a complete list of exempted varieties would clarify the import regulation and would make it easier for exporters and importers to make marketing decisions.

The four named varieties were specifically exempted from the grape import regulation on a continuing basis in 1985 (86 FR 18849; May 3, 1985). This was necessary to keep the import regulation in conformity with the requirements implemented under Marketing Order No. 925.

Since that time, eleven varieties have been evaluated by the Department and determined to be exempt from import requirements because they are genetically related to and/or have similar characteristics to Emperors, Calmerias, Almerias, and Ribiers. In addition, these varieties were not and are not currently produced in the production area covered under Marketing Order No. 925.

Initially, the number of varieties was small. Over time, the number of exempt varieties has grown and a complete list of exempt varieties should be added to the import regulation to facilitate

reference. The varieties to be included with Emperors, Calmerias, Almerias, and Ribiers are: Italia Pirovano (a.k.a. Blanca Italia), Christmas Rose, Muscatel, Barlinka, Dauphine, Kyojo, Waltham Cross, Alphonse Lavallee, Bien Donne, Bonnoir (a.k.a. Bonheur), and Sonita. Another variety, Red Globe, previously exempted, is not included in this list because Red Globes are now produced and regulated under Marketing Order No. 925, and therefore must be regulated under the table grape import regulation.

These varieties of table grapes would be listed as exempt varieties together with the Emperors, Calmerias, Almerias and Ribiers in paragraph (a)(1) of § 944.503 of the table grape import regulation, thereby, facilitating reference to the eleven additional varieties.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility. Import regulations issued under the Act are based on those established under Federal marketing orders for the domestically produced commodity. Consequently, this proposed rule should impact both small and large business entities involved in the export and importation of table grapes in a manner comparable to regulations issued and applied under the California table grape marketing order (7 CFR part 925).

There are approximately 127 importers of grapes. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000. The average importer receives $2.8 million in grape revenue, excluding receipts from other sources. Therefore, we believe that the majority of these importers are small entities.

Section 8e of the Act specifies that whenever certain specified commodities, including table grapes, are regulated under a Federal marketing order, imports of that commodity into the United States are prohibited unless they meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestically produced commodity. Marketing Order No. 925 (7 CFR part 925) regulates the handling of grapes grown in a designated area of southeastern California. Grade, size, quality, and maturity requirements are implemented under that order for all varieties of vinifera species table grapes, except Emperor, Calmeria, Almeria, and Ribier, during the period April 20 through August 15 each year. Thus, the requirements applied to the regulated, nonexempt varieties of vinifera species grapes under the marketing order also must apply to these varieties when they are offered for importation during that time period. The four named grape varieties are exempted from requirements established under the marketing order and the import regulation because they are not produced in the California production area.

The four named varieties were specifically exempted from the grape import regulation on a continuing basis in 1985 (86 FR 18849; May 3, 1985). This was necessary to keep the import regulation in conformity with the requirements implemented under Marketing Order No. 925.

Since that time, eleven varieties have been evaluated and were determined by the Department to be exempt from the minimum grade, size, quality, and maturity requirements of the grape import regulation, because they are genetically related to and/or possess characteristics similar to Emperor, Calmeria, Almeria, or Ribier variety grapes, and are not produced in the production area covered by Marketing Order No. 925.

Initially, the number of such exempt varieties was small. However, over the years, the number has grown and a complete list of exempt varieties should be added to the import regulation to facilitate reference. The varieties to be included with Emperors, Calmerias, Almerias, and Ribiers are: Italia Pirovano (a.k.a. Blanca Italia), Christmas Rose, Muscatel, Barlinka, Dauphine, Kyojo, Waltham Cross, Alphonse Lavallee, Bien Donne, Bonnoir (a.k.a. Bonheur), and Sonita. Another variety, Red Globe, previously exempted, now is produced in the production area covered under the marketing order and would not be exempted. The additional varieties of table grapes would be listed as exempt varieties together with Emperors, Calmerias, Almerias and Ribiers in paragraph (a)(1) of § 944.503 of the table grape import regulation. A complete list of exempt varieties would help exporters and importers operate more effectively under the requirements, and help them make marketing decisions.

Chile is the dominant grape exporting country from December through May each year. The Republic of South Africa also exports some grapes to the United States during this time period. Mexico has been the largest exporter of grapes to the United States during the May through August period each year. Chile and Italy export small quantities of grapes to the United States during this period. During the September through November period exports arrive from Canada and Italy.

In 1997, imports of table grapes totaled 359,928 metric tons. Chile was the principal source, accounting for 76 percent of the total. Mexico exported 75,713 metric tons and The Republic of South Africa exported 7,450 metric tons to the United States during that year. Italy exported 1,142 metric tons and Canada exported 3,202 metric tons.

This clarification would not require any changes in the grape handling practices of exporters and importers because the varieties to be added as exempt varieties are already being treated as exempt varieties.

The benefit of facilitating reference to all of the exempted varieties is not expected to be disproportionately greater or smaller for small importers than for larger importers.

Because regulated entities would benefit from this proposed clarification by helping them make table grape export, import, and marketing plans, no other alternative to this action would be considered viable.

This action would not impose any additional reporting or recordkeeping requirements on either small or large grape importers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

In accordance with section 8e of the Act, the U.S. Trade Representative has concurred with the issuance of this proposed rule.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth in the preamble, 7 CFR part 944 is proposed to be amended as follows:

PART 944—FRUITS; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 944.503 [Amended]

2. In § 944.503, paragraph (a)(1) introductory text, the words ‘‘, except Emperor, Calmeria, Almeria, and Ribier,’’ are replaced with the words ‘‘except Emperor, Calmeria, Almeria, Ribier, Italia Pirovano (a.k.a. Blanca Italia), Christmas Rose, Muscatel, Barlinka, Dauphine, Kyojo, Waltham Cross, Alphonse Lavallee, Bien Donne, Bonnoir, (a.k.a. Bonheur), and Sonita,’’.

Dated: December 21, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–34208 Filed 12–24–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 91 and 570

[Docket No. FR–4133–P–02]

RIN No. 2529–AA81

Fair Housing Performance Standards for Acceptance of Consolidated Plan Certifications and Compliance with Community Development Block Grant Performance Review Criteria; Extension of Public Comment Period

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Proposed rule; extension of public comment period.

SUMMARY: On October 28, 1998, HUD published a proposed rule that would amend the regulations on Consolidated Submissions for Community Planning and Development Programs to establish a standard for determining if the jurisdiction's certification regarding affirmatively furthering fair housing is inaccurate. The October 28, 1998 proposed rule also would amend the regulations on Community Development Block Grants to provide performance review standards for affirmatively furthering fair housing requirements. The public comment period on this rule was scheduled to close on December 28, 1998. This document extends the public comment period on this proposed rule to February 26, 1999.

DATES: *Comment Due Date:* February 26, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this interim rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: For questions on part 570, Deirdre Maguire-Zinni, Director, Entitlement Communities Division, Office of Block Grant Assistance, Department of Housing and Urban Development, Room 7282, 451 Seventh Street, SW, Washington, DC 20410. Telephone (202) 708–1577, ext. 4529. For questions on part 91, Sal Sclafani, Acting Director, Policy Coordination Division, Office of Executive Services, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Telephone (202) 708–1283, ext. 4364. For questions on affirmatively furthering fair housing or the analysis of impediments to fair housing choice, William Dudley Gregorie, Deputy Director, Office of Programs, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 452 Seventh Street, SW, Washington, DC 20410. Telephone (202) 708–2288, ext. 266. (These telephone numbers are not toll-free.) Hearing-impaired or speech-impaired individuals may access the voice telephone number listed above by calling the Federal information relay service during working hours at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On October 28, 1998, HUD published a proposed rule that would amend part 91—Consolidated Submissions for Community Planning and Development Programs—to establish a standard for determining if the jurisdiction's certification regarding affirmatively furthering fair housing is inaccurate (see 63 FR 57882). The October 28, 1998 rule also proposed to amend part 570—Community Development Block Grants—to provide performance review standards for affirmatively furthering fair housing requirements.

Both revisions would make clear that compliance with the requirement to affirmatively further fair housing would require grantees to have a complete and accurate analysis of impediments to fair housing choice and to not violate the Fair Housing Act or civil rights laws prohibiting discrimination in housing programs receiving Federal financial assistance. These revisions would serve to provide communities with a clear idea of the standards that HUD would use in both reviewing certifications included as part of a grantee's Consolidated Plan submission, as well as determining CDBG grantees' compliance with the statutory requirements of the CDBG program to affirmatively further fair housing.

The public comment period on this proposed rule was scheduled to end December 28, 1998. A number of commenters have requested additional time to submit their comments. Accordingly, the Department has decided to extend the public comment period on this proposed rule for an additional 60 days. The new public comment period deadline is February 26, 1999.

Dated: December 21, 1998.

Cardell Cooper,

Assistant Secretary for Community Planning and Development.

[FR Doc. 98–34313 Filed 12–24–98; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Parts 578 and 579

RIN 1215–AB20

Adjustment of Civil Money Penalties for Inflation

AGENCY: Wage and Hour Division, Employment Standards Administration, Department of Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes adjustments in the civil money penalties that may be assessed under the Fair Labor Standards Act (FLSA) for repeated or willful violations of the minimum wage or overtime provisions of the FLSA, and for violations of the child labor provisions of the FLSA. These adjustments are being made to meet requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996,

which requires that Federal agencies issue regulations that make inflationary adjustments in their civil money penalties pursuant to a specified formula and make periodic adjustments after the initial increase at least every four years thereafter, in accordance with the guidelines set forth in the amended Federal Civil Penalties Inflation Adjustment Act.

DATES: Written comments must be submitted on or before January 27, 1999.

ADDRESSES: Submit written comments on this proposed rule to Richard M. Brennan, Deputy Director, Office of Enforcement Policy, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3510, 200 Constitution Avenue, N.W., Washington, DC 20210. If you want to be notified that we have received your comments, please include with your comments a self-addressed, stamped postcard or submit your comments by certified mail, return receipt requested. As a convenience, you may transmit your comments by facsimile (''FAX'') machine to (202) 219–5122, which is not a toll-free number. If you transmit your comments by FAX and also submit them by mail, please indicate on the mailed copy that it is a duplicate copy of your FAX transmission.

FOR FURTHER INFORMATION CONTACT: Richard M. Brennan, Deputy Director, Office of Enforcement Policy, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3510, 200 Constitution Avenue, N.W., Washington, DC 20210. Telephone (202) 693–0745 (this is not a toll-free number). You may obtain a copy of this proposed rule in alternative formats by telephoning (202) 693–0745, (202) 219–4634 (TDD); the alternative formats available are large print, electronic file on computer disk, and audio tape.

Questions of interpretation and/or enforcement of final regulations issued by this agency or referenced in this proposed rule may be directed to the nearest Wage and Hour Division District Office listed in most telephone directories under United States Government, Labor Department.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This proposed rule contains no new information collection requirements which are subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

II. Background

The Debt Collection Improvement Act of 1996 (Pub. L. 104–134, 110 Stat. 1321) amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, 104 Stat. 890) to require Federal agencies to regularly adjust certain civil money penalties (CMPs) for inflation. As amended, the law requires each agency to make an initial inflationary adjustment for all covered civil money penalties, and to make further inflationary adjustments at least once every four years thereafter. The adjustment prescribed in the amended Act is determined by a cost-of-living formula equal to the amount by which the Department of Labor's Consumer Price Index (CPI) for all urban consumers for June of the calendar year preceding the adjustment exceeds the June CPI for the calendar year in which the CMP amount was last set or adjusted. The statute provides for rounding the penalty increases. Once the percentage change in the CPI is calculated, the amount of the adjustment is rounded according to a table provided in the Federal Civil Penalties Inflation Adjustment Act, which is scaled based on the dollar amount of the current penalty. A cap is then applied which limits the amount of any increase in penalty to 10 percent of the current penalty amount (for the *initial* adjustment only). Any increase under the Act will apply only to violations that occur after the date the increase takes effect. The Act provided that the first such increase should have been made no later than 180 days after the date of enactment of the Debt Collection Improvement Act of 1996, or by October 23, 1996.

Section 16(e) of the FLSA authorizes CMP assessments for the following violations: (1) any person who violates the child labor provisions (section 12 or section 13(c)(5)) of the FLSA or any regulation thereunder may be subject to a CMP of not to exceed $10,000 for each employee who was the subject of such a violation; and (2) any person who repeatedly or willfully violates the minimum wage (section 6) or overtime provisions (section 7) of the FLSA may be subject to a CMP of not to exceed $1,000 for each such violation. In determining the amount of any such penalty in a particular case for either type of violation, the size of the business of the person charged and the gravity of the violation must be taken into consideration, among other appropriate factors.

The child labor CMP amount was last adjusted by the Congress in 1990 pursuant to the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508 (November 5, 1990), which raised the former $1,000 maximum child labor CMP amount to $10,000 and directed that the amounts be deposited into the general fund of the U.S. Treasury. The $1,000 CMP amount for repeated and willful violations of the minimum wage and overtime provisions was established by the Congress under the 1989 FLSA Amendments, Public Law 101–157 (November 17, 1989). Due to Inflation since these CMP amounts were last set in law or adjusted by the Congress, the first increase will be the maximum 10 percent initially permitted under the Debt Collection Improvement Act amendments to the Federal Civil Penalties Inflation Adjustment Act. The adjusted CMP amounts will apply only to violations occurring after the proposed regulations become effective.

III. Summary of Rule

The $1,000 maximum penalty amount in Section 578.3 for repeated or willful violations of the minimum wage or overtime requirements of the FLSA is increased to $1,100. The $10,000 maximum penalty amount in Section 579.5 for violations of the child labor provisions of the FLSA is increased to $11,000. Conforming changes are also made in other affected sections of the regulations to discuss the inflationary adjustment provisions of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996.

Executive Order 12866 and Significant Regulatory Actions

This rule is not a ''significant regulatory action'' within the meaning of Executive Order 12866. The rule proposes to adjust for inflation the maximum civil money penalties under Section 16(e) of the Fair Labor Standards Act. The adjustments and the formula for determining the amount of the adjustment are mandated by the Congress in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996. Congress has required that the Department promulgate the amendments proposed in this rule, and provided no discretion to the Department regarding the substance of the amendments. Moreover, for the three Fiscal Years 1995 through 1997, the Department collected a total of $6,169.771 in CMPs for repeated or willful minimum wage or overtime violations that were assessed in 1,157 cases, for an average of $2,056,590 collected per year (less than $5,333 per case, on average). Over the same three-year period, the

Department collected a total of $12,496,180 in CMPs for child labor violations that were assessed in 3,772 cases, for an average of $4,165,393 collected per year (approximately $3,314 per case, on average). With the initial increase in the maximum CMP limited to the statutory 10 percent cap, the total economic impact of the rule is estimated at less than $623,000 per year. Thus, this action will not: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. Therefore, no regulatory impact analysis has been prepared.

Executive Order 12875 and Section 202 of the Unfunded Mandates Reform Act of 1995

For purposes of the Unfunded Mandates Reform Act of 1995, as well as Executive Order 12875, this rule does not include any federal mandate that may result in increased expenditures by either state, local and tribal governments in the aggregate, or by the private sector, of more than $100 million.

Regulatory Flexibility Analysis

This rule will not have a significant economic impact on a substantial number of small entities. The proposed rule does no more than ministerially increase certain statutory CMPs to account for inflation, pursuant to specific directions of the Congress in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, which specify the procedures for calculating the inflation adjustments and do not allow variations in the calculations to minimize the effects on small entities. Nevertheless, in each case the amount of the penalty assessed under Section 16(e) of the FLSA must take into consideration the size of the business of the person charged with the violations, which will further mitigate the ultimate effects of the rule on small businesses. Moreover, only persons who have willfully or repeatedly violated the minimum wage or overtime provision of the FLSA, or violated the child labor requirements of the FLSA, will be affected by this rule. Based on the average CMP amounts that the Department has collected for these types of violations over the three fiscal years 1995 through 1997, we estimate that the effect of the rule will be to increase the average CMP collected for repeated or willful minimum wage or overtime violations by $533 per case, and increase the average CMP collected for child labor violations by $331 per case. Accordingly, the Department has determined that this proposed change in the rules will not have a significant economic impact on a substantial number of small entities. The Department has certified to this effect to the Chief Counsel for Advocacy of the U.S. Small Business Administration. Therefore, no Regulatory Flexibility Analysis is required.

Small Business Regulatory Enforcement Fairness Act

This proposed rule is not a ''major rule'' under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. § 801 *et seq.*) because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Document Preparation: This document was prepared under the direction and control of John R. Fraser, Deputy Administrator, Wage and Hour Division, Employment Standard Administration, U.S. Department of Labor.

List of Subjects

29 CFR Part 578

Employment, Labor, Law enforcement, Penalties.

29 CFR Part 579

Child labor, Law enforcement, Penalties.

For the reasons set forth above, 29 CFR parts 578 and 579 are proposed to be amended as set forth below.

Signed at Washington, D.C. on this 21st day of December, 1998.

John R. Fraser,

Deputy Administrator, Wage and Hour Division.

PART 578—MINIMUM WAGE AND OVERTIME VIOLATIONS—CIVIL MONEY PENALTIES

1. The authority citation for part 578 is proposed to be revised to read as follows:

Authority: Sec. 9, Pub. L. 101–157, 103 Stat. 938; sec. 3103, Pub. L. 102–508, 104 Stat. 1388–29 (29 U.S.C. 216(e)); Pub. L. 101–410, 104 Stat. 890 (29 U.S.C. 2461 note), as amended by Pub. L. 104–134, section 31001(s) 110 Stat. 1321–358, 1321–373.

2. Section 578.1 is proposed to be revised to read as follows:

§ 578.1 What does this regulation cover?

Section 9 of the Fair Labor Standards Amendments of 1989 amended section 16(e) of the Act to provide that any person who repeatedly or willfully violates the minimum wage (section 6) or overtime provisions (section 7) of the Act shall be subject to a civil money penalty not to exceed $1,000 for each such violation. The Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, section 31001(s)), requires that inflationary adjustments be periodically made in these civil money penalties according to a specified cost-of-living formula. This part defines terms necessary for administration of the civil money penalty provisions, describes the violations for which a penalty may be imposed, and describes criteria for determining the amount of penalty to be assessed. The procedural requirements for assessing and contesting such penalties are contained in 29 CFR part 580.

3. The section heading and paragraph (a) of § 578.3 are proposed to be revised to read as follows:

§ 578.3 What types of violations may result in a penalty being assessed?

(a) A penalty of up to $1,000 per violation may be assessed against any person who repeatedly or willfully violates section 6 (minimum wage) or section 7 (overtime) of the Act; *Provided,* however, that for any violation occurring on or after the effective date of the final rule the civil money penalty amount will increase to up to $1,100. The amount of the penalty will be determined by applying the criteria in § 578.4.

* * * * *

PART 579—CHILD LABOR VIOLATIONS—CIVIL MONEY PENALTIES

4. The authority citation for part 579 is proposed to be revised to read as follows:

Authority: 29 U.S.C. 203, 211, 212, 216; Reorg. Plan No. 6 of 1950, 64 Stat. 1263, 5 U.S.C. App.; secs. 25, 29, 88 Stat. 72, 76; Secretary of Labor's Order No. 1371, 36 FR 8755; Sec. 3103, Pub. L. 101–508; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note), as amended by Pub. L. 104–134, section 31001(s), 110 Stat. 1321–358, 1321–373.

5. The section heading of § 579.1 is proposed to be revised, paragraph (b) of § 579.1 is proposed to redesignated as paragraph (c) of that section, and a new paragraph (b) is proposed to be added, to read as follows:

§ 579.1 What does this regulation cover?

(a) * * *

(b) The Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, section 31001(s)), requires that Federal agencies periodically adjust their civil money penalties for inflation according to a specified cost-of-living formula. This law requires each agency to make an initial inflationary adjustment for all covered civil money penalties, and to make further inflationary adjustments at least once every four years thereafter. Any increase in the civil money penalty amount will apply only to violations that occur after the date the increase takes effect.

* * * * *

6. The section heading and paragraph (a) of § 579.5 are proposed to be revised to read as follows:

§ 579.5 How is the amount of the penalty determined?

(a) The administrative determination of the amount of the civil penalty, of not to exceed $10,000 for each employee who was the subject of a violation of section 12 or section 13(c)(5) of the Act relating to child labor or of any regulation issued under that section, will be based on the available evidence of the violation or violations and will take into consideration the size of the business of the person charged and the gravity of the violation as provided in paragraphs (b) through (d) of this section; *Provided*, however, that for any violation occurring on or after the effective date of the final rule the civil money penalty amount will increase to not to exceed $11,000 for each employee who was the subject of a violation.

* * * * *

§ 579.9 [Removed]

7. Section 579.9 is proposed to be removed.

[FR Doc. 98–34243 Filed 12–24–98; 8:45 am]

BILLING CODE 4510–27–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6210–4]

RIN 2060–AH74

National Emission Standards for Hazardous Air Pollutants for Source Categories: Pulp and Paper Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: Under the authority of the Clean Air Act, as amended, the EPA has promulgated standards (63 FR 18504, April 15, 1998) to reduce hazardous air pollutant (HAP) emissions from the pulp and paper production source category. This rule is known as the Pulp and Paper national emission standards for hazardous air pollutants (NESHAP) and is the air component of the integrated air and water rules for the pulp and paper industry, commonly known as the Pulp and Paper Cluster Rules. The rule applies to pulp and paper production processes included under the Standard Industrial Classification (SIC) code 26.

In this action, the EPA is proposing to amend certain regulatory text in the NESHAP regarding the Voluntary Advanced Technology Incentives Program. The EPA views the amendments to be noncontroversial and anticipates no adverse comments. Consequently, the EPA also is publishing these amendments to the NESHAP as a direct final rule in the RULES AND REGULATIONS section of today's **Federal Register** publication. If no significant, adverse comments regarding the proposed amendments are received by the date specified in this document, then the EPA will take no further action with respect to this proposal and the amendments to the NESHAP will become effective on the date provided in the direct final rule.

DATES: Comments. The EPA will accept comments regarding these proposed amendments on or before January 27, 1999. Additionally, a public hearing regarding the proposed amendments will be held if anyone requesting to speak contacts the EPA by January 19, 1999. If a hearing is requested, the hearing will be held on January 27, 1999 beginning at 10:00 a.m., and the record on the hearing will remain open for 30 days after the hearing date to provide an opportunity for submittal of rebuttal and additional information. For more information about submittal of comments and the public hearing, see the **SUPPLEMENTARY INFORMATION** section in the notice.

ADDRESSES: Comments. Written comments (in duplicate, if possible) should be submitted to Docket No. A–92–40 at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (MC–6102), 401 M Street, SW, Washington, DC 20460. The EPA requests that a separate copy of the comments also be sent to the contact person listed below.

Today's document and other materials related to these proposed amendments are available for review in the docket. Copies of this information may be obtained by request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Silverman, Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, telephone number (202) 260–7716. For technical information regarding the NESHAP, contact Mr. Stephen Shedd, Emissions Standards Division, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541–5397 or e-mail at shedd.steve@epa.gov.

SUPPLEMENTARY INFORMATION: *Regulated entities.* Entities potentially regulated by this action include:

Category	SIC code	Examples of regulated entities
Industry	26	Pulp mills and integrated mills (mills that manufacture pulp and paper/paperboard) that chemically pulp wood fiber.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be interested in the proposed amendments to the regulation affected by this action. This table lists the types of entities that the EPA is now aware could potentially be regulated by this action. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in part 63, subparts A and S of Title 40 of the Code of Federal Regulations.

Information contacts. If you have questions regarding the applicability of this action to a particular situation or questions about compliance approaches, permitting, enforcement, and rule determinations, please contact the appropriate regional representative below.

Region I: Greg Roscoe, Chief, Air Pesticides and Toxics Enforcement Office, Office of Environmental Stewardship, U.S. EPA, Region I, JFK Federal Building (SEA), Boston, MA 02203, (617) 565–3221. Technical Contact for Applicability Determination, Susan Lancey, (617) 565–3587, (617) 565–4940 (Fax).

Region II: Mosey Ghaffari, Air Compliance Branch, U.S. EPA, Region II, 290 Broadway, New York, NY 10007–1866, (212) 637–3925, (212) 637–3998 (Fax).

Region III: Makeba Morris, U.S. EPA, Region III, 3AT10, 1650 Arch Street, Philadelphia, PA 19103, (215) 814–2187.

Region IV: Lee Page, U.S. EPA, Region IV, Atlanta Federal Center, 100 Alabama Street, Atlanta, GA 30303, (404) 562–9131.

Region V: Christina Prasinos (AE–17J), U.S. EPA, Region V, 77 West Jackson Street, Chicago, IL 60604–3590, (312) 886–6819, (312) 353–8289 (Fax).

Region VI: Michelle Kelly, Air Enforcement Branch (6EN–AA), U.S. EPA, Region VI, Suite 1200, 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–7580, (214) 665–7446 (Fax).

Region VII: Gary Schlicht, Air Permits and Compliance Branch, U.S. EPA, Region VII, ARTD/APCO, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 551–7097.

Region VIII: Tami Thomas-Burton, Air Toxics Coordinator, U.S. EPA, Region VIII, Suite 500, 999 18th Street, Denver, CO 80202–2466, (303) 312–6581, (303) 312–6064 (Fax).

Region IX: Ken Bigos, U.S. EPA, Region IX, A–5, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1240.

Region X: Andrea Wallenweber, Office of Air Quality, U.S. EPA, Region X, OAQ–107, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–8760, (206) 553–0404 (Fax).

Technology Transfer Network. The Technology Transfer Network (TTN) is a network of the EPA's electronic bulletin boards. The TTN provides information and technology exchange in various areas of air pollution control. Information regarding the basis and purpose of this rule and other relevant documents can be found on the pulp and paper page of the EPA's Unified Air Toxics website (UATW) at ''www.epa.gov/ttn/uatw/pulp/pulppg.html''. For more information on the TTN, call the HELP line at (919) 541–5384.

Public hearing. If a public hearing is requested by the required date (see **DATES** section in this notice), the public hearing will be held at the EPA Office of Administration Auditorium, Research Triangle Park, NC. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. JoLynn Collins, Waste and Chemical Processes Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, NC, 27711, telephone number (919) 541–5671.

Docket. Docket A–92–40 contains the supporting information for the original NESHAP and this action. Today's notice and other materials related to this proposal are available for review in the docket. The docket is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday except for Federal holidays at the Air and Radiation Docket and Information Center (MC–6102), U.S. Environmental Protection Agency, 401 M Street, SW, Room M–1500, Washington, DC 20460. Copies of docket information also may be obtained by request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

I. Description of Proposed Amendments

The EPA is proposing to amend the interim NESHAP for chloroform emissions from mills which have enrolled in the Voluntary Advanced Technology Incentives Program (VATIP). In the RULES AND REGULATIONS section of today's **Federal Register**, we are promulgating this same amendment as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comment. The EPA has explained the reasons for making this amendment in the preamble to the direct final rule, and does not believe it necessary to repeat that discussion here. If EPA receives adverse comment, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must therefore do so at this time.

II. Administrative Requirements

A. Docket

The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file, because material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket, except for certain interagency documents, will serve as the record in case of judicial review. See CAA section 307(d)(7)(A).

B. Public Hearing

A public hearing will be held, if requested, to discuss the proposed amendments in accordance with section 307(d)(5) of the Act. If a public hearing is held, the EPA will ask clarifying questions during the oral presentations but will not respond to the presentations or comments. To provide an opportunity for all who may wish to speak, oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement (see **DATES** and **ADDRESSES**). Written statements and supporting information will be considered with equivalent weight as any oral statement and supporting information subsequently presented at a public hearing, if held.

C. Paperwork Reduction Act

The information requirements of the previously promulgated NESHAP were submitted for approval to the Office of Management and Budget (OMB) on April 27, 1998 under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by the EPA (ICR No. 1657.03), and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M Street, SW; Washington, DC 20460 or by calling (202) 260–2740.

The information requirements are not effective until OMB approves them.

Today's proposed amendments to the NESHAP will have no impact on the information collection burden estimates made previously. The changes add a compliance alternative to a particular standard and therefore does not mandate any new requirements. Consequently, the ICR has not been revised.

D. Executive Order 12866: ''Significant Regulatory Action'' Determination

Under Executive Order 12866, the EPA must determine whether the proposed regulatory action is ''significant'' and, therefore, subject to OMB review and the requirements of the Executive Order. The order defines a ''significant'' regulatory action as one that is likely to lead to a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, public health or safety in State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The NESHAP subpart S rule published on April 15, 1998 was considered significant under Executive Order 12866, and a regulatory impact analysis (RIA) was prepared. The amendments proposed today provide an additional means of achieving an interim MACT standard for chloroform emissions from bleaching systems at certain mills. The OMB has evaluated this action and determined it to be nonsignificant; thus, it did not require OMB review.

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. The EPA determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this action. These proposed amendments would not result in increased impacts to small entities and the proposed changes to the rule in today's action do not mandate new control requirements to the April 15, 1998 rule.

F. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), 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 the 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 action proposed today 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. Therefore, the requirements of the Unfunded Mandates Act do not apply to today's action.

G. Executive Order 12875: Enhancing the Intergovernmental Partnership

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 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.''

While the final rule published on April 15, 1998 does not create mandates upon State, local, or tribal governments, the EPA involved State and local governments in its development. Because today's action, would add a degree of flexibility to the current rule by creating a different means of achieving an interim MACT standard for chloroform emissions from bleaching systems at certain mills, today's action does not create a mandate upon State, local, or tribal governments.

H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

Executive Order 13045 applies to any rule that the EPA determines (1) is economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the EPA 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 EPA.

Today's action is not subject to Executive Order 13045 because it does not involve decisions on environmental health or safety risks that may disproportionately affect children.

I. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments

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 action does not significantly or uniquely affect the communities of Indian tribal governments. The final rule published on April 15, 1998 does not create mandates upon tribal governments. Because today's action interprets the requirements of the final rule, today's action does not create a mandate on tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

J. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like the EPA to provide Congress, through OMB, with explanations when an agency decides not to use available and applicable voluntary consensus standards.

The proposed amendments do not involve any new technical standards or the incorporation by reference of existing technical standards. Therefore, consideration of voluntary consensus standards is not relevant to this action.

III. Legal Authority

These regulations are amended under the authority of sections 112, 114, and 301 of the Clean Air Act, as amended (42 U.S.C. sections 7412, 7414, and 7601).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations.

Dated: December 18, 1998.

Carol M. Browner,

Administrator.

[FR Doc. 98–34307 Filed 12–24–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 262, 264, 265, and 270

[FRL–6210–8]

Project XL Rulemaking for New York State Public Utilities; Hazardous Waste Management System

AGENCY: Environmntal Protection Agency (EPA).

ACTION: Extension of Comment Period for Project XL Draft Final Project Agreement and Proposed Rule

SUMMARY: On December 7, 1998, EPA published a request for comments on a proposed rule and draft final project agreement (FPA) for the Project XL Rulemaking for New York State Public Utilities [FRL–6197–7, 63 FR 67561–67571]. The original comment period was thirty (30) days from the date of publication. EPA has received a request to extend the comment period. EPA is today granting a twenty-one (21) day extension from January 6, 1999, to January 27, 1999, for comments on the proposed rule and FPA for New York State's XL project.

DATES: The period for submission of comments ends on January 27, 1999.

ADDRESSES: Written comments and requests for a hearing should be mailed to the RCRA Information Center Docket Clerk (5305G), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Please send an original and two copies of all comments, and refer to Docket Number F–98–NYSP–FFFFF. A copy should also be sent to Mr. Philip Flax at U.S. Environmental Protection Agency, Region 2, 290 Broadway, New York, NY 10007–1866.

Viewing Docket Materials: A docket containing public comments and supporting materials is available for public inspection and copying at the RCRA Information Center (RIC), located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The RIC is open from 9:00 am to 4:00 pm Monday through Friday, excluding federal holidays. The public is encouraged to phone in advance to review docket materials. Appointments can be scheduled by phoning the Docket Office at (703) 603–9230. Refer to RCRA docket number F–98–NYSP–FFFFF. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost 15 cents per page.

A duplicate copy of the docket is available for inspection and copying at U.S. EPA, Region 2, 290 Broadway, New York, NY 10007–1866 during normal business hours. Persons wishing to view the duplicate docket at the New York location are encouraged to contact Mr. Philip Flax in advance, by telephoning (212) 637–4143. Information is also available on the world wide web at http://www.epa.gov/ProjectXL.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Flax, U.S. EPA, Region 2, 290 Broadway, New York, NY 10007–1866, (212) 637–4143.

Dated: December 21, 1998.

Lisa Lund,

Deputy Associate Administrator for Reinvention.

[FR Doc. 98–34295 Filed 12–24–98; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 45

[USCG–1998–4623]

RIN 2115–AF38

Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The Coast Guard is extending the comment period for the notice of proposed rulemaking on Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan to March 4, 1999, to allow additional time for public comment.

DATES: Comments must reach the Docket Management Facility on or before March 4, 1999.

ADDRESSES: You may mail comments to the Docket Management Facility, (USCG–1998–4623), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington DC 20590–0001, or deliver them to room PL–401, located on the Plaza Level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

The Docket Management Facility maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room PL–401, located on the Plaza Level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You

may also access this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, contact Mr. Thomas Jordan, Office of Marine Safety and Environmental Protection (G–MSE–2), U.S. Coast Guard Headquarters, Room 1308, telephone 202–267–0142. For questions on viewing or submitting material to the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages you to participate in this rulemaking by submitting written data, views, or arguments. If you submit comments, you should include your name and address, identify this notice (USCG–1998–4623) and the specific section or question in this document to which your comments apply, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the DOT Docket Management Facility at the address under **ADDRESSES**. If you want acknowledgment of receipt of your comments, you should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period.

The Coast Guard may schedule a public meeting depending on input received in response to this notice. You may request a public meeting by submitting a request to the address under **ADDRESSES**. The request should include the reasons why a meeting would be beneficial. If we determine that a public meeting should be held, we will hold the meeting at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On November 2, 1998, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (63 FR 58679). The NPRM proposes exempting certain unmanned dry cargo river barges from the normal Great Lakes load line requirements to operate on Lake Michigan. Instead, these river barges would need to obtain a limited domestic service load line for two specific routes (between Chicago, Illinois and Milwaukee, Wisconsin; and between Chicago and Muskegon, Michigan). This proposed rule would allow direct river barge transport of certain non-hazardous cargoes from inland river ports to Milwaukee and Muskegon while maintaining a relatively low cost-per-ton-mile rate for river barge transportation.

In response to the NPRM, a multi-industry group associated with the river barge transport of bulk ore along the southern shore of Lake Michigan to Burns Harbor, Indiana contacted the Coast Guard. The group recently met to review the proposed regulations and was concerned that there will not be enough time to develop and submit a consolidated response to the docket before the NPRM comment period closes on January 4, 1999. As a result, the group has requested an extension of the comment period. The Coast Guard accepts this as a reasonable request. We are extending the NPRM comment period to March 4, 1999.

Dated: December 21, 1998.

Howard L. Hime,

Acting, Director for Standards.

[FR Doc. 98–34200 Filed 12–24–98; 8:45 am]

BILLING CODE 4910–15–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–234, RM–9324]

Radio Broadcasting Services; Augusta, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by L. Topaz Enterprises, Inc. proposing the allotment of Channel 268C3 to Augusta, Wisconsin, as that community's first local broadcast service. The channel can be allotted to Augusta with a site restriction 12.3 kilometers (7.7 miles) east of the community at coordinates 44–40–11 and 90–57–55.

DATES: Comments must be filed on or before February 8, 1999, and reply comments on or before February 23, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Dale A. Ganske, President, L. Topaz Enterprises, Inc., 5546–3 Century Avenue, Middleton, WI 53562.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–234, adopted December 9, 1998, and released December 18, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–34236 Filed 12–24–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–236, RM–9344]

Radio Broadcasting Services; Knox City, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Alalatex Broadcasters, proposing the allotment of Channel 297A to Knox City, Texas. The channel can be allotted to Knox City with a site restriction 13.2 kilometers (8.2 miles) west of the community at coordinates 33–25–03 and 99–40–16.

DATES: Comments must be filed on or before February 8, 1999, and reply

comments on or before February 23, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Jean Hill, Partner, Alalatex Broadcasters, 6101 Bayou Road, Mobile, AL 36605.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–236, adopted December 9, 1998, and released December 18, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–34235 Filed 12–24–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–235, RM–9379]

Radio Broadcasting Services; West Tisbury, MA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Oasis Financial Corporation proposing the allotment of Channel 282A to West Tisbury, Massachusetts, as that community's first local broadcast service. The channel can be allotted to West Tisbury at coordinates 41–22–52 and 70–40–30.

DATES: Comments must be filed on or before February 8, 1999, and reply comments on or before February 23, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Wayne D. Johnsen, Wiley, Rein & Fielding, 1776 K Street, N.W., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–235, adopted December 9, 1998, and released December 18, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, S.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–34234 Filed 12–24–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–233, RM–9316]

Radio Broadcasting Services; Manhattan, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Manhattan Broadcasting Company proposing the allotment of Channel 289A to Manhattan, Montana, as that community's first local broadcast service. The channel can be allotted to Manhattan without a site restriction at coordinates 45–51–12 and 111–19–42.

DATES: Comments must be filed on or before February 8, 1999, and reply comments on or before February 23, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Frank R. Jazzo, Andrew S. Kersting, Fletcher, Heald & Hildreth, P.L.C., 1300 N. Seventeenth Street, 11th Floor, Arlington, Virginia 22209.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–233, adopted December 9, 1998, and released December 23, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–34233 Filed 12–24–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–230, RM–9422]

Radio Broadcasting Services; Hazelton, ND

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by High Plains Broadcasting, Inc. to allot Channel 280C to Hazelton, ND, as the community's first local aural service. Channel 280C can be allotted to Hazelton in compliance with the Commission's minimum distance separation requirements with a site restriction of 20.4 kilometers (12.7 miles) north, at coordinates 46–38–05 NL; 100–25–40 WL, to avoid a short-spacing to Station KGIM–FM, Channel 279C1, Redfield, SD. Canadian concurrence in the allotment is required since Hazelton is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before February 8, 1999, and reply comments on or before February 23, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: F. William LeBeau, Hogan & Hartson L.L.P., 555 Thirteenth Street, N.W., Washington, D.C. 20004–1109 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–230, adopted December 9, 1998, and released December 18, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–34232 Filed 12–24–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–232, RM–9420]

Radio Broadcasting Services; New England, ND

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by High Plains Broadcasting, Inc., seeking the allotment of Channel 239C to New England, ND, as the community's first local aural service. Channel 239C can be allotted to New England in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 46–32–24 NL; 102–51–48 WL. Canadian concurrence in the allotment is required since New England is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before February 8, 1999, and reply comments on or before February 23, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: F. William LeBeau, Hogan & Hartson L.L.P., 555 Thirteenth Street, N.W., Washington, D.C. 20004–1109 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–232, adopted December 9, 1998, and released December 18, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–34231 Filed 12–24–98; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–231, RM–9421]

Radio Broadcasting Services; Gackle, ND

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by High Plains Broadcasting, Inc., to allot Channel 256C to Gackle, ND, as the community's first local aural service. Channel 256C can be allotted to Gackle in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 46–37–30 NL; 98–08–30 WL. Canadian concurrence in the allotment is required since Gackle is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before February 8, 1999, and reply comments on or before February 23, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: F. William LeBeau, Hogan & Hartson, L.L.P., 555 Thirteenth Street, N.W., Washington, D.C. 20004–1109 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–231, adopted December 9, 1998, and released December 18, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–34230 Filed 12–24–98; 8:45 am]

BILLING CODE 6712–01–P

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1503, 1515, and 1552

[FRL–6205–6]

Acquisition Regulation: Contracting by Negotiation

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is issuing this proposed rule to amend the EPA Acquisition Regulation (EPAAR) (48 CFR Chapter 15) so that it will conform to the Federal Acquisition Regulation (FAR 48 CFR Chapter 1), as revised by Federal Acquisition Circular (FAC) 97–02.

DATES: Comments are requested no later than January 27, 1999.

ADDRESSES: Written comments should be submitted to the contact listed below at the following address: U.S. Environmental Protection Agency, Office of Acquisition Management (3802R), 401 M Street, SW, Washington, D.C. 20460. Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: Senzel.Louise@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 3.5″ high density IBM-compatible formatted disks in WordPerfect in 6.1 format or ASCII file format. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this rule may be filed on-line at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: Louise Senzel, U.S. EPA, Office of Acquisition Management, (3802R), 401 M Street, SW, Washington, D.C. 20460, Telephone: (202) 564–4367.

SUPPLEMENTARY INFORMATION:

A. Background

FAC 97–02, published in the **Federal Register** (62 FR 51224) on September 30, 1997, completely revised FAR Part 15, Contracting by Negotiation. The final rule allowed agencies to delay implementation until January 1, 1998. EPA began implementation of the revised Part 15 as of December 19, 1997. The EPAAR is in substantive compliance with the revised FAR, but extensive redesignation of EPAAR subparts and sections is required for structural conformance. Accordingly, EPAAR Part 1515, Contracting by Negotiation, is revised in its entirety, and parts 1503, Improper Business Practices and Personal Conflicts of Interest, and 1552, Solicitation Provisions and Contract Clauses, are amended.

B. Executive Order 12866

The proposed rule is not a significant regulatory action for the purposes of Executive Order 12866; therefore, no review is required by the Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB).

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this proposed rule does not contain information collection requirements that require the approval of OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*)

D. Regulatory Flexibility Act

The EPA certifies that this proposed rule does not exert a significant economic impact on a substantial number of small entities. The requirements to contractors under the rule impose no reporting, record-keeping, or any compliance costs.

E. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess their regulatory actions on State, local, and tribal governments, and the private sector. This proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in one year. Any private sector costs for this action relate to paperwork requirements and associated expenditures that are far below the level established for UMRA applicability.

Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

F. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (6 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be economically significant as defined under Executive Order 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.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regultion. This rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

G. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and 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 the mandate is unfunded, EPA must provide OMB 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, Executive Order 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.''

This proposed 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 do not apply to this rule.

H. 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. If the mandate is unfunded, EPA must provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

The proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

Authority: The provisions of this regulation are issued under 5 U.S.C. 301; Sec. 205(c),63 Stat. 390, as amended, 40 U.S.C. 486(c).

List of Subjects in 48 CFR Parts 1503, 1515, and 1552

Government procurement.

Therefore, 48 CFR Chapter 15 is amended as set forth below:

1. The authority citation for Parts 1503, 1515, and 1552 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

PART 1503—[AMENDED]

2. Part 1503 is amended by revising subpart 1503.1 to read as follows:

Subpart 1503.1—Safeguards

Sec.

1503.101–370 Personal conflicts of interest.
1503.104–5 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

Subpart 1503.1—Safeguards

1503.101–370 Personal conflicts of interest.

(a) Each EPA employee (including special employees) engaged in source evaluation and selection is required to be familiar with the provisions of 40 CFR Part 3 regarding personal conflicts of interest. The employee shall inform the Source Selection Authority (SSA) in writing if his/her participation in the source evaluation and selection process could be interpreted as a possible or apparent conflict of interest. The SSA will consult with appropriate Agency officials prior to the SSA's determination. The SSA shall relieve any EPA employee who has a conflict of interest of further duties in connection with the evaluation and selection process.

(b) Each EPA employee (including special employees, as defined by 1503.600–71 (b)) involved in source evaluation and selection is required to comply with the Office of Government Ethics ethics provisions at 5 CFR Part 2635.

1503.104–5 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

(a)(1) The Chief of the Contracting Office (CCO) is the designated official to make the decision whether support contractors are used in proposal evaluation (as authorized at FAR 15.305(c) and as restricted at FAR 37.203(d)).

(2) The following written certification and agreement shall be obtained from the non-Government evaluator prior to the release of any proposal to that evaluator:

''Certification on the Use and Disclosure of Proposals''

RFP #: _____

Offeror: _____

1. I hereby certify that to the best of my knowledge and belief, no conflict of interest exists that may diminish my capacity to perform an impartial, technically sound, objective review of this proposal(s) or otherwise result in a biased opinion or unfair competitive advantage.

2. I agree to use any proposal information only for evaluation purposes. I agree not to copy any information from the proposal(s), to use my best effort to safeguard such information physically, and not to disclose the contents of nor release any information relating to the proposal(s) to anyone outside of the evaluation team assembled for this acquisition or individuals designated by the Contracting Officer.

3. I agree to return to the Government all copies of proposals, as well as any abstracts, upon completion of the evaluation.

_____
(Name and Organization)

_____
(Date of Execution)

(End of Certificate)

(b) Information contained in proposals will be protected and disclosed to the extent permitted by law, and in accordance with FAR 3.104–5, 15.207, and Agency procedures at 40 CFR Part 2.

3. Part 1515 is revised as follows.

PART 1515—CONTRACTING BY NEGOTIATION

Sec.
1515.000 Scope of part.

Subpart 1515.2—Solicitation and Receipt of Proposals and Information

1515.209 Solicitation provisions and contract clauses.

Subpart 1515.3—Source Selection

1515.302 Applicability.
1515.303 Responsibilities.
1515.305 Proposal evaluation.
1515.305–70 Scoring plans.
1515.305–71 Documentation of proposal evaluation.
1515.305–72 Release of cost information.
1515.308–71 Documentation of source selection.

Subpart 1515.4—Contract Pricing

1515.404–4 Profit.
1515.404–470 Policy.
1515.404–471 EPA structured approach for developing profit or fee objectives.
1515.404–472 Other methods.
1515.404–473 Limitations.
1515.404–474 Waivers.
1515.404–475 Cost realism.
1515.408 Solicitation provisions and contract clauses.

Subpart 1515.6—Unsolicited Proposals

1515.604 Agency points of contact.
1515.606–70 Contracting methods.

PART 1515—CONTRACTING BY NEGOTIATION

1515.000 Scope of part.

This part implements and supplements FAR part 15. It prescribes the Environmental Protection Agency policies and procedures for contracting for supplies and services by negotiation.

Subpart 1515.2—Solicitation and Receipt of Proposals and Information

1515.209 Solicitation provisions and contract clauses.

In addition to those provisions prescribed at FAR 15.209 and in accordance with FAR 15.203(a)(4), the contracting officer shall identify and include the evaluation factors that will be considered in making the source selection and their relative importance in each solicitation.

(a) The contracting officer shall insert the provisions at 1552.215–70, ''EPA Source Evaluation and Selection Procedures—Negotiated Procurement'' and either: the provision at 1552.215–71, ''Evaluation Factors for Award,'' where all evaluation factors other than cost or price when combined are significantly more important than cost or price; or the provision in Alternate I to 1552.215–71, where all evaluation factors other than cost or price when combined are significantly less important than cost or price; or the provision in Alternate II to 1552.215–71, where all evaluation factors other than cost or price when combined are approximately equal to cost or price; or Alternate III to 1552.215–71 where award will be made to the offeror with the lowest-evaluated cost or price whose proposal meets or exceeds the acceptability standards for non-cost factors.

(b) Evaluation factors and significant subfactors should be prepared in accordance with FAR 15.305 and inserted into paragraph (b) of the provision at 1552.215–71, Alternate I, Alternate II, and if used, in Alternate III.

Subpart 1515.3—Source Selection

1515.302 Applicability.

FAR subpart 15.3 and this subpart apply to the selection of source or sources in competitive negotiation acquisitions in excess of the simplified acquisition threshold, except architect-engineering services which are covered in 1536.6.

1515.303 Responsibilities.

The Source Selection Authority (SSA) shall be established at the levels specified below.

(1) Acquisitions having a potential value exceeding $25,000,000: CCO.

(2) Acquisitions having a potential value exceeding $10,000,000 to $25,000,000: To be determined by the CCO, unless otherwise restricted in his/her delegation of procurement authority.

(3) Acquisitions having a potential value of $10,000,000 or less: The contracting officer.

1515.305 Proposal evaluation.

1515.305–70 Scoring plans.

When trade-offs are performed (in accordance with FAR 15.101–1), the evaluation of technical and past performance shall be accomplished using the following scoring plan or one specifically developed for the solicitation, e.g., other numeric, adjectival, color rating systems, etc.

SCORING PLAN

Value	Descriptive statement
0	The factor is not addressed, or is totally deficient and without merit.
1	The factor is addressed, but contains deficiencies and/or weaknesses that can be corrected only by major or significant changes to relevant portions of the proposal, or the factor is addressed so minimally or vaguely that there are widespread information gaps. In addition, because of the deficiencies, weaknesses, and/or information gaps, serious concerns exist on the part of the technical evaluation team about the offeror's ability to perform the required work.
2	Information related to the factor is incomplete, unclear, or indicates an inadequate approach to, or understanding of the factor. The technical evaluation team believes there is question as to whether the offeror would be able to perform satisfactorily.
3	The response to the factor is adequate. Overall, it meets the specifications and requirements, such that the technical evaluation team believes that the offeror could perform to meet the Government's minimum requirements.
4	The response to the factor is good with some superior features. Information provided is generally clear, and the demonstrated ability to accomplish the technical requirements is acceptable with the possibility of more than adequate performance.
5	The response to the factor is superior in most features.

1515.305–71 Documentation of proposal evaluation.

In addition to the information required by FAR 15.305(a)(3), the technical evaluation documentation shall include:

(a) Score sheets prepared by each individual team member must be made available upon the contracting officer's request. For contracts valued at $10,000,000 or less, the technical evaluation may be recorded on the short form technical evaluation format (EPA Form 1900–61) or another form specifically developed for the solicitation; and

(b) A statement that the respective team members are free from actual or potential personal conflicts of interest, and are in compliance with the Office of Government Ethics ethics provisions at 5 CFR part 2635.

(c) Any information which might reveal that an offeror has an actual or

potential organizational conflict of interest.

(d) Any documentation related to exchanges with individual offerors.

1515.305–72 Release of cost information.

(a) In accordance with FAR 15.305(a)(4), the contracting officer may release the cost/price proposals to those members of the evaluation team who are evaluating proposals at his/her discretion.

(b) These individuals would then use this information to perform a cost realism analysis as described in FAR 15.404–1(d). Any inconsistencies between the proposals and the solicitation requirements and/or any inconsistencies between the cost/price and other than cost/price proposals should be identified.

1515.308–71 Documentation of source selection.

In addition to the information required by FAR 15.308, the source selection decision shall include:

(a) When there is only one proposal received or only one proposal in the competitive range, the contracting officer shall examine the solicitation to determine if it was unduly restrictive or flawed. As part of the source selection decision, the contracting officer shall address at a minimum, the following five factors: whether the requirement could have been broken up into smaller components; whether the solicitation provided adequate response time; whether the requirement could have been satisfied with reduced staffing levels (discussion may be combined with the first factor); if applicable, whether the work required on-site could otherwise be performed at a contractor's facility, avoiding the cost and logistical implications of relocating employees; and whether the geographical area of consideration was either too narrow or too broad, so as to adversely impact competition. If the contracting officer determines that the solicitation requirements unduly restrict competition, the contracting officer shall consider making appropriate changes to the solicitation, canceling the solicitation, and reissuing the solicitation incorporating the appropriate changes. For 8(a) competitive or small business competitive set-asides, if the contracting officer in consultation with the Office of Small and Disadvantaged Business Utilization determines that the solicitation requirements unduly restrict competition, the contracting officer shall consider making appropriate changes to the solicitation, canceling the solicitation, and reissuing the solicitation incorporating the appropriate changes.

(b) The contracting officer shall provide a copy of any source selection decision that includes an analysis of the five factors described in paragraph (a) of this section to the Competition Advocate after approval of the decision by the designated Source Selection Authority.

Subpart 1515.4—Contract Pricing

§ 1515.404–4 Profit.

This section implements FAR 15.404–4 and prescribes the EPA structured approach for establishing profit or fee prenegotiation objectives.

1515.404–470 Policy.

(a) The Agency's policy is to utilize profit to attract contractors who possess talents and skills necessary to the accomplishment of the objectives of the Agency, and to stimulate efficient contract performance. In negotiating profit/fee, it is necessary that all relevant factors be considered, and that fair and reasonable amounts be negotiated which give the contractor a profit objective commensurate with the nature of the work to be performed, the contractor's input to the total performance, and the risks assumed by the contractor.

(b) The purpose of EPA's structured approach is:

(1) To provide a standard method of evaluation;

(2) To ensure consideration of all relevant factors;

(3) To provide a basis for documentation and explanation of the profit or fee negotiation objective; and

(4) To allow contractors to earn profits commensurate with the assumption of risk.

(c) The profit-analysis factors prescribed in the EPA structured approach for analyzing profit or fee include those prescribed by FAR 15.404(d)(1), and additional factors authorized by FAR 15.404(d)(2) to foster achievement of program objectives. These profit or fee factors are prescribed in 1515.404–471.

1515.404–471 EPA structured approach for developing profit or fee objectives.

(a) *General.* To properly reflect differences among contracts, and to select an appropriate relative profit/fee in consideration of these differences, weightings have been developed for application by the contracting officer to standard measurement bases representative of the prescribed profit factors cited in FAR 15.404(d) and EPAAR 1515.404–471(b)(1). Each profit factor or subfactor, or its components, has been assigned weights relative to their value to the contract's overall effort, and the range of weights to be applied to each profit factor.

(b)(1) *Profit/fee factors.* The factors set forth below, and the weighted ranges listed after each factor, shall be used in all instances where the profit/fee is negotiated.

CONTRACTOR'S INPUT TO TOTAL PERFORMANCE

	Weight range (percent)
Direct material	1 to 4
Professional/technical labor	8 to 15
Professional/technical overhead	6 to 9
General labor	5 to 9
General overhead	4 to 7
Subcontractors	1 to 4
Other direct costs	1 to 3
General and administrative expenses	5 to 8
Contractor's assumption of contract cost risk	0 to 6

(2) The contracting officer shall first measure the ''Contractor's Input to Total Performance'' by the assignment of a profit percentage within the designated weight ranges to each element of contract cost. Such costs are multiplied by the specific percentages to arrive at a specific dollar profit or fee.

(3) The amount calculated for facilities capital cost of money (FCCM) shall not be included as part of the cost base for computation of profit or fee. The profit or fee objective shall be reduced by an amount equal to the amount of facilities capital cost of money allowed. A complete discussion of the determination of facilities capital cost of money and its application and administration is set forth in FAR 31.205–10, and the Appendix to the FAR (see 48 CFR 9904.414).

(4) After computing a total dollar profit or fee for the Contractor's Input to Total Performance, the contracting officer shall calculate the specific profit dollars assigned for cost risk and performance. This is accomplished by multiplying the total Government cost objective, exclusive of any FCCM, by the specific weight assigned to cost risk and performance. The contracting officer shall then determine the profit or fee objective by adding the total profit dollars for the Contractor's Input to Total Performance to the specific dollar profits assigned to cost risk and performance. The contracting officer shall use EPA Form 1900–2 in hardcopy or electronic copy equivalent to facilitate the calculation of the profit or fee objective.

(5) The weight factors discussed above are designed for arriving at profit or fee objectives for other than nonprofit and not-for-profit organizations. Nonprofit and not-for-profit organizations are addressed as follows:

(i) Nonprofit and not-for-profit organizations are defined as those business entities organized and operated:

(A) Exclusively for charitable, scientific, or or educational purposes;

(B) Where no part of the net earnings inure to the benefit of any private shareholder or individual;

(C) Where no substantial part of the activities is for propaganda or otherwise attempting to influence legislation or participating in any political campaign on behalf of any candidate for public office; and

(D) Which are exempt from Federal income taxation under Section 51 of the Internal Revenue Code.

(ii) For contracts with nonprofit and not-for-profit organizations where fees are involved, special factor of −3 percent shall be assigned in all cases.

(c) Assignment of values to specific factors—

(1) *General.* In making a judgment on the value of each factor, the contracting officer should be governed by the definition, description, and purpose of the factors, together with considerations for evaluation set forth in this paragraph.

(2) *Contractor's input to total performance.* This factor is a measure of how much the contractor is expected to contribute to the overall effort necessary to meet the contract performance requirements in an efficient manner. This factor, which is separate from the contractor's responsibility for contract performance, takes into account what resources are necessary, and the creativity and ingenuity needed for the contractor to perform the statement of work successfully. This is a recognition that within a given performance output, or within a given sales dollar figure, necessary efforts on the part of individual contractors can vary widely in both value, quantity, and quality, and that the profit or fee objective should reflect the extent and nature of the contractor's contribution to total performance.

Greater profit opportunity should be provided under contracts requiring a high degree of professional and managerial skill and to prospective contractors whose skills, facilities, and technical assets can be expected to lead to efficient and economical contract performance. The evaluation of this factor requires an analysis of the cost content of the proposed contract as follows:

(i) *Direct material (purchased parts and other material).* (A) Analysis of these cost items shall include an evaluation of the managerial and technical effort necessary to obtain the required material. This evaluation shall include consideration of the number of orders and suppliers, and whether established sources are available or new sources must be developed. The contracting officer shall also determine whether the contractor will, for example, obtain the materials by routine orders or readily available supplies (particularly those of substantial value in relation to the total contract costs), or by detailed subcontracts for which the prime contractor will be required to develop complex specifications involving creative design.

(B) Consideration should be given to the managerial and technical efforts necessary for the prime contractor to administer subcontracts, and to select subcontractors, including efforts to break out subcontracts from sole sources, through the introduction of competition.

(C) Recognized costs proposed as direct material costs such as scrap charges shall be treated as material for profit evaluation.

(D) If intracompany transfers are accepted at price, in accordance with FAR 31.205–26(e), they should be excluded from the profit or fee computation. Other intracompany transfers shall be evaluated by individual components of cost, i.e., material, labor, and overhead.

(ii) *Professional/Technical and General Labor.* Analysis of labor should include evaluation of the comparative quality and level of the talents and experience to be employed. In evaluating labor for the purpose of assigning profit dollars, consideration should be given to the amount of notable scientific talent or unusual or scarce talent needed, in contrast to journeyman effort or supporting personnel. The diversity, or lack thereof, of scientific and engineering specialties required for contract performance, and the corresponding need for supervision and coordination, should also be evaluated.

(iii) *Overhead and general and administrative expenses.* (A) Where practicable, analysis of these overhead items of cost should include the evaluation of the individual elements of these expenses, and how much they contribute to contract performance. This analysis should include a determination of the amount of labor within these overhead pools, and how this labor would be treated if it were considered as direct labor under the contract. The allocable labor elements should be given the same profit consideration as if they were direct labor. The other elements of indirect cost pools should be evaluated to determine whether they are routine expenses such as utilities, depreciation, and maintenance, and therefore given less profit consideration.

(B) The contractor's accounting system need not break down its overhead expenses within the classification of professional/technical overhead, general overhead and general and administrative expenses.

(iv) *Subcontractors.* (A) Subcontract costs should be analyzed from the standpoint of the talents and skills of the subcontractors. The analysis should consider if the prime contractor normally should be expected to have people with comparable expertise employed as full-time staff, or if the contract requires skills not normally available in an employer-employee relationship. Where the prime contractor is using subcontractors to perform labor which would normally be expected to be done in-house, the rating factor should generally be at or near 1 percent. Where exceptional expertise is retained, or the prime contractor is participating in the mentor-protégé program, the assigned weight should be nearer to the high end of the range.

(v) *Other direct costs.* The analysis of these costs should be similar to the analysis of direct material.

(3) *Contractor's assumption of contract cost risk.* (i) The risk of contract costs should be shifted to the fullest extent practicable to contractors, and the Government should assign a rating that reflects the degree of risk assumption. Evaluation of this risk requires a determination of the degree of cost responsibility the contractor assumes, the reliability of the cost estimates in relation to the task assumed, and the chance of the contractor's success or failure. This factor is specifically limited to the risk of contract costs. Thus, such risks of losing potential profits in other fields are not within the scope of this factor.

(ii) The first determination of the degree of cost responsibility assumed by the contractor is related to the sharing of total risk of contract cost by the Government and the contractor, depending on selection of contract type. The extremes are a cost-plus-fixed-fee contract requiring only that the contractor use its best efforts to perform a task, and a firm-fixed-price contract for a complex item. A cost-plus-fixed-fee contract would reflect a minimum assumption of cost responsibility by the

contractor, whereas a firm-fixed-price contract would reflect a complete assumption of cost responsibility by the contractor. Therefore, in the first step of determining the value given for the contractor's assumption of contract cost risk, a lower rating would be assigned to a proposed cost-plus-fixed-fee best efforts contract, and a higher rating would be assigned to a firm-fixed-price contract.

(iii) The second determination is that of the reliability of the cost estimates. Sound price negotiation requires well-defined contract objectives and reliable cost estimates. An excessive cost estimate reduces the possibility that the cost of performance will exceed the contract price, thereby reducing the contractor's assumption of contract cost risk.

(iv) The third determination is that of the difficulty of the contractor's task. The contractor's task may be difficult or easy, regardless of the type of contract.

(v) Contractors are likely to assume greater cost risks only if the contracting officer objectively analyzes the risk incident to the proposed contract, and is willing to compensate contractors for it. Generally, a cost-plus-fixed-fee contract would not justify a reward for risk in excess of 1 percent, nor would a firm-fixed-price contract normally justify a reward of less than 4 percent. Where proper contract type selection has been made, the reward for risk by contract type would usually fall into the following percentage ranges:

Type of contract	Percentage ranges
Cost-plus-fixed-fee	0 to 1
Prospective price determination	4 to 5
Firm-fixed-price	4 to 6

(A) These ranges may not be appropriate for all acquisitions. The contracting officer might determine that a basis exists for high confidence in the reasonableness of the estimate, and that little opportunity exists for cost reduction without extraordinary efforts. The contractor's willingness to accept ceilings on their burden rates should be considered as a risk factor for cost-plus-fixed-fee contracts.

(B) In making a contract cost risk evaluation in an acquisition that involves definitization of a letter contract, consideration should be given to the effect on total contract cost risk as a result of partial performance under a letter contract. Under some circumstances, the total amount of cost risk may have been effectively reduced by the existence of a letter contract. Under other circumstances, it may be apparent that the contractor's cost risk remained substantially as great as though a letter contract had not been used. Where a contractor has begun work under an anticipatory cost letter, the risk assumed is greater than normal. To be equitable, the determination of a profit weight for application to the total of all recognized costs, both those incurred and those yet to be expended, must be made with consideration to all relevant circumstances, not just to the portion of costs incurred or percentage of work completed prior to definitization.

1515.404–472 Other methods.

(a) Contracting officers may use methods other than those prescribed in 1515.404–470 for establishing profit or fee objectives under the following types of contracts and circumstances:

(1) Architect-engineering contracts;

(2) Personal service contracts;

(3) Management contracts, e.g., for maintenance or operation of Government facilities;

(4) Termination settlements;

(5) Services under labor-hour and time and material contracts which provide for payment on an hourly, daily, or monthly basis, and where the contractor's contribution constitutes the furnishing of personnel.

(6) Construction contracts; and

(7) Cost-plus-award-fee contracts.

(b) Generally, it is expected that such methods will:

(1) Provide the contracting officer with a technique that will ensure consideration of the relative value of the appropriate profit factors described under ''Profit Factors,'' in FAR 15.404–4(d) and

(2) Serve as a basis for documentation of the profit or fee objective.

1515.404–473 Limitations.

(a) In addition to the limitations established by statute (see FAR 15.404–4(b)(4)(i)), no administrative ceilings on profits or fees shall be established, except those identified in EPAAR (48 CFR) 1516.404–273(b).

(b) The contracting officer shall not consider any known subcontractor profit/fee as part of the basis for determining the contractor profit/fee.

1515.404–474 Waivers.

Under unusual circumstances, the CCO may specifically waive the requirement for the use of the guidelines. Such exceptions shall be justified in writing, and authorized only in situations where the guidelines method is unsuitable.

1515.404–475 Cost realism.

The EPA structured approach is not required when the contracting officer is evaluating cost realism in a competitive acquisition.

1515.408 Solicitation provisions and contract clauses.

(a) In addition to those provisions and clauses prescribed in FAR 15.408, when an exception to FAR 15.403–1 does not apply and no other means available can be used to ascertain whether a fair and reasonable price can be determined, the contracting officer may insert in negotiated solicitations the provisions at—

(1) 1552.215–72 when requesting information other than cost or pricing data, for cost-reimbursable, level-of-effort-contracts. Use Alternate I for cost-reimbursable, level-of-effort contracts when the Government's requirement is for fully dedicated staff for a twelve month period(s) of performance and performance is on a Government facility; Alternate II for acquisitions for cost-reimbursable, level-of-effort contracts when the Government's requirement is for fully dedicated staff for a twelve month period(s) of performance and performance is not on a Government facility; and Alternate III if the Government's requirement is for the acquisition of supplies or equipment. The contracting officer may make revisions, deletions, or additions to 1552.215–72 and its Alternates I–III as needed to fit an individual acquisition, and

(2) 1552.215–73, General Financial and Organizational Information.

(b) If uncompensated overtime is proposed, the resultant contract shall include the provisions at FAR 52.237–10 and include the provision at 1552.215–74. The contracting officer may use provisions substantially the same as 1552.215–74 without requesting a deviation to the EPAAR.

Subpart 1515.6—Unsolicited Proposals

1515.604 Agency points of contact.

The Director, Grants Administration Division (3903R), EPA, 401 M Street, SW, Washington, D.C. 20460, is the Agency contact point established to coordinate the receipt and handling of unsolicited proposals.

1515.606–70 Contracting methods.

The Department of Housing and Urban Development-Independent Agencies Appropriation Act contains a requirement that none of the funds provided in the Act may be used for payment through grants or contracts to recipients that do not share in the cost

of conducting research resulting from proposals that are not specifically solicited by the Government. Accordingly, contracts for research which result from unsolicited proposals shall provide for the contractor to bear a portion of the cost of performance for work subject to the Act. The extent of the cost sharing shall reflect the mutuality of interest of the contractor and the Government. Therefore, where there is no measurable gain to the performing organization, cost sharing is not required.

4. In 1552.215–70, the section heading, the introductory text, and the provision heading are revised to read as follows:

1552.215–70 EPA Source Evaluation and Selection Procedures—Negotiated Procurements

As prescribed in 1515.209(a), insert the following provision:

1552.215–70 EPA SOURCE EVALUATION AND SELECTION PROCEDURES—NEGOTIATED PROCUREMENTS (month and year of publication in the Federal Register)

* * * * *

5. In 1552.215–71 is revised to read as follows:

1552.215–71 Evaluation Factors for Award.

As prescribed in 1515.209(a), insert one of the following provisions.

EVALUATION FACTORS FOR AWARD (Month and Year of Publication in the Federal Register)

(a) The Government will make award to the responsible offeror(s) whose offer conforms to the solicitation and is most advantageous to the Government cost or other factors considered. For this solicitation, all evaluation factors other than cost or price when combined are significantly more important than cost or price.

(b) Evaluation factors and significant subfactors to determine quality of product or service:

_____

_____

[End of provision]

EVALUATION FACTORS FOR AWARD (Month and Year of Publication in the Federal Register)

ALTERNATE I (Month and Year of Publication in the Federal Register)

(a) The Government will make award to the responsible offeror(s) whose offer conforms to the solicitation and is most advantageous to the Government cost or other factors considered. For this solicitation, all evaluation factors other than cost or price when combined are significantly less important than cost or price.

(b) Evaluation factors and significant subfactors to determine quality of product or service:

_____

_____

[End of provision]

EVALUATION FACTORS FOR AWARD (Month and Year of Publication in the Federal Register)

ALTERNATE II (Month and Year of Publication in the Federal Register)

(a) The Government will make award to the responsible offeror(s) whose offer conforms to the solicitation and is most advantageous to the Government cost or other factors considered. For this solicitation, all evaluation factors other than cost or price when combined are approximately equal to cost or price.

(b) Evaluation factors and significant subfactors to determine the quality of product or service:

_____

_____

[End of provision]

EVALUATION FACTORS FOR AWARD (Month and Year of Publication in the Federal Register)

ALTERNATE III (Month and Year of Publication in the Federal Register)

(a) The Government will make award to the offeror with the lowest-evaluated cost or price, whose proposal meets or exceeds the acceptability standards for non-cost factors. In the event that there are two or more technically acceptable, equal price (cost) offers, the Government will consider socioeconomic, environmental and other similar factors, as listed below in descending order of importance:

_____

_____

(b) Factors and significant subfactors for technical acceptability evaluation:

_____

_____

(c) Factors for past performance evaluation (optional):

_____

_____

[End of provision]

6. 1552.215–73 is redesignated as 1552.215–72 and revised to read as follows:

1552.215–72 Instructions for the preparation of proposals.

As prescribed in 1515.408(a)(1) insert the following provision:

INSTRUCTIONS FOR THE PREPARATION OF PROPOSALS (Month and Year of Publication in the Federal Register)

(a) Other than cost proposal instructions.

(1) Submit proposal for than cost factors as a separate part of the total proposal package. Omit all cost or pricing details from this proposal.

(2) Special proposal instructions:

_____

_____

_____

(b) Cost or pricing proposal instructions. The offeror shall prepare and submit cost or pricing information data and supporting attachments in accordance with Table 15–2 of FAR 15.408. In addition to a hard copy of the information, to expedite review of the proposal, submit a 3.5•• high density IBM-compatible formatted computer disk containing the financial data required, if this information is available using a commercial spreadsheet program on a personal computer. Submit this information using LOTUS 1–2–3, if available. Identify which version of LOTUS used. If the offeror used another spreadsheet program, indicate the software program used to create this information. Offerors should include the formulas and factors used in calculating the financial data. Although submission of a computer disk will expedite review, failure to submit a disk will not affect consideration of the proposal.

(1) General—Submit cost or pricing information prepared in accordance with FAR Table 15–2, Instructions for Submitting Cost/Price Proposals When Cost or Pricing Information Are Required and the following:

(i) Clearly identify separate cost or pricing information associated with any:

(A) Options to extend the term of the contract;

(B) Options for the Government to order incremental quantities; and/or

(C) Major tasks, if required by the special instructions.

(ii) If the contract schedule includes a ''Fixed Rate for Services'' clause, please provide in the cost proposal a schedule duplicating the format in the clause and include proposed fixed hourly rates per labor category for the base and any optional contract periods.

(iii) If the contract includes the clause at EPAAR 1552.232–73 ''Payments—Fixed-Rate Services Contract,'' or the clause at FAR 52.232–7, ''Payments Under Time and Materials and Labor-Hour Contracts,'' include in the cost proposal the estimated costs and burden rate to be applied to materials, other direct costs, or subcontracts. The Government will include these costs as part of its cost proposal evaluation.

(iv) If other divisions, subsidiaries, a parent or affiliated companies will perform work, provide the name and location of such affiliate and offeror's intercompany pricing policy. Separately identify costs and supporting data for each entity proposed.

(v) The realism of costs, including personnel compensation rates (including effective hourly rates due to uncompensated overtime) will be part of the proposal evaluation. Any reductions to proposed costs or differences between proposed and known EPA/DCAA recommended rates must be fully explained. If an offeror makes a reduction which makes its offer or portions of its offer below anticipated costs, the offeror shall identify where (i.e., which elements of costs) the proposed reductions will be made. Unsubstantiated rates may result in an upward or downward adjustment of the cost proposals to reflect more realistic costs. Based on this analysis, a projected cost for the offeror will be calculated to reflect the Government's estimate of the offeror's probable costs. Any inconsistency, whether real or apparent, between the promised performance and cost or price should be explained. The burden of proof for cost credibility rests with the offeror.

(2) Direct Labor.

(i) The direct technical labor hours (level-of-effort) appearing in the solicitation are for professional and technical labor only. These hours do not include management at a level higher than project management, e.g., corporate and day-to-day management, nor do they include clerical and support staff at a level lower than technician. If it is the offeror's normal practice to charge these types of costs as direct costs, include these costs along with an estimate of the directly chargeable labor-hours for these personnel. These direct charges are to be shown separately from the technical (level-of-effort) effort. If this type of effort is normally included in the offeror's indirect cost allocations, no estimate is required. However, direct charging of these on any resulting contract will not be allowed. Additionally the direct technical labor hours are the workable hours required by the Government and do not include release time (i.e., holidays, vacation, etc.) Submit the proposal utilizing the labor categories and distribution of the level-of-effort specified in the solicitation. These are approximate distribution levels and do not necessarily represent the actual levels which may be experienced during contract performance.

(ii) Explain the basis of the proposed labor rates, including a complete justification for all judgmental factors used to develop weights applied to company's category or individual rates that comprise the rates for labor categories specified in the solicitation. This explanation should describe how technical approach coincides with the proposed costs. If the proposed direct labor rates are based on an average of the individuals proposed to work on the contract, provide a list of the individuals proposed and the hours associated with each individual in deriving the rates. If the proposed direct labor rates are based on an average of company category rates, identify and describe the labor categories and the percentages associated with each category in deriving the rates, explaining in detail the basis for the percentages assigned.

(iii) Describe for each labor category proposed, the company's qualifications and experience requirements. If individual rates are used, provide the employee's name. If specific individuals are identified in the technical proposal, correlate these individuals with the labor categories specified in the solicitation.

(iv) Provide a matrix summarizing the effort proposed, including the subcontracts, by professional and technical level specified in the solicitation.

(v) Indicate whether current rates or escalated rates are used. If escalation is included, state the degree (percent) and methodology. The methodology shall include the effective date of the base rates and the policy on salary reviews (e.g. anniversary date of employee or salary reviews for all employees on a specific date).

(vi) State whether any additional direct labor (new hire or temporary hires) will be required during the performance period of this acquisition. If so, state the number required, the professional or technical level and the methodology used to estimate proposed labor rates.

(vii) With respect to educational institutions, include the following information for those professional staff members whose salary is expected to be covered by a stipulated salary support agreement pursuant to OMB Circular A–21.

(A) Individual's name;

(B) Annual salary and the period for which the salary is applicable;

(C) List of other research Projects or proposals for which salaries are allocated, and the proportionate time charged to each; and

(D) Other duties, such as teaching assignments, administrative assignments, and other institutional activities. Show the proportionate time charged to each. (Show proportionate time charges as a percentage of 100% of time for the entire academic year, exclusive of vacation or sabbatical leave.)

(viii) Uncompensated overtime. The decision to propose uncompensated overtime is the offeror's decision. Should the offeror, however, elect to propose uncompensated overtime, the offeror must propose a methodology that is consistent with their cost accounting practices and company policy. If proposed, provide an estimate of any uncompensated overtime proposed for exempt personnel working at the offeror's facilities. This estimate should identify the number of uncompensated labor hours and the percentage of compensated labor. Uncompensated labor hours are defined as hours for exempt personnel in excess of regular hours for a pay period which are actually worked and recorded in accordance with company policy. Provide a copy of the company policy on uncompensated overtime. Provide historical percentages of uncompensated overtime for the past three years. If proposed for subcontractors, provide separately with subcontractor information.

(ix) For labor rate contracts, for each fixed labor rate, offerors shall identify the basis for for the loaded fixed hourly rate for each contract period for example, the rate might consist of the following cost elements:

raw wage or salary rate, plus
fringe benefits (if applicable), plus
overhead rate (if applicable), plus
G&A expense rate (if applicable), plus profit.

When determining the composite raw wage for a labor category, the offeror shall:

(A) provide in narrative form the basis for the raw wage for each labor category. If actual wages of current employees are used, the basis for the projections should be explained.

(B) If employees are subject to the Service Contract Act or Davis Bacon Act, they must be compensated at least at the minimum wage rate required by the applicable Wage Determination.

(3) Indirect costs (fringe, overhead, general, and administrative expenses).

(i) If the rates have been recently approved, include a copy of the rate agreement. If the agreement does not cover the projected performance period of the proposed effort, provide the rationale and any estimated rate calculations for the proposed performance period.

(ii) Submit supporting documentation for rates which have not been approved or audited. Indicate whether computations are based upon historical or projected data.

(iii) Provide actual pool expenses, base dollars, or hours (as applicable for the past five years). Include the actual indirect rates for the past five years including the indirect rates proposed, the actual indirect rates experienced and, if available, the final negotiated rate. Indicate the amount of unallowable costs included in the historical data.

(iv) Offerors who propose indirect rates for new or substantially reorganized cost centers should consider offering to accept ceilings on the indirect rates at the proposed rates. Similarly, offerors whose subcontractors propose indirect rates for new or substantially reorganized cost centers should likewise consider offering to accept ceilings on the subcontractors' indirect rates at the proposed rates.

Note to paragraph (b)(3)(iv): The Government reserves the right to adjust an offeror's or its subcontractor's estimated indirect costs for evaluation purposes based on the Agency's judgment of the most probable costs up the amount of any stated ceiling.

(v) If the employees are subject to the Service Contract Act or Davis Bacon Act, employees must receive the minimum level of benefits stated in the applicable Wage Determination.

(4) Travel expense.

(i) If the solicitation specifies the amount of travel costs, this amount is exclusive of any applicable indirect costs and fee.

(ii) If the solicitation does not specify the amount of travel costs, attach a schedule illustrating how travel was computed. Include a breakdown indicating number of trips, number of travelers, destinations from and to, purpose and cost, e.g., mileage, transportation costs, subsistence rates.

(5) Equipment, facilities and special equipment, including tooling.

(i) If direct charges for use of existing contractor equipment are proposed, provide a description of these items, including estimated usage hours, rates, and total costs.

(ii) If equipment purchases are proposed, provide a description of these items, and a justification as to why the Government should furnish the equipment or allow its purchase with contract funds. (Unless specified elsewhere in this solicitation, FAR 45.302–1 requires contractors to furnish all facilities in performance of contracts with certain limited exceptions.)

(iii) Identify Government-owned property in the possession of the offeror or proposed to be used in the performance of the contract, and the Government agency which has cognizance over the property.

(iv) Submit proposed rates or use charges for equipment, along with documentation to support those rates.

(v) If special purposes facilities or equipment are being proposed, provide a description of these items, details for the proposed costs including competitive prices, and justification as to why the Government should furnish the equipment or allow its purchase with contract funds.

(vi) If fabrication by the prime contractor is contemplated, include details of material, labor, and overhead.

(6) Other Direct Costs (ODC).

(i) If the solicitation specifies the amount of other direct costs, this amount is exclusive of any applicable indirect cost and fee.

(ii) If the amount is not specified in the solicitation, attach a schedule detailing how other direct costs were computed. Identify the major ODC items that under the accounting system would be a direct charge on any resulting contract.

(iii) If any of the cost elements identified as part of the specified other direct costs are recovered as an indirect cost, in accordance with the offeror's accounting system, those costs should not be included as a direct cost. Complete explanation of this adjustment and the contractor's practice should be provided.

(iv) Provide historical other direct costs dollars per level of effort hour on similar contracts or work assignments.

(7) Team Subcontracts. When the cost of a subcontract is substantial (5 percent of the total estimated contract dollar value or $100,000, whichever is less), the offeror shall include the following subcontractor information:

(i) Provide details of subcontract costs in the same format as the prime contractor's costs. This detailed information may be provided separately to the EPA if the subcontractor does not wish to provide this data to the prime contractor. Cost data provided separately by a contractor must be received by the time, date and at the location specified for the receipt of proposals. The subcontractor's package should be clearly marked with the RFP number, the name of the prime offeror, and a statement that the package is subcontractor data relevant to the proposal from the prime offeror. If submitted with the prime contractor's proposal, identify the subcontractors. State the amount of service estimated to be required and the quoted daily or hourly rate. Offerors are encouraged to provide letters of intent, signed by subcontractors, agreeing to a specified rate for life of the contract. Include a cost or price analysis of the subcontractor cost showing the reasons why the costs are considered reasonable;

(ii) Describe how the prospective team subcontractors were chosen as part of the offeror's proposed team; and rationale for selection;

(iii) Describe the necessity for the subcontractor's effort as either a supplement or complement to the offeror's in-house expertise;

(iv) Identify the areas of the scope of work and the level of effort the subcontractors are anticipated to perform. Provide a reconciliation summary of the proposed hours and ODCs for the prime contractor and proposed subcontractor(s).

(v) Describe the prime contractor's management structure and internal controls to ensure efficient and quality performance of team subcontractors.

(8) Facilities Capital Cost of Money (FCCM). When an offeror elects to claim FCCM as an allowable cost, the offeror must submit Form CASB–CNF and show calculation of the proposed amount. FCCM will be an allowable cost under the contemplated contract, if the criteria for allowability at FAR 31.205–10(a)(2) are met. [End of Provision]

Alternate I (month and year of publication in the **Federal Register**). If the Government's requirement is a fully dedicated staff person for a twelve month period(s) for each specified position and performance is on a Government facility, add the following paragraph (b)(2)(x) to the basic provision:

(x) The level of effort for each position is to be proposed in work years. A work year is considered to consist of 2080 hours inclusive of direct and indirect time (40 hours per week × 52 weeks per year = 2080 hours). The proposal must identify proposed work years and clearly identify how many hours in each work year are direct (i.e., productive working hours) and how many are indirect (i.e., paid absences). If the company policy includes a different base work week, the total available hours would be different. For example, if the company's policy calls for a 37.5 hour work week, offeror would deduct paid absences from 1950 hour (37.5 hours/week x 52 weeks/year = 1950 hours). Offeror should clearly identify the paid absences as to how many hours are for holiday and how many hours are for vacation and sick leave. The amount of indirect time (paid absences) identified in the proposal must be consistent with company policy and must allow for the ten Federal Government holidays.

Alternate II (month and year of publication in the **Federal Register**). If the Government's requirement is a fully dedicated staff person for a twelve month period(s) for each specified position and performance is not on a Government facility; add the following paragraph (b)(2)(x) to the basic provision:

(x) The level of effort for each position is to be proposed in work years. A work year is considered to consist of 2080 hours inclusive of direct and indirect time (40 hours per week × 52 weeks per year = 2080 hours). The proposal must identify proposed work years and clearly identify how many hours in each work year are direct (i.e., productive working hours) and how many are indirect (i.e., paid absences). If the company policy includes a different base work week, the total available hours would be different. For example, if the company's policy calls for a 37.5 hour work week, offeror would deduct paid absences from 1950 hour (37.5 hours/week x 52 weeks/year = 1950 hours). Offeror should clearly identify the paid absences as to how many hours are for holiday and how many hours are for vacation and sick leave.

Alternate III (month and year of publication in the **Federal Register**). If the requirement is for the acquisition of supplies or equipment, substitute the following paragraphs (a) (iv)–(viii) and add (a)(ix) and (b).

(iv) Provide information as to how the proposed supplies or equipment meet the salient characteristics required by the contract line item;

(v) Provide published brochures, catalogs, or other technical literature by contract line item;

(vi) Meet any interface or compatibility requirements by contract line item;

(vii) Describe warranty services and how delivered by contract line item;

(viii) Assumptions, deviations and exceptions (as necessary); and

(ix) Additional information.

(b) Supplies—Provide unit pricing by contract line items for:

(i) Each line item;

(ii) Delivery;

(iii) Installation;

(iv) Sets of operating manuals;

(v) Training;

(vi) Warranty;

(vii) Maintenance; and

(viii) Volume discounts.

7. 1552.215–74 is redesignated as 1552.215–73 and revised to read as follows:

1552.215–73 General financial and organizational information.

As prescribed in 1515.408(a)(2), insert the following provision:

GENERAL FINANCIAL AND ORGANIZATIONAL INFORMATION

(the Month and Year of Publication in the Federal Register)

Offerors or quoters are requested to provide information regarding the following items in sufficient detail to allow a full and complete business evaluation. If the question indicated is not applicable or the answer is none, it should be annotated. If the offeror has previously submitted the information, it should certify the validity of that data currently on file at EPA and to whom and where it was submitted or update all outdated information on file.

(a) Contractor's Name:_____

(b) Address (If financial records are maintained at some other location, show the address of the place where the records are kept):_____

(c) Telephone Number:_____

(d) Individual(s) to contact re. this proposal:_____

(e) Cognizant Government:

Audit Agency: _____

Address: _____

Auditor: _____

(f)(1) Work Distribution for the Last Completed Fiscal Accounting Period:

Sales:

Government cost-reimbursement type prime contracts and subcontracts: $_____

Government fixed-price prime contracts and subcontracts: $_____

Commercial Sales: $_____

Total Sales: $_____

(2) Total Sales for first and second fiscal years immediately preceding last completed fiscal year.

Total Sales for First Preceding Fiscal Year $_____

Total Sales for Second Preceding Fiscal Year $_____

(g) Is company a separate rate entity or division?

Yes____ No____

If a division or subsidiary corporation, name parent company:

_____

(h) Date Company Organized:_____

(i) Manpower:

Total Employees: _____

Direct: _____

Indirect: _____

Standard Work Week (Hours):_____

(j) Commercial Products:_____

(k) Attach a current organizational chart of the company.

(l) Description of Contractor's system of estimating and accumulating costs under Government contracts. (Check appropriate blocks.)

	Estimated/ actual cost	Standard cost
Estimating System:		
Job Order		
Process		
Accumulating System:		
Job Order		
Process		

Has your cost estimating system been approved by any Government agency? Yes _____ No _____

If yes, give name, date or approval, and location of agency: _____

Has your cost accumulation system been approved by any Government agency? Yes _____ No _____

If yes, give name, date of approval, and address of agency:

_____

_____

(m) What is your fiscal year period? (Give month-to-month dates): _____

What were the indirect cost rates for your last completed fiscal year?

Fiscal year	Indirect cost rate	Basis of Allocation
Fringe Benefits		
Overhead		
G&A Expense ...		
Other		

(n) Have the proposed indirect cost rate(s) been evaluated and accepted by any Government agency? Yes _____ No _____

If yes, give name, date of approval, and location of the Government agency: _____

Date of last preaward audit review by a Government agency: _____

If the answer is no, data supporting the proposed rates must accompany the cost or price proposal. A breakdown of the items comprising overhead and G&A must be furnished.

(o) Cost estimating is performed by:

Accounting Department _____

Contracting Department _____

Other (describe) _____

(p) Has system of control of Government property been approved by a Government agency? Yes _____ No _____

If yes, give name, date of approval, and location of the Government _____

(q) Purchasing System: FAR 44.302 requires EPA, where it is the cognizant Government agency, to conduct a Contractor Purchasing System Review for each contractor whose sales to the Government, using other than sealed bid procedures, are expected to exceed $25 million (annual billings) during the next twelve months. The $25 million sales threshold is comprised of prime contracts, subcontractors under Government prime contracts, and modifications (except when the negotiated price is based on established catalog or market prices or is set by law or regulation).

Has your purchasing system been approved by a Government agency? Yes _____ No _____

If yes, name and location of the Government agency: _____

Period of Approval: _____

If no, do you estimate that your negotiated sales to the Government during the next twelve months will meet the $25 million threshold? Yes _____ No _____

If you responded yes to the $25 million threshold question, is EPA the cognizant agency for your organization based on the preponderance of Government contract dollars? Yes _____ No _____

If EPA is not your cognizant Government agency, provide the name and location of the cognizant agency _____

Are your purchasing policies and procedures written? Yes _____ No _____

(r) Does your firm have an established written incentive compensation or bonus plan? Yes _____ No _____

(s) Additionally, offerors shall submit current financial statements, including a Balance Sheet, Statement of Income (Loss), and Cash Flow for the last two completed fiscal years. Specify resources available to perform the contract without assistance from any outside source. If sufficient resources are not available, indicate in proposal the amount required and the anticipated source (i.e., bank loans, letter or lines of credit, etc.). (End of Provision)

1552.215–74 Advanced understanding—uncompensated time.

As prescribed in 1515.408(b), insert the following provision or one substantially the same as the following provision:

ADVANCED UNDERSTANDING—UNCOMPENSATED TIME (The Month and Year of Publication in the Federal Register)

(a) The estimated cost of this contract is based upon the Contractor's proposal which specified that exempt personnel identified to work at the Contractor's facilities will provide uncompensated labor hours to the contract totaling _____ percent of compensated labor. (Note: the commitment for uncompensated time, and the formula elements in paragraph (b) below, apply only to exempt personnel working at the Contractor's facilities and does not include non-exempt personnel or exempt personnel working at other facilities.) Uncompensated labor hours are defined as hours of exempt personnel in excess of regular hours for a _____ pay period which are actually worked and recorded in accordance with the company policy, entitled, _____

(b) Recognizing that the probable cost to the Government for the labor provided under this contract is calculated assuming a proposed level of uncompensated labor hours, it is hereby agreed that in the event the proposed level of uncompensated labor hours are not provided, an adjustment, calculated in accordance with the following formula will be made to the contract amount.

Formula

Adjustment equals estimated value of uncompensated time hours not provided

Target uncompensated time percent minus _____ percent.

Shortage of uncompensated time percent minus actual cost percent.

Estimated value of uncompensated time hours not provided equals shortage of uncompensated time percent times total exempt applicable direct labor costs (including applicable indirect costs).

(c) Within three weeks after the end of the contract, the Contractor shall submit a statement concerning the amount of uncompensated time hours delivered during the contract. In the event there is a shortage of uncompensated time hours provided, a calculation, utilizing the above formula will be made and this calculation will be the basis for an adjustment in the contract amount.

(d) In the event adjustments are made to the contract, the adjusted amounts shall not be allowable as a direct or indirect cost to this or any other Government contract. [End of clause]

Dated: December 1, 1998.

Betty L. Bailey,

Director, Office of Acquisition Management.

[FR Doc. 98–33627 Filed 12–24–98; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period and availability of draft conservation agreement.

SUMMARY: The Fish and Wildlife Service (Service) provides notice that the public comment period on the proposal to list the Pecos pupfish (*Cyprinodon pecosensis*) as an endangered species is reopened. The Service, in cooperation with the New Mexico Department of Game and Fish, New Mexico State Parks Department, Texas Parks and Wildlife Department, and Bureau of Reclamation, has formulated a draft Conservation Agreement that may provide significant new information concerning the threats to the survival of the species. The reopening of the comment period will allow all interested parties to submit comments on the proposal and the draft Conservation Agreement. The draft Conservation Agreement is available for

review (see **ADDRESSES**), and we are seeking comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested parties concerning the proposed rule and the draft Conservation Agreement.

DATES: The comment period for this proposal is reopened and will close on January 27, 1999. All comments on the proposal and the draft Conservation Agreement will be accepted through January 27, 1999.

ADDRESSES: Written comments and materials should be sent to the Field Supervisor, New Mexico Ecological Services Field Office, 2105 Osuna NE, Albuquerque, New Mexico 87113. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: Jennifer Fowler-Propst, Field Supervisor, New Mexico Ecological Services Field Office, at the above address (505) 346–2525. A copy of the draft Conservation Agreement for the Pecos pupfish can be requested by writing to the above address or calling (800) 299–0196.

SUPPLEMENTARY INFORMATION:

Background

The Pecos pupfish was proposed for listing as an endangered species on January 30, 1998 (63 FR 4608). A public hearing on the proposal was held in Carlsbad, New Mexico on April 9, 1998. During the extended public comment period (January 30 to November 20, 1998), we contacted State and Federal land and resource management agencies in New Mexico and Texas to determine if adequate protections could be implemented through a Conservation Agreement. The draft Conservation Agreement formulated by these agencies is available for public review (see **ADDRESSES**). The Agreement and any comments received concerning it will be fully considered by the Service in determining if the threats upon which the proposal to list the species was based have been sufficiently addressed.

The draft Conservation Agreement sets forth the commitments of State and Federal agencies to control nonnative competing species and to protect and manage the Pecos pupfish and its habitat to ensure its survival and promote its conservation. The Agreement addresses the significant threats to the species arising from its small, isolated populations and from the potential for hybridization with the sheepshead minnow (*Cyprinodon variegatus*). The signatory agencies to the Agreement have made commitments to protect known extant populations of pure Pecos pupfish, expand the distribution of the species within its native range by establishing new populations, and to prohibit the use of sheepshead minnow through revision of baitfish regulations in New Mexico and Texas. If these commitments are adequate in removing the identified threats to the Pecos pupfish, listing of the species may not be required.

Author

The primary author of this document is Jennifer Fowler-Propst, New Mexico Ecological Services Field Office (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1532 *et seq.*).

Dated: December 18, 1998.

Renne Lohoefener,

Acting Regional Director, Fish and Wildlife Service.

[FR Doc. 98–34213 Filed 12–24–98; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 63, No. 248
Monday, December 28, 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.

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in the Main Conference Room of the 4th Floor of the Franklin Court Building, 1099 14th Street (Corner of 14th & L), NW, Washington, DC, on Monday and Tuesday, January 4 and 5, 1999, from 8:30 a.m. to 5:00 p.m. each day.

The purpose of this meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, section 1242(a)(1)(B) and to review the November 1998 Joint Board examination in order to make recommendations relative thereto, including the minimum acceptable pass score. In addition, a number of issues will be discussed relative to the future Joint Board examinations.

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) that the portions of the meeting dealing with the discussion of questions which may appear on future Joint Board examinations and review of the November 1998 Joint Board examination fall within the exceptions to the open meeting requirement set forth in Title 5 U.S. Code, section 552(c)(9)(B), and that public interest requires that such portions be closed to public participation.

The portion of the meeting dealing with the discussion of the structure of future exams will commence at 1:30 p.m. on January 4 and will continue for as long as necessary to complete the discussion, but not beyond 3:00 p.m. This portion of the meeting will be open to the public as space is available. Time permitting, after the close of this discussion by Committee members, interested persons may make statements germane to this subject. Persons wishing to make oral statements are requested to notify the Committee Management Officer in writing prior to the meeting in order to aid in scheduling the time available, and should submit the written text, or, at a minimum, an outline of comments they propose to make orally. Such comments will be limited to ten minutes in length. Any interested person also may file a written statement for consideration by the Joint Board and Committee by sending it to the Committee Management Officer. Persons planning to attend the public session must also notify the Committee Management Officer in writing to obtain building entry. Notifications should be faxed to (202) 694–1876 no later than December 31, 1998, Attention: Patrick W. McDonough, Joint Board for the Enrollment of Actuaries, c/o Department of Treasury, Internal Revenue Service (C:AP:DOP), 1111 Constitution Avenue, NW, Washington, DC 20224.

Dated: December 15, 1998.

Patrick W. McDonough,

Acting Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 98–34212 Filed 12–24–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Revenue Assurance

ACTION: Notice of availability.

SUMMARY: In accordance with section 508(h) of the Federal Crop Insurance Act (Act), the Federal Crop Insurance Corporation (FCIC) Board of Directors (Board) approves for reinsurance and subsidy the insurance of corn and soybeans in select states and counties under the Revenue Assurance (RA) plan of insurance for the 1999 crop year. This notice is intended to inform eligible producers and the private insurance industry of the areas of availability, the RA coverage changes for corn and soybeans, and provide its terms and conditions.

FOR FURTHER INFORMATION CONTACT: Tim Hoffmann, Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, Missouri, 64131, telephone (816) 926–7387.

SUPPLEMENTARY INFORMATION: Section 508(h) of the Act allows for the submission of a policy to FCIC's Board and authorizes the Board to review and, if the Board finds that the interests of producers are adequately protected and that any premiums charged to the producers are actuarially appropriate, approve the policy for reinsurance and subsidy in accordance with section 508(e) of the Act.

In accordance with the Act, the Board approved a program of insurance known as ''Revenue Assurance'' originally submitted by Farm Bureau Mutual Insurance Company of Iowa as a pilot project covering corn and soybeans for the 1997 and 1998 crop years.

The RA program was approved for reinsurance and premium subsidy, including subsidy for administrative and operating expenses. RA was designed to protect a producer's revenue whenever low prices or low yields, or a combination of both, causes harvest revenue to fall below a guaranteed level. Under RA, a producer selects a per-acre revenue amount that cannot be less than 65 percent or more than 75 percent of their units' expected revenue.

The RA policy provides coverage on basic units, optional units, enterprise units, and whole-farm units. For the 1997 and 1998 crop years, the policy indemnity is finalized when the county harvest price and the producer's actual production are determined. This determination will typically take place in early December. The crop prices were established on a county basis.

For the 1999 crop year, the RA program was expanded for corn and soybeans into Illinois, South Dakota, and Minnesota. Beginning with the 1999 crop year, producers can select a coverage level percentage up to 80 percent for whole-farm units, and a fall harvest price option that uses the greater of the projected harvest price or the fall harvest price in determining the revenue guarantee. The RA program will now use the Chicago Board of Trade futures for corn and soybean prices rather than crop county prices in determining the revenue guarantee, and use actual production history as the base for determining RA premium rates.

FCIC herewith gives notice of the above-stated changes for the 1999 crop

year for RA corn and soybeans for use by private insurance companies.

The RA underwriting rules, rate factors, and forms for corn and soybeans will be released electronically to all reinsured companies through FCIC's Reporting Organization Server. FCIC will also make available the terms and conditions of the RA reinsurance agreement. Requests for this information should be sent to Heyward Baker, Director, Reinsurance Services Division, Federal Crop Insurance Corporation, 1400 Independence Avenue, S.W., Stop 0804, Room 6727–S, Washington, D.C., 20250–0804.

Notice: The Basic Provisions and Crop Provisions for the 1999 RA corn and soybean program of insurance are as follows.

Revenue Assurance Insurance Policy

(This is a continuous policy. Refer to section 3.)

This policy is reinsured by the Federal Crop Insurance Corporation (FCIC) under the authority of section 508(h) of the Federal Crop Insurance Act, as amended (7 U.S.C. 1508(h)). The provisions of the policy may not be waived or varied in any way by the crop insurance agent or any other agent or employee of the company. In the event the company cannot pay a loss, the claim will be settled in accordance with the provisions of the policy and paid by FCIC. No state guarantee fund will be liable to pay the loss.

Throughout the policy, ''you'' and ''your'' refer to the named insured shown on the accepted application and ''we,'' ''us,'' and ''our'' refer to the company. Unless the context indicates otherwise, use of the plural form of a word includes the singular and use of the singular form of the word includes the plural.

Agreement to Insure: In return for the payment of the premium, and subject to all of the provisions of this policy, the company agrees with the insured to provide the insurance as stated in the policy. If a conflict exists among the policy provisions, the order of priority is as follows: (1) the Special Provisions; (2) the Crop Provisions; and (3) these Basic Provisions with (1) controlling (2), etc.

Basic Provisions

Terms and Conditions

1. Definitions

Abandon. Failure to continue to care for the crop, providing care so insignificant as to provide no benefit to the crop, or failure to harvest in a timely manner, unless an insured cause of loss prevents you from properly caring for or harvesting the crop or causes damage to it to the extent that most producers of the crop on acreage with similar characteristics in the area would not normally further care for or harvest it.

Acreage report. A report required by section 7 of these Basic Provisions that contains, in addition to other required information, your report of your share of all acreage of an insured crop in the county, whether insurable or not insurable.

Acreage reporting date. The date contained in the Special Provisions or as provided in section 7 by which you are required to submit your acreage report.

Act. The Federal Crop Insurance Act, (7 U.S.C. 1501 *et seq.*).

Actuarial documents. The material for the crop year that is available for public inspection in your agent's office, and which shows the coverage level percent, premium factors, types, practices, insurable acreage, and other related information regarding crop insurance in the county.

Administrative fee. An amount you must pay for coverage for each crop year as specified in section 8.

Agricultural commodity. All insurable crops and other fruit, vegetable or nut crops produced for human or animal consumption.

Another use, notice of. The written notice required when you wish to put acreage to another use (see section 15).

Application. The form required to be completed by you and accepted by us before insurance coverage will commence. This form must be completed and filed in your agent's office not later than the sales closing date of the initial insurance year for each crop for which insurance coverage is requested. If cancellation or termination of insurance coverage occurs for any reason, including but not limited to indebtedness, suspension, debarment, disqualification, cancellation by you or us, or violation of the controlled substance provisions of the Food Security Act of 1985, a new application must be filed for the crop. Insurance coverage will not be provided if you are ineligible under the contract or under any Federal statute or regulation.

Approved yield. The yield determined in accordance with 7 CFR part 400, subpart G.

Assignment of indemnity. A transfer of policy rights, made on our form, and effective when approved by us. It is the arrangement whereby you assign your right to an indemnity payment to any party of your choice for the crop year.

Base premium rate. The premium rate for the risk of a revenue loss.

Cancellation date. The calendar date specified in the Crop Provisions on which coverage for the crop will automatically renew unless canceled in writing by either you or us, or terminated in accordance with the policy terms.

Claim for indemnity. A claim made on our form by you for damage or loss to an insured crop and submitted to us not later than 60 days after the end of the insurance period (see section 15).

Consent. Approval in writing by us allowing you to take a specific action.

Contract. (See definition of ''policy'').

Contract change date. The calendar date by which we make any policy changes available for inspection in the agent's office (see section 5).

County. Any county, parish, or other political subdivision of a state shown on your accepted application, including acreage in a field that extends into an adjoining county if the county boundary is not readily discernible.

Coverage. The insurance provided by this policy, against insured loss of revenue, by unit as shown on your summary of coverage.

Coverage begins, date. The calendar date insurance begins on the insured crop, as contained in the Crop Provisions, or the date planting begins on the unit (see section 12 of these Basic Provisions for specific provisions relating to prevented planting).

Coverage level percent. The percent, expressed in decimals (.xxxx), determined by dividing the per-acre revenue guarantee (see section 1) by the expected per-acre revenue (see section 1) rounded to hundredths for enterprise or whole-farm units.

Crop premium per acre. Your per acre revenue guarantee multiplied by a base rate.

Crop Provisions. The part of the policy that contains the specific provisions of insurance for each insured crop.

Crop year. The period within which the insured crop is normally grown, regardless of whether or not it is actually grown, and designated by the calendar year in which the insured crop is normally harvested.

Damage. Injury, deterioration, or loss of revenue of the insured crop due to insured or uninsured causes.

Damage, notice of. A written notice required to be filed in your agent's office whenever you initially discover the insured crop has been damaged to the extent that a loss is probable (see section 15).

Days. Calendar days.

Deductible. The amount determined by subtracting the coverage level percent you choose from 100 percent.

For example, if you elected a 65 percent coverage level, your deductible would be 35 percent (100% − 65% = 35%).

Delinquent account. Any account you have with us in which premiums, administrative fees, and interest on those amounts is not paid by the termination date specified in the Crop Provisions, or any other amounts due us, such as indemnities found not to have been earned, which are not paid within 30 days of our mailing or other delivery of notification to you of the amount due.

Earliest planting date. The earliest date established for planting the insured crop (see Special Provisions and section 14).

End of insurance period, date of. The date upon which your crop insurance coverage ceases for the crop year (see Crop Provisions and section 12).

Expected per-acre revenue. The approved yield times the projected harvest price.

FCIC. The Federal Crop Insurance Corporation, a wholly owned government corporation within USDA.

Field. All acreage of tillable land within a natural or artificial boundary (*e.g.*, roads, waterways, fences, etc.).

Final planting date. The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full per-acre revenue guarantee.

FSA. The Farm Service Agency, an agency of the USDA, or a successor agency.

FSA Farm Serial Number. The number assigned to the farm by the local FSA office.

Good farming practices. The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the per-acre revenue guarantee, and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Insured. The named person as shown on the application accepted by us. This term does not extend to any other person having a share or interest in the crop (for example, a partnership, landlord, or any other person) unless specifically indicated on the accepted application.

Insured crop. The crop for which coverage is available under these Basic Provisions and the applicable Crop Provisions as shown on the application accepted by us.

Interplanted. Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

Irrigated practice. A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the per-acre revenue guarantee on the irrigated acreage planted to the insured crop.

Late planted. Acreage initially planted to the insured crop after the final planting date.

Late planting period. The period that begins the day after the final planting date for the insured crop and ends 25 days after the final planting date, unless otherwise specified in the Crop Provisions or Special Provisions.

Loss, notice of. The notice required to be given by you not later than 72 hours after certain occurrences or 15 days after the end of the insurance period, whichever is earlier (see section 15).

MPCI. Multiple peril crop insurance program, a program of insurance offered under the Act and implemented in 7 CFR chapter IV.

Negligence. The failure to use such care as a reasonably prudent and careful person would use under similar circumstances.

Per-acre revenue guarantee. The coverage level percent times your approved yield, times the projected harvest price. If you choose the fall harvest price option, the per-acre revenue guarantee equals the coverage level percent, times the approved yield, times the greater of the projected harvest price or the fall harvest price. For basic and optional units, the per-acre revenue guarantee may vary by unit. For an enterprise unit, the per-acre revenue guarantee will be the same for all insured acres of the crop in the county. For the whole farm unit, the per-acre revenue guarantee will be the same for all insured acres in the county.

Person. An individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State. ''Person'' does not include the United States Government or any agency thereof.

Planted acreage. Land in which seed has been placed, appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice.

Policy. The agreement between you and us consisting of the accepted application, these Basic Provisions, the Crop Provisions, the Special Provisions, other applicable endorsements or options, the actuarial documents for the insured crop, and the applicable regulations published in 7 CFR chapter IV.

Practical to replant. Our determination, after loss or damage to the insured crop, based on all factors, including, but not limited to moisture availability, marketing window, condition of the field, and time to crop maturity, that replanting the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period, or the final planting date if no late planting period is applicable, unless replanting is generally occurring in the area. Unavailability of seed will not be considered a valid reason for failure to replant.

Premium billing date. The earliest date upon which you will be billed for insurance coverage based on your acreage report. The premium billing date is contained in the Special Provisions.

Premium calculator. A computer program that determines your per-acre premium based on your approved yields, per-acre revenue guarantee, coverage level percent, projected harvest price, unit options, and other factors.

Prevented planting. Failure to plant the insured crop with proper equipment by the final planting date designated in the Special Provisions for the insured crop in the county. You may also be eligible for a prevented planting payment if you failed to plant the insured crop with the proper equipment within the late planting period. You must have been prevented from planting the insured crop due to an insured cause of loss that is general in the surrounding area and that prevents other producers from planting acreage with similar characteristics.

Production report. A written record showing your annual production and used by us to determine your yield for insurance purposes (see section 4). The report contains yield information for previous years, including planted acreage and harvested production. This report must be supported by written verifiable records from a warehouseman or buyer of the insured crop, or by measurement of farm stored production, or by other records of production approved by us on an individual case basis.

Replanting. Performing the cultural practices necessary to prepare the land to replace the seed of the damaged or destroyed insured crop and then

replacing the seed of the same crop in the insured acreage with the expectation of producing at least the yield used to determine the per-acre revenue guarantee.

Representative sample. Portions of the insured crop that must remain in the field for examination and review by our loss adjuster when making a crop appraisal, as specified in the Crop Provisions. In certain instances we may allow you to harvest the crop and require only that samples of the crop residue be left in the field.

Revenue guarantee. The per-acre revenue guarantee times the number of insurable acres in the unit, and times your respective share (see definition of per-acre revenue guarantee and section 2 of the Crop Provisions).

Sales closing date. A date contained in the Special Provisions by which an application must be filed. The last date by which you may change your crop insurance coverage for a crop year.

Section (for the purposes of unit structure). A unit of measure under a rectangular survey system describing a tract of land usually one mile square and usually containing approximately 640 acres.

Share. Your percentage of interest in the insured crop as an owner, operator, or tenant at the time insurance attaches. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share at the earlier of the time of loss, or the beginning of harvest.

Special Provisions. The part of the policy that contains specific provisions of insurance for each insured crop that may vary by geographic area.

State. The state shown on your accepted application.

Substantial beneficial interest. An interest held by any person of at least 10 percent in the applicant or insured.

Summary of coverage. Our statement to you, based upon your acreage report, specifying the insured crop and the revenue guarantee provided by unit.

Tenant. A person who rents land from another person for a share of the crop or a share of the proceeds of the crop (see the definition of ''share'').

Termination date. The calendar date contained in the Crop Provisions upon which your insurance ceases to be in effect because of nonpayment of any amount due us under the policy, including premium.

Timely planted. Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

Unit.

(a) Basic unit—A basic unit established in accordance with section 2(a).

(b) Optional unit—A unit established from basic units in accordance with section 2(b).

(c) Enterprise unit—A unit established from basic units or optional units in accordance with section 2(c).

(d) Whole-farm unit—A unit established from enterprise units in accordance with section 2(d).

USDA. United States Department of Agriculture.

Void. When the policy is considered not to have existed for a crop year as a result of concealment, fraud or misrepresentation (see section 27).

2. Unit Structure

(a) Basic unit—All insurable acreage of the insured crop in the county on the date coverage begins for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one person and operated by another person on a share basis. (Example: If, in addition to the land you own, you rent land from five landlords, three on a crop share basis and two on a cash basis, you would be entitled to four units, one for each crop share lease and one that combines the two cash leases and the land you own.) Land which would otherwise be one unit may, in certain instances, be divided according to guidelines contained in this section and in the applicable Crop Provisions.

(b) Optional unit—Unless limited by the Crop Provisions or Special Provisions, a basic unit as defined in section 2(a) of these Basic Provisions may be divided into optional units if, for each optional unit:

(1) You meet the following:

(i) You must plant the crop in a manner that results in a clear and discernible break in the planting pattern at the boundaries of each optional unit;

(ii) All optional units you select for the crop year are identified on the acreage report for that crop year (Units will be determined when the acreage is reported but may be adjusted or combined to reflect the actual unit structure when adjusting a loss. No further unit division may be made after the acreage reporting date for any reason);

(iii) You have records, that are acceptable to us, of planted acreage and the production from each optional unit for at least the last crop year used to determine your revenue guarantee; and

(iv) You have records of marketed or stored production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit, or the production from each optional unit is kept separate until loss adjustment is completed by us.

(2) Each optional unit must also meet one or more of the following, unless otherwise specified in the Crop Provisions:

(i) Optional units may be established if each optional unit is located in a separate section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure such as Spanish grants, as the equivalents of sections for unit purposes. In areas which have not been surveyed using sections, section equivalents or in areas where boundaries are not readily discernible, each optional unit must be located in a separate FSA farm serial number; and

(ii) In addition to, or instead of, establishing optional units by section, section equivalent, or FSA farm serial number, optional units may be based on irrigated and non-irrigated acreage. To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which the irrigation system can deliver the quantity of water needed to produce the yield on which your revenue guarantee is based, except the corners of a field in which a center-pivot irrigation system is used may be considered as irrigated acreage if the corners of a field in which a center-pivot irrigation system is used do not qualify as a separate non-irrigated optional unit. In this case, production from both practices will be used to determine your approved yield.

(3) If you do not comply fully with the provisions in this section, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined by us to be inadvertent, and the optional units are combined into a basic unit, that portion of the additional premium paid for the optional units that have been combined will be refunded to you for the units combined.

(c) Enterprise unit—All insurable acreage of the insured crop in the county in which you have a share on the date coverage begins for the crop year. An enterprise unit must consist of:

(1) One or more basic units of the same insured crop that are located in two or more separate sections, section

equivalents, or FSA farm serial number; or

(2) Two or more optional units of the same insured crop established by separate sections, section equivalents, or FSA farm serial numbers.

(d) Whole-farm unit—All insurable acreage of the insurable crops in the county in which you have a share on the date coverage begins for each crop for the crop year. This unit is established from enterprise units as defined in section 2(c). The insurable acreage must qualify for at least two enterprise units under this section, and at least 10 percent of the total liability must be in each crop.

(e) Exclusivity Between Units—If you select whole-farm unit coverage, you cannot select any other unit structure. However, you may select an enterprise unit for one crop and basic or optional unit coverage for other crops.

(f) Selection of unit structure—You may elect an enterprise unit or a whole-farm unit subject to the following:

(1) You must make such election by the sales closing date for the insured crops and report such unit structure to us in writing. Your unit selection will remain in effect from year to year unless you notify us in writing by the sales closing date for the crop year for which you wish to change this election. These units may not be further divided. If you select and qualify for an enterprise or whole-farm unit, you will qualify for a premium discount. If you do not qualify for enterprise or whole-farm units when the acreage is reported, we will assign the basic unit structure.

(2) For a whole-farm unit:

(i) You must report on your acreage report the acreage for each optional or basic unit for each crop produced in the county that comprises the whole-farm unit; and

(ii) Although you may insure all of your crops under a whole-farm unit, you will be required to pay separate applicable administrative fees for each crop included in the whole-farm unit.

(3) All applicable unit structures must be stated on the acreage report for each crop year.

3. Life of Policy, Cancellation, and Termination

(a) This is a continuous policy and will remain in effect for each crop year following the acceptance of the original application until canceled by you in accordance with the terms of the policy or terminated by operation of the terms of the policy, or by us.

(b) Your application for insurance must contain all the information required by us to insure the crop. Applications that do not contain all social security numbers and employer identification numbers, as applicable (except as stated herein) coverage level percent, crop, type, variety, or class, plan of insurance, and any other material information required to insure the crop, are not acceptable. If a person with a substantial beneficial interest in the insured crop refuses to provide a social security number or employer identification number, the amount of coverage available under the policy will be reduced proportionately by that person's share of the crop.

(c) After acceptance of the application, you may not cancel this policy for the initial crop year. Thereafter, the policy will continue in force for each succeeding crop year unless canceled or terminated as provided below.

(d) Either you or we may cancel this policy after the initial crop year by providing written notice to the other on or before the cancellation date shown in the Crop Provisions.

(e) If any amount due, including administrative fees or premium, is not paid or an acceptable arrangement for payment is not made on or before the termination date for the crop on which the amount is due, you will be determined to be ineligible to participate in any crop insurance program authorized under the Act in accordance with 7 CFR part 400, subpart U.

(1) For a policy with unpaid administrative fees or premium, the policy will terminate effective on the termination date immediately subsequent to the billing date for the crop year;

(2) For a policy with other amounts due, the policy will terminate effective on the termination date immediately after the account becomes delinquent;

(3) Ineligibility will be effective as of the date that the policy was terminated for the crop for which you failed to pay an amount owed and for all other insured crops with coincidental termination dates;

(4) All other policies that are issued by us under the authority of the Act will also terminate as of the next termination date contained in the applicable policy;

(5) If you are ineligible, you may not obtain any crop insurance under the Act until payment is made, you execute an agreement to repay the debt and make the payments in accordance with the agreement, or you file a petition to have your debts discharged in bankruptcy;

(6) If you execute an agreement to repay the debt and fail to timely make any scheduled payment, you will be ineligible for crop insurance effective on the date the payment was due until the debt is paid in full or you file a petition to discharge the debt in bankruptcy and subsequently obtain discharge of the amounts due. Dismissal of the bankruptcy petition before discharge will void all policies in effect retroactive to the date you were originally determined ineligible to participate and all premiums paid will be refunded;

(7) Once the policy is terminated, the policy cannot be reinstated for the current crop year unless the termination was in error;

(8) After you again become eligible for crop insurance, if you want to obtain coverage for your crops, you must reapply on or before the sales closing date for the crop (Since applications for crop insurance cannot be accepted after the sales closing date, if you make any payments after the sales closing date, you cannot apply for insurance until the next crop year); and

(9) If we deduct the amount due us from an indemnity, the date of payment for the purpose of this section will be the date you sign the properly executed claim for indemnity.

(10) For example, if crop A, with a termination date of October 31, 1998, and crop B, with a termination date of March 15, 1999, are insured and you do not pay the premium for crop A by the termination date, you are ineligible for crop insurance as of October 31, 1998, and crop A's policy is terminated on that date. Crop B's policy is terminated as of March 15, 1999. If you enter an agreement to repay the debt on April 25, 1999, you can apply for insurance for crop A by the October 31, 1999, sales closing date and crop B by March 15, 2000, sales closing date. If you fail to make a scheduled payment on November 1, 1999, you will be ineligible for crop insurance effective on November 1, 1999, and you will not be eligible unless the debt is paid in full or you file a petition to have the debt discharged in bankruptcy and subsequently receive discharge.

(f) If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the policy will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after coverage begins for any crop year, the policy will continue in force through the crop year and terminate at the end of the insurance period and any indemnity will be paid to the person or persons determined to be beneficially entitled to the indemnity. The premium will be deducted from the indemnity or collected from the estate. Death of a partner in a partnership will dissolve the partnership unless the partnership

agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

(g) We may terminate your policy if no premium is earned for 3 consecutive years.

(h) The cancellation and termination dates are contained in the Crop Provisions.

(i) When obtaining coverage, you must provide information regarding crop insurance coverage on any crop previously obtained from an approved insurance provider, including the date such insurance was obtained and the amount of the administrative fee.

(j) You are not eligible to participate in the Revenue Assurance program if you have elected the MPCI Catastrophic Risk Protection Endorsement except in the following instance: If you execute a High-Risk Land Exclusion Option for a Revenue Assurance Policy, you may elect to insure the ''high-risk land'' under an MPCI Catastrophic Risk Protection Endorsement provided that the Catastrophic Risk Protection Endorsement is obtained from us. If both policies are in force, the acreage of the crop covered under the Revenue Assurance policy and the acreage covered under an MPCI Catastrophic Risk Protection Endorsement will be considered as separate crops for insurance purposes, including the payment of administrative fees.

4. Insurance Coverages

(a) Your revenue guarantee, coverage level percent, approved yields, per-acre revenue guarantee, and projected harvest price will be shown on your summary of coverage.

(b) You must select a coverage level percent by the sales closing date. The maximum allowable coverage level percent is 75 (.7500 decimal format) and the minimum allowable is 65 (.6500 decimal format) for basic, optional and enterprise units. The maximum allowable coverage level percent is 80 (.8000 decimal format) and the minimum allowable is 65 (.6500 decimal format) for whole-farm units.

(c) You may only select one coverage level percent that is applicable for all insurable acreage of the crop. You may change your coverage level percent for the following crop year by giving written notice to us not later than the sales closing date for the insured crop. If you do not select a new crop coverage level percent on or before the sales closing date, we will assign the previous year's coverage level percent or the nearest coverage level percent available. (For example: If you selected a 65 percent coverage level for the previous crop year and you do not select a new coverage level percent for the current crop year, we will assign the 65 percent coverage level for the current crop year if it is still available.)

(d) This policy is an alternative to the MPCI program and satisfies the requirements of section 508(b)(7) of the Act.

(e) You must report production to us for the previous crop year by the earlier of the acreage reporting date or 45 days after the cancellation date unless otherwise stated in the Special Provisions:

(1) If you do not provide the required production report, we will assign a yield for the previous crop year. The yield assigned by us will not be more than 75 percent of the yield used by us to determine your coverage for the previous crop year. The production report or assigned yield will be used to compute your approved yield for the purpose of determining your revenue guarantee for the current crop year;

(2) If you have filed a claim for any crop year, the documents signed by you which state the amount of production used to complete the claim for indemnity will be the production report for that year unless otherwise specified by FCIC;

(3) Production and acreage for the prior crop year must be reported for each proposed optional unit by the production reporting date. If you do not provide the information stated above, the optional units will be combined into the basic unit.

(f) We may revise your revenue guarantee for any unit, and revise any indemnity paid based on that revenue guarantee, if we find that your production report under paragraph (e) of this section:

(1) Is not supported by written verifiable records in accordance with the definition of production report; or

(2) Fails to accurately report actual production, acreage, or other material information.

(g) Any person may sign any document relative to crop insurance coverage on behalf of any other person covered by such a policy, provided that the person has a properly executed power of attorney or such other legally sufficient document authorizing such person to sign.

5. Contract Changes

(a) We may change the terms of your coverage under this policy from year to year.

(b) Any changes in policy provisions, prices, available coverage level percents, premium rates and program dates will be provided by us to your crop insurance agent not later than the contract change date contained in the Crop Provisions. You may view the documents or request copies from your crop insurance agent.

(c) You will be notified, in writing, of changes to the Basic Provisions, Crop Provisions, and Special Provisions not later than 30 days prior to the cancellation date for the insured crop. Acceptance of changes will be conclusively presumed in the absence of notice from you to change or cancel your insurance coverage.

6. Liberalization

If we adopt any revisions that broaden the coverage under this policy subsequent to the contract change date without additional premium, the broadened coverage will apply.

7. Report of Acreage

(a) An annual acreage report must be submitted to us on our form for each insured crop in the county on or before the acreage reporting date contained in the Special Provisions, except as follows:

(1) If you insure multiple crops with us that have final planting dates on or after August 15 but before December 31, you must submit an acreage report for all such crops on or before the latest applicable acreage reporting date for such crops; and

(2) If you insure multiple crops with us that have final planting dates on or after December 31 but before August 15, you must submit an acreage report for all such crops on or before the latest applicable acreage reporting date for such crops.

(3) Notwithstanding the provisions in sections 7(a)(1) and (2):

(i) If the Special Provisions designate separate planting periods for a crop, you must submit an acreage report for each planting period on or before the acreage reporting date contained in the Special Provisions for the planting period; and

(ii) If planting of the insured crop continues after the final planting date or you are prevented from planting during the late planting period, the acreage reporting date will be the later of:

(A) The acreage reporting date contained in the Special Provisions;

(B) The date determined in accordance with sections 7(a)(1) or (2); or (C) Five days after the end of the late planting period for the insured crop, if applicable.

(b) If you do not have a share in an insured crop in the county for the crop year, you must submit an acreage report on or before the acreage reporting date, so indicating.

(c) Your acreage report must include the following information, if applicable:

(1) All acreage of the crop in the county (insurable and not insurable) in which you have a share;

(2) Your share at the time coverage begins;

(3) The practice;

(4) The type; and

(5) The date the insured crop was planted.

(d) Because incorrect reporting on the acreage report may have the effect of changing your premium and any indemnity that may be due, you may not revise this report after the acreage reporting date without our consent.

(e) We may elect to determine all premiums and indemnities based on the information you submit on the acreage report or upon the factual circumstances we determine to have existed, subject to the provisions contained in section 7(g).

(f) If you do not submit an acreage report by the acreage reporting date, or if you fail to report all units, we may elect to determine by unit the insurable crop acreage, share, type and practice, or to deny liability on such units. If we deny liability for the unreported units, your share of any production from the unreported units will be allocated, for loss purposes only, as production to count to the reported units in proportion to the liability on each reported unit. However, such production will not be allocated to prevented planting acreage or otherwise affect any prevented planting payment.

(g) If the information reported by you on the acreage report for share, acreage, practice, type or other material information is inconsistent with the information that is determined to actually exist for a unit and results in:

(1) A lower liability than the actual liability determined, the revenue guarantee on the unit will be reduced to an amount that is consistent with the reported information. In the event that insurable acreage is under-reported for any unit, all production or value from insurable acreage in that unit will be considered production or value to count in determining the indemnity; and

(2) A higher liability than the actual liability determined, the information contained in the acreage report will be revised to be consistent with the correct information. If we discover that you have incorrectly reported any information on the acreage report for any crop year, you may be required to provide documentation in subsequent crop years that substantiates your report of acreage for those crop years, including, but not limited to, an acreage measurement service at your own expense.

(h) Errors in reporting units may be corrected by us at the time of adjusting a loss to reduce our liability and to conform to applicable unit division guidelines.

8. Annual Premium and Administrative Fees

(a) The annual premium is earned and payable at the time coverage begins. You will be billed for premium due not earlier than the premium billing date specified in the Special Provisions. The premium due, plus any accrued interest, will be considered delinquent if it is not paid on or before the termination date specified in the Crop Provisions.

(b) Any amount you owe us related to any crop insured with us under the authority of the Act will be deducted from any prevented planting payment or indemnity due you for any crop insured with us under the authority of the Act.

(c) Your annual premium amount is determined by unit by multiplying the crop premium per acre, times the insured crop acreage, times any premium adjustment factor that may apply, times your respective share at the time coverage begins, and less producer premium subsidy.

(d) The producer premium subsidy for a unit equals the crop premium per acre at the 65 percent coverage level, times the insured crop acreage, times 0.417, times your respective share. The producer premium subsidy cannot exceed that available had you purchased a comparable MPCI policy.

(e) In addition to the premium charged:

(1) You must pay an administrative fee of $20 per crop for each crop year in which crop insurance coverage remains in effect;

(2) The administrative fee must be paid no later than the time that premium is due; and

(3) Payment of an administrative fee will not be required if you file a bona fide zero acreage report on or before the acreage reporting date for the crop. If you falsely file a zero acreage report, you may be subject to criminal and administrative sanctions.

(4) The administrative fee is not subject to any limits, and may not be waived.

(5) Failure to pay the administrative fees when due may make you ineligible for certain other USDA benefits.

9. Insured Crop

(a) The insured crop will be that shown on your accepted application and as specified in the Crop Provisions or Special Provisions and must be grown on insurable acreage.

(b) A crop which will NOT be insured will include, but will not be limited to, any crop:

(1) If the farming practices carried out are not in accordance with the farming practices for which the premium rates or revenue guarantees have been established;

(2) Of a type, class or variety established as not adapted to the area or excluded by the policy provisions;

(3) That is a volunteer crop;

(4) That is a second crop following the same crop (insured or not insured) harvested in the same crop year unless specifically permitted by the Crop Provisions or the Special Provisions;

(5) That is planted for the development or production of hybrid seed or for experimental purposes, unless permitted by the Crop Provisions; or

(6) That is used solely for wildlife protection or management. If the lease states that specific acreage must remain unharvested, only that acreage is uninsurable. If the lease specifies that a percentage of the crop must be left unharvested, your share will be reduced by such percentage.

10. Insurable Acreage

(a) Acreage planted to the insured crop in which you have a share is insurable except acreage:

(1) That has not been planted and harvested within one of the 3 previous crop years, unless:

(i) Such acreage was not planted:

(A) To comply with any other USDA program;

(B) Because of crop rotation, (*e.g.*, corn, soybean, alfalfa; and the alfalfa remained for 4 years before the acreage was planted to corn again);

(C) Due to an insurable cause of loss that prevented planting; or

(D) Because a perennial tree, vine, or bush crop was grown on the acreage.

(ii) Such acreage was planted but was not harvested due to an insurable cause of loss; or

(iii) The Crop Provisions specifically allow insurance for such acreage.

(2) That has been strip-mined, unless an agricultural commodity other than a cover, hay, or forage crop (except corn silage), has been harvested from the acreage for at least five crop years after the strip-mined land was reclaimed;

(3) On which the insured crop is damaged and it is practical to replant the insured crop, but the insured crop is not replanted;

(4) That is interplanted, unless allowed by the Crop Provisions;

(5) That is otherwise restricted by the Crop Provisions or Special Provisions; or

(6) That is planted in any manner other than as specified in the policy provisions for the crop.

(b) If insurance is provided for an irrigated practice, you must report as irrigated only that acreage for which you have adequate facilities, and adequate water, or the reasonable expectation of receiving adequate water at the time coverage begins, to carry out a good irrigation practice. If you knew or had reason to know that your water may be reduced before coverage begins, no reasonable expectation exists.

(c) Notwithstanding the provisions in section 9(b)(1), if acreage is irrigated and we do not provide a premium rate for an irrigated practice, you may either report and insure the irrigated acreage as ''non-irrigated,'' or report the irrigated acreage as not insured.

(d) We may restrict the amount of acreage that we will insure to the amount allowed under any acreage limitation program established by the USDA if we notify you of that restriction prior to the sales closing date.

11. Share Insured

(a) Insurance will attach only to the share of the person completing the application and will not extend to any other person having a share in the crop unless the application clearly states that:

(1) The insurance is requested for an entity such as a partnership or a joint venture; or

(2) You as landlord will insure your tenant's share, or you as tenant will insure your landlord's share. In this event, you must provide evidence of the other party's approval (lease, power of attorney, etc.). Such evidence will be retained by us. You also must clearly set forth the percentage shares of each person on the acreage report.

(b) We may consider any acreage or interest reported by or for your spouse, child or any member of your household to be included in your share.

(c) Acreage rented for a percentage of the crop, or a lease containing provisions for *Both* a minimum payment (such as a specified amount of cash, bushels, pounds, etc.) *And* a crop share, will be considered a crop share lease.

(d) Acreage rented for cash, or a lease containing provisions for *Either* a minimum payment *Or* a crop share (such as a 50/50 share or $100.00 per acre, whichever is greater), will be considered a cash lease.

12. Insurance Period

(a) Except for prevented planting coverage (see section 18), coverage begins on each unit or part of a unit at the later of:

(1) The date we accept your application (For the purposes of this paragraph, the date of acceptance is the date that you submit a properly executed application in accordance with section 3);

(2) The date the insured crop is planted; or

(3) The calendar date contained in the Crop Provisions for the beginning of the insurance period.

(b) Coverage ends at the earliest of:

(1) Total destruction of the insured crop on the unit;

(2) Harvest of the unit;

(3) Final adjustment of a loss on a unit;

(4) The calendar date contained in the Crop Provisions for the end of the insurance period;

(5) Abandonment of the crop on the unit; or

(6) As otherwise specified in the Crop Provisions.

13. Causes of Loss

The insurance provided is against only unavoidable loss of revenue directly caused by specific causes of loss contained in the Crop Provisions. All other causes of loss, including but not limited to the following, are *Not* covered:

(a) Negligence, mismanagement, or wrongdoing by you, any member of your family or household, your tenants, or employees;

(b) Failure to follow recognized good farming practices for the insured crop;

(c) Water contained by any governmental, public, or private dam or reservoir project;

(d) Failure or breakdown of irrigation equipment or facilities; or

(e) Failure to carry out a good irrigation practice for the insured crop if applicable.

14. Replanting Payment

(a) If allowed by the Crop Provisions, a replanting payment may be made on an insured crop replanted after we have given consent and the acreage replanted is at least the lesser of 20 acres or 20 percent of the insured planted acreage for the unit (as determined on the final planting date or within the late planting period if a late planting period is applicable). The 20 acres or 20 percent requirement is to be applied for each crop in a whole-farm unit.

(b) No replanting payment will be made on acreage:

(1) On which our appraisal establishes that production will exceed the level set by the Crop Provisions;

(2) Initially planted prior to the earliest planting date established by the Special Provisions; or

(3) On which one replanting payment has already been allowed for the crop year.

(c) The replanting payment per acre will be your actual cost for replanting, but will not exceed the amount determined in accordance with the Crop Provisions.

(d) No replanting payment will be paid if we determine it is not practical to replant.

15. Duties In The Event of Damage or Loss

Your Duties:

(a) In case of damage to any insured crop you must:

(1) Protect the crop from further damage by providing sufficient care;

(2) Give us notice within 72 hours of your initial discovery of damage (but not later than 15 days after the end of the insurance period), by unit, for each insured crop (we may accept a notice of loss provided later than 72 hours after your initial discovery if we still have the ability to accurately adjust the loss);

(3) Leave representative samples intact for each field of the damaged unit as may be required by the Crop Provisions;

(4) Give us notice of your expected revenue loss not later than 45 days after the date the fall harvest price is released; and

(5) Cooperate with us in the investigation or settlement of the claim, and, as often as we reasonably require:

(i) Show us the damaged crop;

(ii) Allow us to remove samples of the insured crop; and

(iii) Provide us with records and documents we request and permit us to make copies.

(b) You must obtain consent from us before, and notify us after you:

(1) Destroy any of the insured crop that is not harvested;

(2) Put the insured crop to an alternative use;

(3) Put the acreage to another use; or

(4) Abandon any portion of the insured crop. We will not give consent for any of the actions in sections 15(b)(1) through (4) if it is practical to replant the crop or until we have made an appraisal of the potential production of the crop.

(c) In addition to complying with all other notice requirements, you must submit a claim for indemnity declaring the amount of your loss not later than 60 days after the end of the insurance period. This claim must include all the information we require to settle the claim.

(d) Upon our request, you must:

(1) Provide a complete harvesting and marketing record of each insured crop by unit including separate records showing the same information for production from any acreage not insured; and

(2) Submit to examination under oath.

(e) You must establish the total production or value received for the insured crop on the unit, that any loss of production or value occurred during the insurance period, and that the loss of production or value was directly caused by one or more of the insured causes specified in the Crop Provisions.

(f) All notices required in this section that must be received by us within 72 hours may be made by telephone or in person to your crop insurance agent but must be confirmed in writing within 15 days.

Our Duties—

(a) If you have complied with all the policy provisions, we will pay your loss within 30 days after:

(1) We reach agreement with you;

(2) Completion of arbitration or appeal proceedings; or

(3) The entry of a final judgment by a court of competent jurisdiction.

(b) In the event we are unable to pay your loss within 30 days, we will give you notice of our intentions within the 30-day period.

(c) We may defer the adjustment of a loss until the amount of loss can be accurately determined. We will not pay for additional damage resulting from your failure to provide sufficient care for the crop during the deferral period.

(d) We recognize and apply the loss adjustment procedures established or approved by FCIC.

16. Production Included In Determining Indemnities

(a) The total production to be counted for a unit will include all production determined in accordance with the policy.

(b) The amount of production of any unharvested insured crop may be determined on the basis of our field appraisals conducted after the end of the insurance period.

(c) The amount of an indemnity that may be determined under the applicable provisions of your crop policy may be reduced by an amount, determined in accordance with the Crop Provisions or Special Provisions, to reflect out-of-pocket expenses that were not incurred by you as a result of not planting, caring for, or harvesting the crop. Indemnities paid for acreage prevented from being planted will be based on a reduced revenue guarantee as provided for in the crop policy and will not be further reduced to reflect expenses not incurred.

(d) Appraised production will be used to calculate your claim if you will not be harvesting the acreage. To determine your indemnity based on appraised production, you must agree to notify us if you harvest the crop and advise us of the production. If the acreage will be harvested, harvested production will be used to determine any indemnity due, unless otherwise specified in the policy.

17. Late Planting

Unless limited by the Crop Provisions, insurance will be provided for acreage planted to the insured crop after the final planting date in accordance with the following:

(a) The per-acre revenue guarantee for each acre planted to the insured crop during the late planting period will be reduced by 1 percent per day for each day planted after the final planting date.

(b) Acreage planted after the late planting period (or after the final planting date for crops that do not have a late planting period) may be insured as follows:

(1) The per-acre revenue guarantee for each acre planted as specified in this subsection will be determined by multiplying the per-acre revenue guarantee that is provided for acreage of the insured crop that is timely planted by the prevented planting coverage level percent you elected, or that is contained in the Crop Provisions if you did not elect a prevented planting coverage level percentage;

(2) Planting on such acreage must have been prevented by the final planting date (or during the late planting period, if applicable) by an insurable cause occurring within the insurance period for prevented planting coverage; and

(3) All production from acreage as specified in this section will be included as production to count for the unit.

(c) The premium amount for insurable acreage specified in this section will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for such acreage exceeds the liability, coverage for those acres will not be provided (no premium will be due and no indemnity will be paid).

(d) Any acreage on which an insured cause of loss is a material factor in preventing completion of planting, as specified in the definition of ''planted acreage'' (*e.g.*, seed is broadcast on the soil surface but cannot be incorporated) will be considered as acreage planted after the final planting date and the per-acre revenue guarantee will be calculated in accordance with section 17(b)(1).

18. Prevented Planting

(a) Unless limited by the policy provisions, a prevented planting payment may be made to you for eligible acreage if:

(1) You were prevented from planting the insured crop by an insured cause that occurs:

(i) On or after the sales closing date contained in the Special Provisions for the insured crop in the county for the crop year the application for insurance is accepted; or

(ii) For any subsequent crop year, on or after the sales closing date for the previous crop year for the insured crop in the county, provided insurance has been in force continuously since that date. Cancellation for the purpose of transferring the policy to a different insurance provider for the subsequent crop year will not be considered a break in continuity for the purpose of the preceding sentence;

(2) You include any acreage of the insured crop that was prevented from being planted on your acreage report; and

(3) You did not plant the insured crop during or after the late planting period. If such acreage was planted to the insured crop during or after the late planting period, it is covered under the late planting provisions.

(b) The actuarial documents may contain additional levels of prevented planting coverage that you may purchase for the insured crop:

(1) Such purchase must be made on or before the sales closing date;

(2) If you do not purchase one of those additional levels by the sales closing date, you will receive the prevented planting coverage specified in the Crop Provisions;

(3) If you have an MPCI Catastrophic Risk Protection Endorsement for any acreage of ''high risk land'' the additional levels of prevented planting coverage will not be available for that acreage; and

(4) You may not increase your elected or assigned preventing planting coverage level for any crop year if a cause of loss that will or could prevent planting is evident prior to the time you wish to change your prevented planting coverage level.

(c) The premium amount for acreage that is prevented from being planted will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for acreage that is prevented from being planted exceeds the liability on such acreage,

coverage for those acres will not be provided (no premium will be due and no indemnity will be paid for such acreage).

(d) Drought or failure of the irrigation water supply will be considered to be an insurable cause of loss for the purposes of prevented planting only if, on the final planting date (or within the late planting period if you elect to try to plant the crop):

(1) For non-irrigated acreage, the area that is prevented from being planted has insufficient soil moisture for germination of seed and progress toward crop maturity due to a prolonged period of dry weather. Prolonged precipitation deficiencies must be verifiable using information collected by sources whose business it is to record and study the weather, including, but not limited to, local weather reporting stations of the National Weather Service; or

(2) For irrigated acreage, there is not a reasonable probability of having adequate water to carry out an irrigated practice.

(e) The maximum number of acres that may be eligible for a prevented planting payment for any crop will be determined as follows:

(1) The total number of acres eligible for prevented planting coverage for all crops cannot exceed the number of acres of cropland in your farming operation for the crop year, unless you are eligible for prevented planting coverage on double-cropped acreage in accordance with section 18(f)(4) or (5). The eligible acres for each insured crop will be determined in accordance with the following table.

Type of crop	Eligible acres if, in any of the 4 most recent crop years, you have planted any crop in the county for which prevented planting insurance was available or have received a prevented planting insurance guarantee	Eligible acres if, in any of the 4 most recent crop years, you have not planted any crop in the county for which prevented planting insurance was available or have not received a prevented planting insurance guarantee
(i) The crop is not required to be contracted with a processor to be insured.	(A) The maximum number of acres certified for APH purposes or reported for insurance for the crop in any one of the 4 most recent crop years (not including reported prevented planting acreage that was planted to a substitute crop other than an approved cover crop). The number of acres determined above for a crop may be increased by multiplying it by the ratio of the total cropland acres that you are farming this year (if greater) to the total cropland acres that you farmed in the previous year, provided that you submit proof to us that for the current crop year you have purchased or leased additional land or that acreage will be released from any USDA program which prohibits harvest of a crop. Such acreage must have been purchased, leased, or released from the USDA program, in time to plant it for the current crop year using good farming practices. No cause of loss that will or could prevent planting may be evident at the time the acreage is purchased, leased, or released from the USDA program.	(B) The number of acres specified on your intended acreage report which is submitted to us by the sales closing date for all crops you insure for the crop year and that is accepted by us. The total number of acres listed may not exceed the number of acres of cropland in your farming operation at the time you submit the intended acreage report. The number of acres determined above for a crop may only be increased by multiplying it by the ratio of the total cropland acres that you are farming this year (if greater) to the number of acres listed on your intended acreage report, if you meet the conditions stated in section 18(e)(1)(i)(A).
(ii) The crop must be contracted with a processor to be insured.	(A) The number of acres of the crop specified in the processor contract, if the contract specifies a number of acres contracted for the crop year; or the result of dividing the quantity of production stated in the processor contract by your approved yield, if the processor contract specifies a quantity of production that will be accepted. (For the purposes of establishing the number of prevented planting acres, any reductions applied to the transitional yield for failure to certify acreage and production for four prior years will not be used.).	(B) The number of acres of the crop as determined in section 18(e)(1)(ii)(A).

(2) Any eligible acreage determined in accordance with the table contained in section 18(e)(1) will be reduced by subtracting the number of acres of the crop (insured and uninsured) that are timely and late planted, including acreage specified in section 17(b).

(f) Regardless of the number of eligible acres determined in section 18(e), prevented planting coverage will not be provided for any acreage:

(1) That does not constitute at least 20 acres or 20 percent of the insurable crop acreage in the unit, whichever is less. Any prevented planting acreage within a field that contains planted acreage will be considered to be acreage of the same crop, type, and practice that is planted in the field, unless the acreage that was prevented from being planted constitutes at least 20 acres or 20 percent of the total insurable acreage in the field and you produced both crops, crop types, or followed both practices in the same field in the same crop year within any of the 4 most recent crop years;

(2) For which the actuarial documents do not designate a premium rate;

(3) Used for conservation purposes or intended to be left unplanted under any program administered by the USDA;

(4) On which the insured crop is prevented from being planted, if you or any other person receives a prevented planting payment for any crop for the same acreage in the same crop year (excluding share arrangements), unless you have coverage greater than the Catastrophic Risk Protection Plan of Insurance and have records of acreage and production that are used to determine your approved yield that show the acreage was double-cropped in each of the last 4 years in which the insured crop was grown on the acreage;

(5) On which the insured crop is prevented from being planted, if any crop from which any benefit is derived under any program administered by the USDA is planted and fails, or if any crop is harvested, hayed or grazed on the same acreage in the same crop year (other than a cover crop which may be

hayed or grazed after the final planting date for the insured crop), unless you have coverage greater than that applicable to the Catastrophic Risk Protection Plan of Insurance and have records of acreage and production that are used to determine your approved yield that show the acreage was double-cropped in each of the last 4 years in which the insured crop was grown on the acreage. (If one of the crops being double-cropped is not insurable, other verifiable records of it being planted may be used);

(6) Of a crop that is prevented from being planted if a cash lease payment is also received for use of the same acreage in the same crop year (not applicable if acreage is leased for haying or grazing only). (If you state that you will not be cash renting the acreage and claim a prevented planting payment on the acreage, you could be subject to civil and criminal sanctions if you cash rent the acreage and do not return the prevented planting payment for it);

(7) For which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes;

(8) That exceeds the number of acres eligible for a prevented planting payment;

(9) That exceeds the number of eligible acres physically available for planting;

(10) For which you cannot provide proof that you had the inputs available to plant and produce a crop with the expectation of at least producing the yield used to determine the per-acre revenue guarantee. (Evidence that you have previously planted the crop on the unit will be considered adequate proof unless your planting practices or rotational requirements show that the acreage would have remained fallow or been planted to another crop);

(11) Based on an irrigated practice per-acre revenue guarantee unless adequate irrigation facilities were in place to carry out an irrigated practice on the acreage prior to the insured cause of loss that prevented you from planting. Acreage with an irrigated practice per-acre revenue guarantee will be limited to the number of acres allowed for that practice under sections 18(e) and (f); or

(12) Based on a crop type that you did not plant, or did not receive a prevented planting insurance guarantee for, in at least one of the four most recent crop years. Types for which separate prices or per-acre revenue guarantees are available must be included in your APH database in at least one of the four most recent crop years, or crops that do not require yield certification (crops for which the insurance guarantee is not based on APH) must be reported on your acreage report in at least one of the four most recent crop years except as allowed in section 18(e)(1)(i)(B). We will limit prevented planting payments based on a specific crop type to the number of acres allowed for that crop type as specified in sections 18(e) and (f).

(g) If you purchased a Revenue Assurance policy for a crop, and you executed a High Risk Land Exclusion Option that separately insures acreage which has been designated as ''high-risk'' land by FCIC under a Catastrophic Risk Protection Endorsement for that crop, the maximum number of acres eligible for a prevented planting payment will be limited for each policy as specified in sections 18 (e) and (f).

(h) If you are prevented from planting a crop for which you do not have an adequate base of eligible prevented planting acreage, as determined in accordance with section 18(e)(1), your prevented planting per-acre revenue guarantee, premium, and prevented planting payment will be based on the crops insured for the current crop year, for which you have remaining eligible prevented planting acreage. The crops used for this purpose will be those that result in a prevented planting payment most similar to the prevented planting payment that would have been made for the crop that was prevented from being planted.

(1) For example, assume you were prevented from planting 200 acres of corn and have 100 acres eligible for a corn prevented planting guarantee that would result in a payment of $40 per acre. You also had 50 acres of potato eligibility that would result in a $100 per acre payment, 90 acres of grain sorghum eligibility that would result in a $30 per acre payment, and 100 acres of soybean eligibility that would result in a $25 per acre payment. Your prevented planting coverage for the 200 acres would be based on 100 acres of corn ($40 per acre), 90 acres of grain sorghum ($30 per acre), and 10 acres of soybeans ($25 per acre).

(2) Prevented planting coverage will be allowed as specified in this section (18(h)) only if the crop that was prevented from being planted meets all policy provisions, except for having an adequate base of eligible prevented planting acreage. Payment may be made based on crops other than those that were prevented from being planted even though other policy provisions, including but not limited to, processor contract and rotation requirements, have not been met for the crop on which payment is being based.

(i) The prevented planting payment for any eligible acreage within a basic or optional unit will be determined by:

(1) Multiplying the per-acre revenue guarantee for timely planted acreage of the insured crop by the prevented planting coverage level percentage you elected, or that is contained in the Crop Provisions if you did not elect a prevented planting coverage level percentage;

(2) Multiplying the result of section 18(i)(1) by the number of eligible prevented planting acres in the unit; and

(3) Multiplying the result of section 18(i)(2) by your share.

(j) The prevented planting payment for any eligible acreage within an enterprise unit will be determined by:

(1) Multiplying the per-acre revenue guarantee within the enterprise unit, for timely planted acreage of the insured crop by the prevented planting coverage level percentage you elected, or that is contained in the Crop Provisions if you did not elect a prevented planting coverage level percentage;

(2) Multiplying the result of section 18(j)(1) by the number of eligible prevented planting acres in the enterprise unit;

(3) Multiplying the result of section 18(j)(2) by your share; and

(4) Totaling the results from section 18(j)(3).

(k) The prevented planting payment for any eligible acreage within a whole-farm unit will be determined by:

(1) Multiplying the per-acre revenue guarantee for the whole-farm unit, for timely planted acreage of the insured crop by the prevented planting coverage level percentage you elected, or that is contained in the Crop Provisions if you did not elect a prevented planting coverage level percentage;

(2) Multiplying the result of section 18(k)(1) by the number of eligible prevented planting acres in the whole-farm unit;

(3) Multiplying the result of section 18(k)(2) by your share; and

Totaling the results from section 18(k)(3).

19. Crops As Payment

You must not abandon any crop to us. We will not accept any crop as compensation for payments due us.

20. Arbitration

(a) If you and we fail to agree on any factual determination, the disagreement will be resolved in accordance with the rules of the American Arbitration Association. Failure to agree with any factual determination made by FCIC must be resolved through the FCIC

appeal provisions published at 7 CFR part 11.

(b) No award determined by arbitration or appeal can exceed the amount of liability established or which should have been established under the policy.

21. Access to Insured Crop and Records, and Record Retention

(a) We reserve the right to examine the insured crop as often as we reasonably require.

(b) For three years after the end of the crop year, you must retain, and provide upon our request, complete records of the harvesting, storage, shipment, sale, or other disposition of all the insured crop produced on each unit. This requirement also applies to the records used to establish the basis for the production report for each unit. You must also provide upon our request, separate records showing the same information for production from any acreage not insured. We may extend the record retention period beyond three years by notifying you of such extension in writing. Your failure to keep and maintain such records will, at our option, result in:

(1) Cancellation of the policy;

(2) Assignment of production to the units by us;

(3) Combination of the optional units; or

(4) A determination that no indemnity is due.

(c) Any person designated by us will, at any time during the record retention period, have access:

(1) To any records relating to this insurance at any location where such records may be found or maintained; and

(2) To the farm.

(d) By applying for insurance under the authority of the Act or by continuing insurance for which you previously applied, you authorize us, or any person acting for us, to obtain records relating to the insured crop from any person who may have custody of those records including, but not limited to, FSA offices, banks, warehouses, gins, cooperatives, marketing associations, and accountants. You must assist us in obtaining all records which we request from third parties.

(e) This policy will be considered a continuation of any prior crop insurance policy issued under the authority of the Act for actual production history purposes under 7 CFR part 400, subpart G.

22. Other Insurance

(a) Other Like Insurance—You must not obtain any other crop insurance issued under the authority of the Act, on your share of the insured crop. If we determine that more than one policy on your share is intentional, you may be subject to the sanctions authorized under this policy, the Act, or any other applicable statute. If we determine that the violation was not intentional, the policy with the earliest date of application will be in force and all other policies will be void. Nothing in this paragraph prevents you from obtaining other insurance not issued under the Act.

(b) Other Insurance Against Fire—If you have other insurance, whether valid or not, against damage to the insured crop by fire during the insurance period, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this policy without regard to such other insurance; or

(2) The amount by which the loss from fire is determined to exceed the indemnity paid or payable under such other insurance.

(c) For the purpose of section 22(b), the amount of loss from fire will be the reduction in revenue of the insured crop on the unit involved determined pursuant to this policy.

23. Conformity to Food Security Act

Although your violation of a number of federal statutes, including the Act, may cause cancellation, termination, or voidance of your insurance contract, you should be specifically aware that your policy will be canceled if you are determined to be ineligible to receive benefits under the Act due to violation of the controlled substance provisions (title XVII) of the Food Security Act of 1985 (Pub. L. 99–198) and the regulations promulgated under the Act by USDA. Your insurance policy will be canceled if you are determined, by the appropriate Agency, to be in violation of these provisions. We will recover any and all monies paid to you or received by you during your period of ineligibility, and your premium will be refunded, less a reasonable amount for expenses and handling not to exceed 20 percent of the premium paid or to be paid by you.

24. Amounts Due Us

(a) Interest will accrue at the rate of 1.25 percent simple interest per calendar month, or any portion thereof, on any unpaid amount due us. For the purpose of premium amounts due us, the interest will start to accrue on the first day of the month following the premium billing date specified in the Special Provisions.

(b) For the purpose of any other amounts due us, such as repayment of indemnities found not to have been earned, interest will start to accrue on the date that notice is issued to you for the collection of the unearned amount. Amounts found due under this paragraph will not be charged interest if payment is made within 30 days of issuance of the notice by us. The amount will be considered delinquent if not paid within 30 days of the date the notice is issued by us.

(c) All amounts paid will be applied first to expenses of collection (see section 24(d)) if any, second, to the reduction of accrued interest, and then to the reduction of the principal balance.

(d) If we determine that it is necessary to contract with a collection agency or to employ an attorney to assist in collection, you agree to pay all of the expenses of collection.

(e) Amounts owed to us by you may be collected in part through administrative offset from payments you receive from United States government agencies in accordance with 31 U.S.C. chapter 37.

25. Legal Action Against Us

(a) You may not bring legal action against us unless you have complied with all of the policy provisions.

(b) If you do take legal action against us, you must do so within 12 months of the date of denial of the claim. Suit must be brought in accordance with the provisions of 7 U.S.C. 1508(j).

(c) Your right to recover damages (compensatory, punitive, or other), attorney's fees, or other charges is limited or excluded by this contract or by Federal Regulations.

26. Payment and Interest Limitations

(a) Under no circumstances will we be liable for the payment of damages (compensatory, punitive, or other), attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim.

(b) We will pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment of a court of competent jurisdiction, from and including the 61st day after the date you sign, date, and submit to us the properly completed claim on our form. Interest will be paid only if the reason for our failure to timely pay is NOT due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section

12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) and published in the **Federal Register** semiannually on or about January 1 and July 1 of each year, and may vary with each publication.

27. Concealment, Misrepresentation or Fraud

(a) If you have falsely or fraudulently concealed the fact that you are ineligible to receive benefits under the Act or if you or anyone assisting you has intentionally concealed or misrepresented any material fact relating to this policy:

(1) This policy will be voided; and

(2) You may be subject to remedial sanctions in accordance with 7 CFR part 400, subpart R.

(b) Even though the policy is void, you may still be required to pay 20 percent of the premium due under the policy to offset costs incurred by us in the service of this policy. If previously paid, the balance of the premium will be returned.

(c) Voidance of this policy will result in you having to reimburse all indemnities paid for the crop year in which the voidance was effective.

(d) Voidance will be effective on the first day of the insurance period for the crop year in which the act occurred and will not affect the policy for subsequent crop years unless a violation of this section also occurred in such crop years.

28. Transfer of Coverage and Right to Indemnity

If you transfer any part of your share during the crop year, you may transfer your coverage rights, if the transferee is eligible for crop insurance. We will not be liable for any more than the liability determined in accordance with your policy that existed before the transfer occurred. The transfer of coverage rights must be on our form and will not be effective until approved by us in writing. Both you and the transferee are jointly and severally liable for the payment of the premium and administrative fees. The transferee has all rights and responsibilities under this policy consistent with the transferee's interest.

29. Assignment of Indemnity

You may assign to another party your right to an indemnity for the crop year. The assignment must be on our form and will not be effective until approved in writing by us. The assignee will have the right to submit all loss notices and forms as required by the policy. If you have suffered a loss from an insurable cause and fail to file a claim for indemnity within 60 days after the end of the insurance period, the assignee may submit the claim for indemnity not later than 15 days after the 60-day period has expired. We will honor the terms of the assignment only if we can accurately determine the amount of the claim. However, no action will lie against us for failure to do so.

30. Subrogation (Recovery of Loss From a Third Party)

Since you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve this right. If we pay you for your loss, your right to recovery will, at our option, belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

31. Descriptive Headings

The descriptive headings of the various policy provisions are formulated for convenience only and are not intended to affect the construction or meaning of any of the policy provisions.

32. Notices

(a) All notices required to be given by you must be in writing and received by your crop insurance agent within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice. If the date by which you are required to submit a report or notice falls on Saturday, Sunday, or a Federal holiday, or if your agent's office is, for any reason, not open for business on the date you are required to submit such notice or report, such notice or report must be submitted on the next business day.

(b) All notices and communications required to be sent by us to you will be mailed to the address contained in your records located with your crop insurance agent. Notice sent to such address will be conclusively presumed to have been received by you. You should advise us immediately of any change of address.

33. Multiple Benefits

(a) If you are eligible to receive an indemnity under an additional coverage plan of insurance and are also eligible to receive benefits for the same loss under any other USDA program, you may receive benefits under both programs, unless specifically limited by the crop insurance contract or by law.

(b) The total amount received from all such sources may not exceed the amount of your actual loss. The total amount of the actual loss is the difference between the fair market value of the insured commodity before and after the loss, based on your production records and the highest price election or amount of insurance available for the crop.

(c) FSA will determine and pay the additional amount due you for any applicable USDA program, after first considering the amount of any crop insurance indemnity.

(d) Farm ownership and operating loans may be obtained from USDA in addition to any crop insurance indemnities.

Revenue Assurance

Corn and Soybean Crop Provisions

This is a pilot risk management program. This risk management tool will be reinsured under the authority provided by the Federal Crop Insurance Act as amended. If a conflict exists among the policy provisions, the order of priority is as follows: (1) the Special Provisions; (2) these Crop Provisions; and (3) the Basic Provisions with (1) controlling (2), etc.

1. Definitions

CBOT. Chicago Board of Trade.

Fall harvest price. The price used to value production to count. For corn, the fall harvest price is the simple average of the final daily settlement prices in November for the CBOT December corn futures contract. For soybeans, the fall harvest price is the simple average of the final daily settlement prices in October for the CBOT November soybean futures contract. These prices will be released November 5 for soybeans and December 5 for corn.

Fall harvest price option. A coverage option that allows you to use the greater of the projected harvest price or the fall harvest price to determine your per-acre revenue guarantee. For basic, optional, and enterprise units, this option applies to all insurable acres of a crop in the county. For the whole-farm unit, this option will apply to all insurable acres of the applicable crops in the county. This option must be selected by the sales closing date and is continuous unless canceled by the crop sales closing date.

Harvest. Combining, threshing, or picking the insured crop for grain.

Local market price.—The cash grain price per bushel for U.S. No. 2 yellow corn or U.S. No. 1 soybeans, offered by buyers in the area in which you normally market the insured crop. The local market price will reflect the maximum limits of quality deficiencies allowable for the U.S. No. 2 grade for yellow corn or U.S. No. 1 grade for

soybeans. Factors not associated with grading under the Official United States Standards for Grain, including but not limited to protein and oil, will not be considered.

Planted acreage. In addition to the definition contained in the Basic Provisions, corn and soybeans must initially be planted in rows (corn must be planted in rows far enough apart to permit mechanical cultivation), unless otherwise provided by the Special Provisions or actuarial documents.

Prevented planting guarantee. The prevented planting guarantee for such acreage will be the selected percentage of the per-acre revenue guarantee for timely planted acres.

Projected harvest price. The price used to determine the expected per-acre revenue. For corn, the projected harvest price is the simple average of the final daily settlement prices in February for the CBOT December corn futures contract. For soybeans, the projected harvest price is the simple average of the final daily settlement prices in February for the CBOT November soybean futures. The crop projected harvest prices will be released by March 5 of the current crop year.

Silage. A product that results from severing the plant from the land and chopping it for the purpose of livestock feed.

2. Contract Changes

In accordance with section 5 of the Basic Provisions, the contract change is November 30 preceding the cancellation date.

3. Cancellation and Termination Dates

In accordance with section 3 of the Basic Provisions, the cancellation and termination dates are March 15.

4. Annual Premium

Your per-acre premium is determined by the premium calculator for the applicable crop, state, type, practice, acreage, approved yield, the per-acre revenue guarantee, share, and other options such as prevented planting. Your per-acre premiums will differ by crop and unit structure.

(a) Basic unit: The premium calculator calculates your per-acre premium for each crop basic unit.

(b) Optional unit: The premium calculator calculates your crop basic unit per-acre premium and multiplies it by a surcharge factor of 1.22 for corn and 1.30 for soybeans for each crop optional unit.

(c) Enterprise unit: The premium calculator calculates your per-acre premium for each crop enterprise unit. This premium includes a reduction for the number of sections on which the insured crop is located, up to a maximum of 10 sections.

(d) Whole-farm unit: The premium calculator calculates your per-acre premium for the whole-farm unit. This premium includes a reduction for the number of sections on which the insured crops are located, up to a maximum of 10 sections for each crop. Your whole-farm premium also depends on the ratio of corn to soybean insured acres in the unit.

5. Insured Crop

(a) Corn—In accordance with section 9 of the Basic Provisions, the crop insured will be all the corn for which premium is provided by the premium calculator:

(1) In which you have a share;

(2) That is adapted to the area based on days to maturity and is compatible with agronomic and weather conditions in the area;

(3) That is planted for harvest as grain.

(4) That is not (unless allowed by the Special Provisions):

(i) Interplanted with another crop; or

(ii) Planted into an established grass or legume.

(b) In addition to the provisions of section 5(a), the corn crop insured will be all corn that is yellow dent or white corn, including mixed yellow and white, waxy, high-lysine corn, high-oil corn blends containing mixtures of at least 90 percent high yielding yellow dent female plants with high-oil male pollinator plants, commercial varieties of high-protein hybrids, and excluding:

(1) High amylose, high-oil except as defined in section 5(b), flint, flour, Indian, or blue corn, or a variety genetically adapted to provide forage for wildlife or any other open pollinated corn.

(2) A variety of corn adapted for silage use when the corn is reported for insurance as grain.

(c) Soybeans—In accordance with section 9 of the Basic Provisions, the crop insured will be all the soybeans for which premium is provided by the premium calculator:

(1) In which you have a share;

(2) That are adapted to the area based on days to maturity and is compatible with agronomic and weather conditions in the area;

(3) That are not (unless allowed by the Special Provisions):

(i) Interplanted with another crop; or

(ii) Planted into an established grass or legume.

(4) That are planted for harvest as beans.

6. Insurable Acreage

In addition to the provisions of section 10 of the Basic Provisions, any acreage of the insured crop damaged before the final planting date, to the extent that a majority of producers in the area would normally not further care for the crop, must be replanted unless we agree that it is not practical to replant.

7. Insurance Period

In accordance with the provisions under section 12 of the Basic Provisions, the calendar date for the end of the insurance period is December 10 immediately following planting.

8. Causes of Loss

In accordance with the provisions of section 13 of the Basic Provisions, insurance is provided only against an unavoidable loss of revenue against the following causes of loss which occur within the insurance period:

(a) Adverse weather conditions;

(b) Fire;

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

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

(e) Wildlife;

(f) Earthquake;

(g) Volcanic eruption;

(h) Failure of the irrigation water supply, if applicable, due to a cause of loss contained in section 8(a) through (g) occurring within the insurance period; or

(i) A decline in the fall harvest price below the projected harvest price.

9. Replanting Payment

(a) In accordance with section 14 of the Basic Provisions:

(1) Replanting payments for corn and soybeans are allowed if the corn and soybeans are damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the per-acre revenue guarantee for the acreage and it is practical to replant. The projected harvest price is used to determine if 90 percent of the unit revenue guarantee can be achieved.

(2) The maximum amount of the replanting payment per acre will be your share times the lesser of 20 percent of the per-acre revenue guarantee based on the projected harvest price or:

(i) For corn, an amount equal to 8 bushels times the projected harvest price,

(ii) For soybeans, an amount equal to 3 bushels times the projected harvest price.

(b) When the insured crop is replanted using a practice that is uninsurable as an original planting, the unit per-acre revenue guarantee based on the projected harvest price will be reduced by the amount of the replanting payment which is attributable to your share. The premium amount will not be reduced.

10. Duties in the Event of Damage or Loss

(a) In accordance with the requirements of section 15 of the Basic Provisions, if you initially discover damage to any insured crop within 15 days of, or during harvest, you must leave representative samples of the unharvested crop for our inspection. The samples must be at least 10 feet wide and extend the entire length of each field in the unit, and must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the unit is completed.

(b) In addition to the provisions of section 15 of the Basic Provisions, you must notify us before harvest begins if you intend to harvest any corn acreage for silage.

11. Settlement of Claim

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

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

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

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

(1) Basic and Optional units: We will settle your claim on each basic or optional unit by:

(i) Multiplying the unit's per-acre revenue guarantee by the number of insured acres in the unit;

(ii) Multiplying the applicable fall harvest price by production to count for each unit (see sections 11(c) through (e));

(iii) Subtracting the result of section 11(b)(1)(ii) from the result of section 11(b)(1)(i); and

(iv) Multiplying the results in section 11(b)(2)(iii) by your share.

If the result of section 11(b)(1)(iv) is greater than zero, an indemnity equal to that result will be paid to you. If the result of section 11(b)(1)(iv) is less than or equal to zero, no indemnity will be paid.

(2) Enterprise units: We will settle your claim on an enterprise unit by:

(i) Multiplying the enterprise unit's per-acre revenue guarantee by the number of insured acres in the enterprise unit;

(ii) Multiplying the applicable fall harvest price by the production to count for the enterprise unit;

(iii) Subtracting the result of section 11(b)(2)(ii) from the result of section 11(b)(2)(i); and

(iv) Multiplying the result in section 11(b)(2)(iii) by your share.

If the result of section 11(b)(2)(iv) is greater than zero, an indemnity equal to that result will be paid to you. If the result is less than or equal to zero, no indemnity will be paid.

(3) Whole-farm units: We will settle your claim on a whole-farm unit by:

(i) Multiplying the per-acre revenue guarantee for each crop by the number of insured acres planted to each crop;

(ii) Totaling the results of section 11(b)(3)(i);

(iii) Multiplying the applicable fall harvest price for each crop by the production to count for each crop;

(iv) Totaling the results of section 11(b)(3)(iii);

(v) Subtracting the result of section 11(b)(3)(iv) from the result of section 11(b)(3)(ii); and

(vi) Multiplying the result in section 11(b)(3)(v) by your share.

If the result of section 11(b)(2)(vi) is greater than zero, an indemnity equal to that result will be paid to you. If the result is less than or equal to zero, no indemnity will be paid.

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

(1) All appraised production as follows:

(i) Not less than the per-acre revenue guarantee will be used for such acreage:

(A) That is abandoned;

(B) Put to another use without our consent;

(C) Planted for grain but harvested as silage, if you fail to give us notice before harvest begins;

(D) Damaged solely by uninsured causes; or

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

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies and excess moisture in accordance with section 11(d)); and

(iv) Potential production on insured acreage that you intend to put to another use or you wish to abandon and no longer care for, if you and we agree on the appraised amount of production. Upon such agreement the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count.); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage.

(d) Mature crop production (excluding silage type or corn harvested as silage) may be adjusted for excess moisture and quality deficiencies. If moisture adjustment is applicable it will be made prior to any adjustment for quality.

(1) Production will be reduced by 0.12 percent for each 0.1 percentage point of moisture in excess of:

(i) Fifteen percent for corn (If moisture exceeds 30 percent, production will be reduced 0.2 percent for each 0.1 percentage point above 30 percent); and

(ii) Thirteen percent for soybeans.

We may obtain samples of the production to determine the moisture content.

(2) Production will be eligible for quality adjustment if:

(i) Deficiencies in quality, in accordance with the Official United States Standards for Grain, result in:

(A) Corn not meeting the grade requirements for U.S. No. 4 (grades U.S. No. 5 or worse) because of test weight or kernel damage (excluding heat damage) or having a musty, sour, or commercially objectionable foreign odor; or

(B) Soybeans not meeting the grade requirements for U.S. No. 4 (grades U.S. Sample grade) because of test weight or kernel damage (excluding heat damage) or having a musty, sour, or

commercially objectionable foreign odor (except garlic odor), or which meet the special grade requirements for garlicky soybeans; or

(ii) Substances or conditions are present that are identified by the Food and Drug Administration or other public health organizations of the United States as being injurious to human or animal health.

(3) Quality will be a factor in determining your loss only if:

(i) The deficiencies, substances, or conditions resulted from a cause of loss against which insurance is provided under these crop provisions and which occurs within the insurance period;

(ii) All determinations of these deficiencies, substances, or conditions are made using samples of the production obtained by us or by a disinterested third party approved by us; and

(iii) The samples are analyzed by a grader licensed to grade the insured crops under the authority of the United States Grain Standards Act or the United States Warehouse Act with regard to deficiencies in quality, or by a laboratory approved by us with regard to substances or conditions injurious to human or animal health. Test weight for quality adjustment purposes may be determined by our loss adjuster.

(4) The grain production that is eligible for quality adjustment, as specified in sections 11(d)(2) and (3), will be reduced by the quality adjustment factor contained in the Special Provisions.

(e) Any production harvested from plants growing in the insured crop may be counted as production of the insured crop on a weight basis.

12. Prevented Planting

Your prevented planting coverage will be 60 percent of your per-acre revenue guarantee for timely planted acreage. You may increase your prevented planting coverage to a level specified in the actuarial documents by paying an additional premium.

Signed in Washington, D.C., on December 17, 1998.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 98–34250 Filed 12–24–98; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Forest Service

Rio Sabana Day Use Picnic Area, Caribbean National Forest, Naguabo, Puerto Rico; Revised Notice of Intent To Prepare an Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Revised Notice; extension of time for submitting scoping comments.

SUMMARY: Due to the passing of Hurricane Georges over the island of Puerto Rico, on September 21st, 1998, the Forest Service is extending the time for submitting scoping comments concerning the environmental analysis for the Rio Sabana Day Use Picnic Area, on the Carribean National Forest. Additionally, this notice corrects the location of the proposed project site, as published in the **Federal Register** on Friday, September 18th, 1998, Vol. 63, No. 181. The location of project site should read as follows: from entrance gate at Highway #191, Km. 21.3 to project site, Km. 20.0, in the Cubuy sector of the Municipality of Naguabo.

DATES: (a) Comments to be incorporated into the draft environmental impact statement should be received by January 8th 1999 to ensure timely consideration. (b) Comments to be incorporated into the final environmental impact statement should be received 45 days following the publication of Notice of Availability of the draft environmental impact statement, approximately the first week of March 31, 1999.

ADDRESSES: Send written comment to Abigail Rivera, Team Leader; Caribbean National Forest, P.O. Box 490, Palmer, Puerto Rico 00721.

FOR FURTHER INFORMATION CONTACT: Abigail Rivera, Rio Sabana Picnic Area EIS Team Leader, 787 888–5643.

SUPPLEMENTARY INFORMATION: The Caribbean National Forest is proposing: (a) to develop a day use picnic area located in the vicinity of the Rio Sabana Bridge, on the southern end of Highway #191, at Km. 20.0, in the Cubuy Sector of the Municipality of Naguabo; (b) the rehabilitation of 2.5 miles of the Rio Sabana Trail #6 and trailhead; (c) repair and reconstruction of 0.8 miles of entrance road, located on Hwy. #191, Km. 21.3, to project site, Km. 20.0; Currently, the area has not been developed for recreation but receives heavy use. This use, coupled with a sensitive ecosystem in which it is located, gives rises to a potential conflict between the need to protect and conserve natural resources and the need to provide a well managed natural setting where our customers can enjoy a satisfying recreational experience.

On April 13, 1992, U.S. District Judge Guierbolini permanently enjoined and restrained the U.S. Forest Service and the Federal Highway Administration from proceeding with construction activities on the closed portion of Highway P.R. #191, from Km. 13.5 to Km. 20, until completion of an environmental impact statement. The proposed project is located on a segment of Hwy. #191 that is outside of the area under court order.

The proposed action would meet the objectives of: (a) Correcting the current managerial situation and social settings in relation to the physical setting and actual use; (b) protect the natural resources in the vicinity; (c) increase Forest Service presence on the southern end of the Forest, which currently is minimal.

The EIS will be prepared in accordance with the National Environmental Policy Act (NEPA), the National Forest Management Act (NFMA) and the Endangered Species Act (ESA). The U.S. Forest Service will be the lead agency and the Puerto Rico Department of Public Transportation (DTOP) will be a cooperating agency.

Public participation will be especially important at several points during analysis. The first point is when scoping officially begins (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State and local agencies, and other individuals or organizations who may be interested in or affected by the proposed action. Comments must be received by *January 8th 1999.* This input will be used in preparation of the draft environmental impact statement (DEIS). The scoping process will include: (1) Identifying potential issues; (2) Identifying issues to be analyzed in depth; (3) Eliminating insignificant issues or those which have been covered by a relevant previous environmental process; (4) Exploring additional alternatives; (5) Identifying potential environmental effects of the proposed action and alternatives (i.e. direct, indirect, and cumulative effects and connected actions). Public participation will include notifying interested and affected publics of the proposed action in person and/or by mail. News releases will be used to provide general notice to the public.

The following preliminary issues have been identified through internal scoping: (1) Possible effects of development of picnic area and reconstruction of Rd. #191 on the threatened and endangered species identified in the project area; (2)

Possible effects on natural resources due to an increase in visitors to picnic area and trail; (3) Reconstruction of the historic CCC Rio Sabana Trail, which connects with the Tradewinds/El Toro Trial, may generate greater use than is allowed in the proposed Wilderness Management Area; (4) Security issues in the area in relation to 24-hour presence of Forest Service hosts of volunteers; (5) Potential hazards to Forest users caused by a nearby water impoundment and transmission facility, located on private land.

A draft environmental impact statement is expected to be available for public review, for 45 days, in *February 1999*.

It is very important that those interested in this proposed action participate at that time. Upon release of the draft environmental impact statement, projected for *February 1999* reviewers should structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

After the comments period on the draft environmental impact statement ends, the comments will be analyzed, considered, and responded to by the Forest Service in preparing the *final environmental impact statement.* The final environmental impact statement is scheduled to be completed by *May 1999.* The Responsible Official will consider the comments, responses, environmental consequences discussed in the final environmental impact statement, and applicable laws, regulations, and policies in making a decision. The Responsible Official will document the decision and rationale for the decision in a Record of Decision. The decision will be subject to appeal in accordance with 36 CFR 215.

The Responsible Official is: Pablo Cruz, Forest Supervisor, Caribbean National Forest, P.O. Box 490, Palmer, Puerto Rico 00721.

Dated: December 18, 1998.

Pablo Cruz,

Forest Supervisor.

[FR Doc. 98–34247 Filed 12–24–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Upper Pipe Creek Timber Sale and Associated Activities, Kootenai National Forest, Lincoln County, Montana

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an Environmental Impact Statement (EIS) to disclose the environmental effects of proposed timber harvest, road construction, prescribed burns, wastershed and fisheries habitat restoration, road restriction changes, noxious weed control, gravel pit expansion and recreational improvements in the upper and eastern portion of the Pipe Creek drainage. The upper and eastern portions of this drainage are located approximately 15 air miles north of Libby, Montana.

The proposed activities are being considered together because they represent either connected or cumulative actions as defined by the Council on Environmental Quality (40 CFR 1508.25). The purposes of the project are to: (1) Manage road access to balance wildlife and fisheries habitat protection, limit the spread of noxious weeds and provide for public access; (2) improve watershed health and fisheries habitat to provide for stable stream channels, productive habitat for aquatic species and water quality that meets or exceeds State of Montana water quality goals; (3) use prescribed fire to stimulate natural processes, prevent natural and activity fuel buildup, create habitat diversity for wildlife, reduce suppression costs and maintain ecosystems; (4) utilize timber harvest to increase the long-term productivity of forest stands suitable for timber production which are currently slowing in growth, over stocked and approaching an age where they are becoming more suspectable to mountain pine beetle infestation; (5) provide timber and other forest products to support local, regional and national needs; and (6) restore western white pine and other intolerant tree species to historic sites and/or conditions.

The EIS will tier to the Kootenai National Forest Land and Resource Management Plan and Final EIS of September, 1987, which provides overall guidance for forest management of the area.

DATES: Written comments and suggestions should be received on or before October 27, 1999.

ADDRESSES: The Responsible Official is the Kootenai National Forest, Forest Supervisor, 1101 U.S. Hwy 2 West, Libby, Montana 59923. Written comments and suggestions concerning this analysis may be sent to Lawrence A. Froberg, Libby District Ranger, 12557 U.S. Hwy 37, Libby, Montana 59923.

FOR FURTHER INFORMATION CONTACT: Kirsten Kaiser, Project Coordinator, Libby Ranger District. Phone: (406) 293–7773.

SUPPLEMENTARY INFORMATION: The decision area contains approximately 21,000 acres within the Kootenai National Forest in Lincoln County, Montana. All of the proposed activities would occur on National Forest lands in the East Fork Pipe Creek drainage near Libby, Montana. The legal location of the decision area is as follows: T34N, R31W, Sections 14, 15, 21–28, 31–36; T33N, R31W, Sections 1–36; T33N, R30W, Sections 19 and 30; T33N R32W, Sections 24, 25, 36; T32N, R31W, Sections 3–36; T32N, R32W, Sections 1, 12–13, 25, 36; T31N, R32W, Sections, 1–3, 10, 11, 15, 16, 19–28, 34; Principal Montana Meridian.

All proposed activities are outside the boundaries of any inventoried roadless area or any areas considered for inclusion to the National Wilderness System as recommended by the Kootenai National Forest Plan or by any past or present legislative wilderness proposals.

The Forest Service proposes to harvest approximately 3.0 MMBF (million board feet) or approximately 7,300 CCF (hundred cubic feet of timber through application of a variety of harvest methods on approximately 400 acres of forest land. All activities would occur on suitable timberlands. An estimated 0.3 miles of temporary road and 2.2 miles of permanent road construction would be needed to access timber harvest areas. An estimated 30 miles of road reconstruction/maintenance would also be needed to improve existing road conditions. Approximately 20 miles of road would be restored by various methods which

include culvert removal, partial recontouring, ripping and seeding. These activities would result in most roads being undrivable. Restoration methods would be based on site specific conditions and would be designed to improve watershed and fisheries habitat conditions and reduce overall density to improve big game security. The proposal also includes prescribed burning on approximately 250 acres to decrease ground fuels, increase browse species, return fire to the landscape and aid in site preparation for natural and artificial regeneration. Prescribed burning would occur in association with timber harvest and in areas without timber harvest. Proposed harvest treatments in this proposal are as follows and may include Forest Plan amendments:

Clearcut with reserves. This prescription involves areas where lodgepole pine would be the primary species removed. It would result in a regeneration harvest with reserve trees (primarily western larch, Douglas fir, subalpine fir) concentrated in patches/islands and scattered where stand conditions exist. Treatment of these areas would include thinning for a feathering effect. This prescription would thin from within the reserve (patch/island) portion of the stand, into the untreated portion of the stand. Size and shape of treatment areas would be designed to maintain watershed and wildlife values. The proposal includes treating large areas to mimic historic fire patterns, resulting in two openings up to 150 acres in size. Approval by the Regional Forester for exceeding the 40 acre limitation for regeneration harvest would be required prior to the signing of the Record of Decision. This treatment is proposed on approximately 310 acres.

Rust resistant white pine would be planted in units where site conditions would support this species. It is desirable to return white pine to the ecosystem as disease (white pine blister rust) has significantly decreased the availability of this species in the Upper Pipe Creek area and throughout it's range.

Roadside salvage and individual tree removal. These prescriptions would result in the removal of individual dead and dying trees along open roads and roads to be opened for management activities while providing for an appropriate level of woody debris and cavity habitat. After treatment the given area would resemble a stocked stand with small openings where dead and downed trees were removed. This treatment is proposed on approximately 30 acres.

Salvage. This prescription would result in the removal of dead and down conifer species. Live tree species would be retained with the exception of a minor amount that may be harvested to facilitate yarding activity, access or due to safety concerns. Harvest would result in the uneven distribution of green and some standing dead trees. This treatment is proposed on approximately 10 acres.

Special product removal. This prescription would result in the removal of trees less than 6 inches in diameter (trees normally considered too small for commercial products). These trees would be removed for utilization as post and poles or other specialized uses. After treatment the given area may resemble a thinning or stands with small openings. This treatment is proposed on approximately 30 acres.

Other resource projects proposed are as follows:

Pipe Creek road improvements. Winter maintenance of this road (Forest Road 68) is a concern expressed by the public and IDT. Opportunities to improve portions of the Pipe Creek road to increase public safety are part of the proposal and include clearing/thinning right-of-ways and road reconstruction. Activities would be in compliance with INFISH.

Log structure placement. Large woody debris is lacking in portions of Deception Creek (tributary to East Fork of Pipe Creek). Log structures in designated portions of the stream (T34N, R32W, Sections 22, 26, 27, 36) would be added to help improve stream stabilization, catch and store sediment and create habitat features (i.e. pools).

Recreation uses. Access for hunters with physical disabilities is an important program on the district. This proposal includes designating the Michael's Draw area which includes all of the 4756 road system, as an area accessible to hunters with physical disabilities. Michaels' Draw is located in lower Pipe Creek and is currently closed year long to motorized vehicles and over the snow vehicles.

We also propose to allow the Kootenai Cross Ski Club to construct a ski shelter on Flatiron Mountain. The shelter would be for skiers only and use would be limited to the December 1st to April 1st period. All materials and labor would be provided by the Kootenai Cross Country Ski Club.

Wildlife enhancement. Proposed road restoration (approximately 20 miles) would improve habitat effectiveness and security as roads would not be drivable following restoration activities. Cavity habitat would be improved where it is limited by past management activities through tree inoculation (inoculation kills the tree, resulting in habitat for cavity nesting species).

Noxious weeds. Weed control work may include use of herbicides, biological agents, mechanical pulling and road management. Infestations including isolated weed populations would be mapped and recorded. The intensity of control work would be based on likelihood of successful eradication or containment, risk of spread to non-infested areas and available funding. All work would be closely coordinated with Lincoln County weed control personnel and implemented in accordance with the MOU (memorandum of understanding) between the Kootenai National Forest and Lincoln County.

Firewood gathering. Firewood gathering opportunities for the public on restricted roads, roads to be opened for logging activities and/or on roads to be restored would be considered.

Gravel pit expansion. We propose to expand two existing gravel pits (the Upper Pipe Creek Pit and the South Fork of Big Creek Pit) located in T32N, R31W, Section 34 and in T34N, R30W, Section 31. Expansion of both pits would include the harvest/removal of timber on approximately 20 acres. Expansion would not occur in 1 year, rather it would occur over a 10 year period. Active and reclaimed portions of the pits would cover approximately 10 acres (20 acres for both pits); however, only 2 to 3 acres of the pits (4 to 6 acres for both pits) would be active at any given time. Pit restoration would be concurrent with resource extraction (i.e. after resource is removed, restoration would occur). Restoration and mitigation would occur including seeding of disturbed areas and noxious weed control. Materials extracted from these pits would be used for road construction and reconstruction/maintenance in the Pipestone area for the proposed project and for ongoing and future road maintenance.

Range of Alternatives: The Forest Service will consider a range of alternatives. One would be a ''no action'' alternative in which none of the proposed activities would be implemented. Additional alternatives may be considered to achieve the project's purpose and need and to response to specific resource issues.

Preliminary Issues: Tentatively, several issues of concern have been identified. These issues are briefly described below.

Road Access and Restoration: Specific roads would be restores to improve watershed and fisheries habitat conditions. Restored roads would not be

drivable following reactivities; however, snowmobile use may continue to occur on these roads until they are reclaimed by development of trees and shrubs. Some individuals are concerned that public access is already overly restricted. Most of the roads proposed for restoration are currently closed year long to motor vehicles except open to snow vehicles from 12/1 to 4/30. What effect would restoration effects have on public access to recreational areas?

Grizzly Bear: A portion of the project area is in grizzly bear habitat. Specifically, road restoration and timber harvest is proposed within the Cabinet/Yaak Grizzly Bear Recovery Area. What effect would proposed activities have on the threatened grizzly bear?

Water Quality and Fisheries Habitat: Water quality and fisheries habitat is expected to be improved with the implementation of proposed activities (road restoration, log placement). Some individuals have expressed concerns regarding project effects (potential short term sediment reaching Pipe Creek) to water quality and bull trout recovery as Pipe Creek is a bull trout priority watershed. What effects would the proposed actions have on water quality and bull trout habitat?

Noxious Weeds: Knapweed and other noxious weed species are present along many roads within the project area. Some individuals are concerned about the spread of noxious weeds and the effects to native vegetation.

Timber Supply and Economics: Some individuals are concerned that the Forest Service is not placing enough emphasis on providing forest products to the local communities. How will the proposed activities affect timber supplies and produce economic benefits to local communities?

Public Involvement and Scoping

In March of 1997, preliminary efforts were made to involve the public in looking at opportunities for management and restoration of the larger Pipestone area. Public involvement has included several informational letters, public notices in local and regional newspapers and two field trips.

Taking into account the comments received and information gathered during preliminary analysis, it was decided to prepare an EIS for the Upper Pipe Creek timber sale and associated activities. Comments received prior to this notice will be included in the documentation for the EIS.

This environmental analysis and decision making process will enable additional interested and affected people to participate and contribute to the final decision. The public is encouraged to take part in the process and is encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision. The Forest Service will be seeking information, comments, and assistance from Federal, State, Tribes, local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft and final EIS. The scoping process will assist in:

—Identifying potential issues.
—Identifying issues to be analyzed in depth.
—Identifying alternatives to the proposed action.
—Considering additional alternatives which will be derived from issues recognized during scoping activities.

Estimated Dates for Filing

While public participation in this analysis is welcome at any time, comments received within 30 days of the publication of this notice will be especially useful in the preparation of the Draft EIS. The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by March, 1999. At that time, EPA will publish a Notice of Availability of the Draft EIS in the **Federal Register.** The comment period on the Draft EIS will be a minimum of 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register**.

The Final EIS is scheduled to be completed by June of 1999. In the Final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the Draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal.

Reviewers Obligations

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objectives are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the Final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives discussed. Reviewers may wish to refer to the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Responsible Official

The Kootenai National Forest, Forest Supervisor, 1101 U.S. Hwy 2 West, Kootenai National Forest, Libby, Montana 59923, is the Responsible Official. The Responsible Official will decide which, if any, of the proposed projects will be implemented. This decision will be document reasons for the decision in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations.

Dated: December 18, 1998.

Mark L. Romey,

Acting Forest Supervisor, Kootenai National Forest.

[FR Doc. 98–34191 Filed 12–24–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Oregon Coast Provincial Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Oregon Coast Provincial Advisory Committee (PAC) will meet on January 28, 1999, at the Siuslaw National Forest, 4077 Research Way, Corvallis, OR. The meeting will begin at 9:00 a.m. and continue until 3:30 p.m. Agenda items to be covered include: (1) 15 percent late-successional rule, (2)

Siuslaw National Forest matrix harvest, (3) implementation monitoring, (4) water quality management plan, (5) Swiss needlecast, and (6) PAC rechartering. Committee meetings are open to the public. One 30-minute open public forum is scheduled for 2:45 p.m. Interested citizens are encouraged to attend. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Jose Linares, Strategic Planning Staff Officer, Siuslaw National Forest (541–570–7018), or write to the Forest Supervisor, Siuslaw National Forest, P.O. Box 1148, Corvallis, Oregon 97339.

Dated: December 18, 1998.

James R. Furnish,

Forest Supervisor.

[FR Doc. 98–34326 Filed 12–24–98; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities and a service previously furnished by such agencies.

EFFECTIVE DATE: January 27, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On September 11, October 30, November 6 and 16, 1998, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (63 F.R. 48696, 58362, 59936 and 63670) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Targets
6920–01–NSH–9020
6920–01–NSH–9021
6920–01–NSH–9022

Services

Food Service Attendant
U.S. Coast Guard, 259 High Street, South Portland, Maine
Janitorial/Custodial
Federal Bureau of Prisons HOLC Federal Building, 320 First Street, NW, Washington, DC
Janitorial/Grounds Maintenance
U.S. Courthouse and Federal Building, Carleton Avenue & North Spur Drive, Central Islip, Long Island, New York
Microfilming
Department of Treasury, Financial Management Services, Hyattsville, Maryland

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the commodities and service.

3. The action may result in authorizing small entities to furnish the commodities and service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and service deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities and service listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities and service are hereby deleted from the Procurement List:

Commodities

Block, Currency Packing
BEP Stock # L–1391
Bedspread
7210–00–728–0182
7210–00–728–0183
7210–00–728–0180
Cover, Mattress
7210–00–171–1091
7210–00–998–7745

Service

Laundry Service
Naval Undersea Warfare Center, Keyport, Washington

Louis R. Bartalot

Deputy Director (Operations).

[FR Doc. 98–34335 Filed 12–24–98; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled

ACTION: Proposed Additions to and Deletions from Procurement List

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies

employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 27, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will result in authorizing small entities to furnish the commodities and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

PVA Mop
M.R. 1027
NPA: The Lighthouse for the Blind, Inc. Seattle, Washington

U.S. Navy Personal Financial Record
7530–00–NIB–0420
NPA: The Clovernook Center, Opportunities for the Blind
Cincinnati, Ohio

Services

Base Supply Center
Fort Carson, Colorado
NPA: Envision, Inc. Wichita, Kansas

Janitorial/Custodial
U.S. Army Reserve Center, Fort Dix, New Jersey
NPA: Occupational Training Center of Burlington County, Mt. Holly, New Jersey

Janitorial/Custodial
VA Community Based Outpatient Clinic, 382 South Bluff Street, 2nd Floor, St. George, Utah
NPA: Washington County Association for Retarded Citizens, St. George, Utah

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the commodities to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for deletion from the Procurement List.

The following commodities have been proposed for deletion from the Procurement List:

Box, Filing
7520–00–139–3743
7520–00–240–4830

Louis R. Bartalot,

Deputy Director (Operations).

[FR Doc. 98–34336 Filed 12–24–98; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

ADDITIONS TO THE PROCUREMENT LIST CORRECTION

In the document appearing on page 70099, F.R. Doc. 98–33612, in the issue of December 18, 1998, in the third column, the listing for Battleboard Kit, ID, NSN 2590–01–399–3840 should have been 2590–01–398–3840. Also, the NSN 2590–01–398–6773 should not be listed as being added to the Procurement List.

Louis R. Bartalot,

Deputy Director (Operations).

[FR Doc. 98–34337 Filed 12–24–98; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

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

Agency: Bureau of the Census.

Title: 1999 Annual Demographic Survey—Supplement to the Current Population Survey.

Form Number(s): CPS–580, CPS–589(SP), CPS–676, CPS–676(SP).

Agency Approval Number: 0607–0354.

Type of Request: Reinstatement, with change, of an expired collection.

Burden: 20,864 hours.

Number of Respondents: 50,500.

Avg Hours Per Response: 26 and one-half minutes.

Needs and Uses: The Bureau of the Census conducts the Annual Demographic Survey (ADS) every year in March as a supplement to the Current Population Survey (CPS). The Bureau of the Census, the Bureau of Labor Statistics, and the Department of Health and Human Services sponsor this supplement. In the ADS, we collect information on work experience, migration, personal income and noncash benefits, household noncash benefits, and race.

The work experience items in the ADS provide a unique measure of the dynamic nature of the labor force as viewed over a one-year period. The income data from the ADS are used by social planners, economists, Government officials, and market researchers to gauge the economic well-being of the Nation as a whole, and selected population groups of interest. Researchers evaluate March income data not only to determine poverty levels, but also to determine whether Government programs are reaching eligible households.

We have made question changes, additions, and deletions to the 1998 supplement to address changes caused by the recent welfare reform and changes recommended by interviewers, data users, and others.

Affected Public: Individuals or households.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 182; Title 29 U.S.C., Sections 1–9.

OMB Desk Officer: Nancy Kirkendall, (202) 395–7313.

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

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Nancy Kirkendall, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: December 22, 1998.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 98–34322 Filed 12–24–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 57–98]

Proposed Foreign-Trade Zone—Terre Haute, Indiana Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Terre Haute International Airport Authority, to establish a general-purpose foreign-trade zone at sites in Terre Haute, Indiana. The Terre Haute International Airport has been designated a Customs user fee airport facility by the U.S. Customs Service. The application was submitted pursuant to the provisions of the FTZ Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on December 14, 1998. The applicant is authorized to make the proposal under Indiana Code 8–10–3–2.

The proposed new zone would consist of 4 sites (3,282 acres) in or adjacent to Terre Haute: *Site 1* (1,500 acres)—Terre Haute International Airport complex (owned by the applicant), 581 South Airport Street, and adjacent property (28 acres) at the southwest corner of the airport (owned by Wabash Valley Asphalt Company), Terre Haute; *Site 2* (186 acres, 4 parcels)—Aleph Industrial Park (owned by Rose-Hulman Institute of Technology), 2 miles south of the airport on State Road 46, Terre Haute; *Site 3* (92 acres, 7 parcels)—Fort Harrison Industrial Park (parcels owned by park tenants), northwest of the airport on Fruitridge Avenue, Terre Haute; and, *Site 4* (1,476 acres)—Vigo County Industrial Park (owned by the Vigo County Redevelopment Commission, Futurex, Heartland Steel and Brentlinger Distributing), five miles south of Interstate 70 on U.S. 41 at Harlan Road, Terre-Haute. Sites 1 and 2 are included in the Airport Development Zone, a special taxing district granted to the airport by the State of Indiana to encourage development of the property. All sites will be operated by the Terre Haute International Airport Authority.

The application indicates a need for foreign-trade zone services in the Terre Haute/Wabash Valley region. Several firms have indicated an interest in using zone procedures for warehousing/distribution and possibly processing of such items as steel, telecommunications products and plastic sheet products. Specific manufacturing approvals are not being sought at this time. Requests for FTZ processing/manufacturing authority will be made to the Board separately on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

As part of the investigation, the Commerce examiner will hold a public hearing on January 28, 1999, 2:00 p.m., at the Ivy Tech State College, Hyperlink Room (Rm. 257), Terre Haute, Indiana 47803.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is [February 26, 1999]. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to [March 3, 1999]).

A copy of the application and accompanying exhibits will be available during this time for public inspection at the following locations:

Terre Haute International Airport, Hulman Field, 581 South Airport Street, Terre Haute, IN 47803

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW., Washington, DC 20230

Dated: December 15, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–34323 Filed 12–24–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Amended Final Results of 1996–1997 Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final results of antidumping duty administrative review.

SUMMARY: On November 17, 1998, the Department of Commerce published the final results of administrative review and new shipper review of the antidumping order on tapered roller bearings from the People's Republic of China (63 FR 63842). The period of review is June 1, 1996 through May 31, 1997. Subsequent to the publication of the final results, we received comments from respondents and the petitioner alleging various ministerial errors. After analyzing the comments submitted, we are amending our final results to correct certain ministerial errors.

EFFECTIVE DATE: December 28, 1999.

FOR FURTHER INFORMATION CONTACT: Craig Matney or Stephanie Hoffman; Antidumping/Countervailing Duty Enforcement, Group I, Office 1, Import Administration, International Trade Administration, US Department of Commerce; 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone numbers (202) 482–1778 or (202) 482–4198, respectively.

Applicable Statute:

Unless otherwise indicated, all citations to the Tariff Act of 1930 (the Act), as amended, are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. Additionally, unless otherwise indicated all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR 353 (April 1997).

SUPPLEMENTARY INFORMATION:

Background

On November 17, 1998, the Department published the final results of administrative review and new shipper review of the antidumping duty order on tapered roller bearings from the People's Republic of China covering the period June 1, 1996 through May 31, 1997. *See* Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of 1996–1997 Antidumping Duty Administrative Review and New Shipper Review and Determination Not To Revoke Order in Part 63 FR 63842 (November 17, 1998) (Final Results). Subsequently, the petitioner, the Timken Company, and one respondent, Premier Bearing & Equipment Ltd. (Premier), submitted ministerial error allegations.

A summary of each allegation along with the Department's response is included below. For a more detailed analysis, *see* December 17, 1998 Memorandum from Case Team to Richard Moreland, ''Concurrence for ministerial error corrections to final results of review.'' We are hereby amending our final results, pursuant to 19 CFR 353.28(c), to reflect the correction of those errors which are clerical in nature.

Analysis of Ministerial Error Allegations

Allegation 1: The petitioner alleges that in its database containing corrections to steel unit consumption based on verification for one of Zhejiang's suppliers, the Department included one model number twice, with different steel unit consumption figures for the cup and cone. The petitioner notes that this duplication of model numbers may lead to erratic results in the calculations.

Department's Position: The petitioner is correct in stating that one model in this database is included twice. However, the model in question is not included among the U.S. sales of Zhejiang and, therefore, the calculation of Zhejiang's margin is not affected. Therefore, we did not alter Zhejiang's SAS program with regard to this issue.

Allegation 2: The petitioner alleges that there is an error in the SAS program for Zhejiang at the point where the revised steel unit consumption database, discussed in Allegation 1 above, is merged into the Factors of Production (FOP) database for one supplier. In particular, there are more model numbers in the FOP database than there are in the corrected unit consumption database. In the process of merging these two data sets, the correct unit consumption for certain models is erroneously overwritten, and reset to zero. This results in an inaccurate calculation of the cost of production for these particular models. The petitioner alleges the same error for four other respondents: Yantai CMC, Liaoning MEC Group Co., Peer/Chin Jun, and Premier.

Department's Position: We agree with the petitioner's allegations. The appropriate unit consumption values for certain model numbers are overwritten and reset to zero in these programs. We have modified the SAS programs for Zhejiang and Yantai CMC to correct this error. This error also affected the calculations for Peer/Chin Jun and Premier, as these companies used constructed value (CV) data from the same supplier. We re-ran these two companies' SAS programs with the revised CV data to correct this error. We did not modify Liaoning's SAS program as Liaoning did not sell the relevant models and, therefore, the error did not affect the calculation of Liaoning's margin.

Allegation 3: Premier states that there were several ''complete'' bearings listed in Premier's sales database at CONNUMU for which the proper FOP data match was not performed in the SAS final margin program. Premier explained that this is because the model numbers of inch-sized (as opposed to metric-size) complete bearings are often shorthand combinations of the individual cup and cone assemblies used in the bearing (*e.g.*, complete bearing model LM11949/10 is comprised of cone number LM11949 and cup number LM11910). Because of this shorthand method of recording bearings, the margin program did not match certain cups and cones with their respective complete bearings.

Department's Position: Although the Department acknowledges that certain FOP data were not matched in the margin program, this is a result of inconsistent CONNUMU numbering. The burden of identifying any CONNUMUs which may be numbered inconsistently lies with the respondent, not the Department. Premier did describe how its CONNUMUs are derived, but it did not explain that factor information reported by the suppliers was numbered differently. Therefore, the problem was not with the shorthand reporting method, but rather with the inconsistency in reporting between Premier and the suppliers. The Department had no knowledge of this inconsistency.

The inconsistency in CONNUMUs was apparent to Premier after the preliminary results. Yet Premier failed to raise this issue in its case brief. Because Premier did not identify this error prior to the final determination, the Department was not aware of the inconsistency in reporting. Therefore, because we did not make a ministerial error, we have not modified Premier's final calculations with regard to this issue.

Moreover, the Department also notes that for three of the four CONNUMUs identified in Premier's ministerial error allegation, the FOP data is not complete. These bearings did not have CV information for the entire assembled bearing, but only for the different components. Therefore, certain factor information remains lacking, such as the labor required to assemble the cone and cup. More information would be required before we would be able to calculate the CV for the entire assembled bearing. For all of the above reasons, Premier's allegations do not constitute ministerial errors and will not be corrected.

Amended Final Results of Review

As a result of the amended margin calculations, the following weighted-average percentage margins exist for the period June 1, 1996 through May 31, 1997:

Manufacturer/exporter	Percentage margin
Wafangdian	0.00
Luoyang	3.20
Yantai CMC	0.03
Xiangfan	33.18
Zhejiang	0.11
Wanxiang	0.00
Liaoning MEC Group Corporation	0.02
Premier	7.22
Peer/Chin Jun	0.05
ZX (the new shipper)	0.00
PRC Rate	33.18

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. With respect to export price sales for these amended final results, we divided the total dumping margins (calculated as the difference between NV and export price) for each importer/customer by the total number of units sold to that importer/customer. We will direct Customs to assess the resulting per-unit dollar amount against each unit of merchandise in each of that importer's/customer's entries under the relevant order during the review period. Although this will result in assessing different percentage margins for individual entries, the total antidumping duties collected for each

importer/customer for the review period will be almost exactly equal to the total dumping margins.

For constructed export price sales, we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer/customer. We will direct Customs to assess the resulting percentage margin against the entered Customs values for the subject merchandise on each of that importer's/customer's entries during the review period. While the Department is aware that the entered value of sales during the POR is not necessarily equal to the entered value of entries during the POR, use of entered value of sales as the basis of the assessment rate permits the Department to collect a reasonable approximation of the antidumping duties which would have been determined if the Department had reviewed those sales of merchandise actually entered during the POR.

The following deposit requirements will be effective upon publication of this notice of amended final results of administrative review and new shipper review for all shipments of TRBs entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the PRC companies named above will be the rates shown above, except that for exporters with *de minimis* rates, *i.e.*, less than 0.50 percent, no deposit will be required; (2) for all remaining PRC exporters, all of which were found not to be entitled to separate rates, the cash deposit will be 33.18 percent (the proceeding's highest margin); (3) for non-PRC exporters, Premier and Chin Jun, the cash deposit rates will be the rates established above; (4) for non-PRC exporters of subject merchandise from the PRC, other than Premier and Chin Jun, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26(b) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d) or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This administrative review and this notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: December 17, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–34324 Filed 12–24–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Opportunity to Apply for Membership to the U.S. Automotive Parts Advisory Committee (APAC)

SUMMARY: The Department of Commerce is currently seeking applications for membership on the APAC. The purpose of the APAC is to advise Department of Commerce officials on issues related to U.S.-made automotive parts and accessories sales in Japanese and other Asian markets. The APAC's functions include: (1) reporting to the Secretary of Commerce on barriers to sales of U.S.-made automotive parts and accessories in Japanese and other Asian markets; (2) reviewing and considering data collected on sales of sales of U.S.-made automotive parts and accessories in Japanese and other Asian markets; (3) advising the Secretary of Commerce during consultations with other governments on issues concerning sales of U.S.-made automotive parts in Japanese and other Asian markets; (4) assisting in establishing priorities for the initiative by the Secretary of Commerce to increase the sale of U.S.-made automotive parts and accessories to Japanese markets, and to otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of that initiative; and (5) assisting the Secretary in reporting to Congress by submitting an annual written report to the Secretary on the sale of U.S.-made automotive parts in Japanese and other Asian markets, as well as any other issues with respect to which the Committee provides advice pursuant to the Fair Trade in Automotive Parts Act of 1998, § 3803 and 3804 of Pub. L.105–261.

FOR FURTHER INFORMATION CONTACT: Henry P. Misisco, U.S. Department of Commerce, International Trade Administration, Trade Development, Office of Automotive Affairs, (202) 482–0554.

Text

The APAC was reauthorized to advise Department of Commerce officials on issues related to sales of U.S.-made auto parts in Japanese and other Asian markets. The Committee was originally established by the Secretary of Commerce on June 6, 1989, pursuant to the Fair Trade in Auto Parts Act of 1988, Pub. L. 100–418 to advise Department of Commerce officials on issues related to sales of U.S.-made auto parts to Japanese markets. The APAC functions as an advisory body in accordance with the Federal Advisory Committee Act, 15 U.S.C. App. 2 and Department of Commerce policies on advisory committees. Authority for the committee is found in the Fair Trade in Auto Parts Act of 1998, sections 3803 and 3804 of Pub. L. 105–261 (October 17, 1998).

The Office of Automotive Affairs is accepting applications for private sector members to begin serving after the Committee's charter becomes effective. An existing member may be reappointed only if he or she has reapplied and has been accepted through the normal recruitment and selection process. An existing member may reapply for membership by submitting a letter requesting that he or she be considered for a membership position, and any supplemental information necessary to update his or her previous application for membership. Private sector representatives will be appointed to serve until the APAC charter expires in 2001. Members will be selected who will best carry out the objectives of the Fair Trade in Automotive Parts Act of 1998. Each APAC member must also serve as the representative of a ''U.S. entity'' engaged in the manufacture of automotive parts or the provision of a related service (including retailing and other distribution services), or an association of such entities. A U.S. entity is a firm incorporated in the United States (or an unincorporated U.S. firm with its principal place of business in the United States) that is controlled by U.S. citizens or by another U.S. entity. An entity is not a U.S. entity if 50 percent plus one share of its stock (if a corporation, or a similar ownership interest of an unincorporated entity) is

controlled, directly or indirectly, by non-U.S. citizens or non-U.S. entities.

Secondary selection criteria will ensure that the committee has a balanced representation of the auto parts industry in terms of point of view, demographics, geography and company size. APAC members are selected on the basis of their experience and knowledge of conditions and problems in automotive parts markets. Members will serve at the discretion of the Secretary.

Private sector members will serve in a representative capacity presenting the views and interests of the particular automotive sector in which they operate. Private sector members are not special government employees, and will receive no compensation for their participation in APAC activities. Members participating in APAC meetings and events will be responsible for their travel, living and other personal expenses. Meetings are held approximately four times a year, usually in Washington, DC. The next APAC meeting date has not yet been determined.

To be considered for membership, please provide the following: name and title of the individual requesting consideration; a letter of recommendation containing a brief statement of why each candidate should be considered for membership on the APAC that includes the individual's export experience, along with a personal resume; a statement that the applicant is a not a registered foreign agent under the Foreign Agents Registration Act of 1938, as amended; the company's product or service line and major markets; and the size and ownership of the company. All APAC members must obtain a U.S. Government security clearance.

Dated: December 15, 1998.

Henry P. Misisco,

Director, Office of Automotive Affairs.

[FR Doc. 98–34193 Filed 12–24–98; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of First Request for Panel Review.

SUMMARY: On November 20, 1998, Cello Products, Inc. and Bow Metallics Inc. filed a First Request for Panel Review with the Canadian Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the Rescission of Finding Made on October 18, 1993 in Inquiry No. NQ–93–001 determination made by the Canadian International Trade Tribunal, respecting Certain Solder Joint Pressure Pipe Fittings and Solder Joint Drainage, Waste and Vent Pipe Fittings, Made of Cast Copper Alloy, Wrought Copper Alloy or Wrought Copper, Originating in or Exported from the United States of America and Produced by or on Behalf of Elkhart Products Corporation, Elkhart, Indiana, NIBCO Inc., Elkhart, Indiana, and Mueller Industries, Inc., Wichita, Kansas, Their Successors and Assigns. This determination was published in the *Canada Gazette* Part I, Volume 132, No. 43, page 2932, dated October 24, 1998. The NAFTA Secretariat has assigned Case Number CDA–USA–98–1904–03 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the Canadian Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on November 20, 1998, requesting panel review of the final rescission of finding described above.

The Rules provide that:

(a) A party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is December 21, 1998);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is January 4, 1999); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: December 9, 1998.

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 98–34194 Filed 12–24–98; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121798B]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Ad-Hoc Allocation Committee will hold a meeting which is open to the public.

DATES: The meeting will begin on Thursday, January 21, 1999 at 8 a.m. and will continue through Friday, January 22 as necessary.

ADDRESSES: The meeting will be held at the Doubletree Hotel Downtown, 310 SW Lincoln Avenue, Portland, OR.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Julie Walker, Fishery Management Analyst; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to develop options for allocation of lingcod and

bocaccio rockfish between the recreational and commercial fisheries and between gear sectors of the limited entry fleet. The Committee will also discuss strategies for allocation of other rockfish species among commercial gear sectors. In addition, the Committee may discuss permit stacking and species endorsements. The Committee will begin work on a report to present to the Council at its April meeting. The Committee will also develop a process by which the Council may undertake long-term strategic planning relating to its research and data needs.

Although other issues not contained in this agenda may come before this Committee for discussion, in accordance with the Magnuson-Stevens Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: December 21, 1998.

Richard W. Surdi,

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

[FR Doc. 98–34285 Filed 12–24–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121798A]

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council will hold a meeting of its Precious Corals Plan Team.

DATES: The meeting will be held on January 12, 1999, from 9:00 a.m. to noon.

ADDRESSES: The meeting will be held at NMFS Laboratory, 2570 Dole Street, Room 112, Honolulu, HI; telephone: 808–983–5300.

Council address: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808–522–8220.

SUPPLEMENTARY INFORMATION: The Precious Corals Plan Team will discuss possible adjustments in established management measures, including modifying the harvest quota for gold coral, implementing a minimum size limit for black coral, restricting the areas where the use of non-selective gear is allowed, designating the newly discovered bed near French Frigate Shoals as a Conditional Bed, revising the boundaries of Makapu'u bed and Brooks Banks bed and adjusting the harvest quotas for those two beds and revising data reporting requirements.

Although other issues not contained in this agenda may come before this team for discussion, in accordance with the Magnuson-Stevens Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in the agenda 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 Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: December 21, 1998.

Richard W. Surdi,

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

[FR Doc. 98–34286 Filed 12–24–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 112098A]

Marine Mammals; Scientific Research Permit (PHF# 587–1472–00)

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

ACTION: Issuance of Permit.

SUMMARY: Notice is hereby given that Dr. Dan R. Salden, Box 1772, Southern Illinois University at Edwardsville, Edwardsville, IL 62026-1772, has been issued a permit to take North Pacific humpback whales (*Megaptera novaeangliae*), bottlenose dolphins (*Tursiops truncatus*), spinner dolphins (*Stenella longirostris*), spotted dolphins (*Stenella attenuata*), false killer whales (*Pseudorca crassidens*), pilot whales (*Globicephala macrorhynchus*), and killer whales (*Orcinus orca*) for purposes of scientific research.

ADDRESSES: The permit 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);

Regional Administrator, Southwest Region, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213 (562/980-4001);

Protected Species Program Manager, Pacific Islands Area Office, 2570 Dole Street, Room 106, Honolulu, HI 9682–2396 (808/973–2987); and

Regional Administrator, Alaska Region, 709 W. 9th Street, Federal Building, Room 461, P.O. Box 21668, Juneau, AK 99802 (907/586–7235).

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, 301/713–2289.

SUPPLEMENTARY INFORMATION: On October 5, 1998, notice was published in the Federal Register (63 FR 53352) that a request for a scientific research permit to take the above-references species had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR parts 217–227).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: December 18, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–34287 Filed 12–24–98; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Restraint Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Thailand

December 21, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 28, 1998.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted, variously, for special shift, carryforward used and recrediting unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 65246, published on December 11, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 21, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 5, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on December 28, 1998, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Sublevels in Group II	
338/339	2,352,452 dozen.
340	350,743 dozen.
347/348/847	960,504 dozen.
638/639	2,165,817 dozen.
640	494,271 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1997.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–34329 Filed 12–24–98; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting the Defense Environmental Response Task Force (DERTF)

AGENCY: Office of the Deputy Under Secretary of Defense (Environmental Security).

ACTION: Notice of business meeting and hearing.

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given of a business meeting and hearing of the Defense Environmental Response Task Force (DERTF). The DERTF is charged with studying and providing findings and recommendations on environmental response actions at military installations being closed or realigned. This meeting is a follow-up to the July 21–23, 1998, meeting. The DERTF will discuss Department of Defense (DoD) and state experience with land use controls, Native American issues in Base Realignment and Closure (BRAC) environmental cleanup, public involvement in BRAC environmental cleanup, and the DERTF's FY99 Report to Congress.

Members of the public are invited to provide written comments on the topics being considered by the DERTF. If desired, members of the public may also provide a brief oral summary of their comments, not to exceed five minutes, during the public comment periods at the DERTF meeting in San Francisco. These public comment periods are scheduled for Tuesday, February 2, 1999, 6:30 to 9:00 p.m., and Wednesday, February 3, 5:30 to 8:30 p.m. The deadline for both receipt of written comments and notification of intent to provide an oral summary is January 20, 1999. All communications should be sent to the attention of Mr. Shah Choudhury at the point of contact address listed below.

We anticipate that individuals who have provided input according to the above procedures and deadlines will be given preference.

Additional information about the DERTF meeting, an agenda, and directions to the meeting site are available on the World Wide Web at *http://www.dtic.mil/envirodod/brac/dertf.html.*

DATES: February 2, 1999: 12:30 p.m. to 9:00 p.m., February 3, 1999: 8:30 a.m. to 8:30 p.m.

PUBLIC COMMENT PERIOD:

February 2, 1999: 6:30 p.m. to 9:00 p.m., February 3, 1999: 5:30 p.m. to 8:30 p.m.

ADDRESSES: Cathedral Hill Hotel, 1101 Van Ness Avenue, San Francisco, CA 94109–6986.

FOR FURTHER INFORMATION CONTACT: Mr. Shah Choudhury, Executive Secretary, Office of the Deputy Under Secretary of Defense (Environmental Security), 3400 Defense Pentagon, Washington, DC 20301–3400; telephone (703) 697–7475; e-mail choudhsa@acq.osd.mil.

Dated: December 21, 1998.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 98–34241 Filed 12–24–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Senior Advisory Board on National Security

AGENCY: Department of Defense, Office of the Under Secretary of Defense (Policy).

ACTION: Notice of meeting.

SUMMARY: The Senior Advisory Board on National Security will meet in closed session on 11 and 12 January 1999. The Board was charter by the Secretary of Defense on 1 July 1998 to: conduct a comprehensive review of the early twenty-first century global security environment; develop appropriate

national security objectives and a strategy to attain these objectives and; recommend concomitant changes to the national security apparatus as necessary.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended 5 U.S.C., Appendix II, it has been determined that matters affecting national security, as covered by 5 U.S.C. 552b(c)(1)(1988), will be presented throughout the meeting, and that, accordingly, the meeting will be closed to the public.

DATES: Monday 11 January and Tuesday 12 January 1999 (9:00 a.m. to 5:00 p.m.).

ADDRESSES: Institute for Defense Analysis, 1801 North Beauregrad St., Alexandria, VA 22311.

FOR FURTHER INFORMATION CONTACT: Dr. Keith A. Dunn, National Security Study Group, Suite 532, Crystal Mall 3, 1931 Jefferson Davis Highway, Arlington, VA 22203–3805. Telephone 703–602–4175.

Dated: December 21, 1998.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 98–34240 Filed 12–24–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation Policy; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent Arrangement.

SUMMARY: Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed ''subsequent arrangement'' under the Agreement for Cooperation Between the Government of the United States of America and the Government of the Argentine Republic Concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreement involves the approval, pursuant to paragraph 2 of Article 6 of the agreement, of the alteration in form or content of irradiated highly enriched uranium (HEU). The activity consists of dissolving precipitated HEU from stainless steel filters, used in the process of producing medical isotopes, for the purpose of cleaning the filters for reuse. This action does not involve approval for the recycling of the HEU into new isotope production targets. Once removed from the filters, the HEU will remain dissolved in a solution.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: December 21, 1998.

For the Department of Energy.

Cherie P. Fitzgerald,

Director, International Policy and Analysis Division, Office of Arms Control and Nonproliferation.

[FR Doc. 98–34318 Filed 12–24–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Kirtland Area Office (Sandia)

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board, Kirtland Area Office (Sandia).

DATES: Wednesday, January 20, 1999: 5:30 p.m.–9:00 p.m. (MST).

ADDRESSES: North Valley Senior Center, 3825 4th Street NW, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Mike Zamorski, Acting Manager, Department of Energy Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185 (505) 845–4094.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

5:30 p.m. Call to Order/Roll Call—Hubert Joy, Chair
5:35 p.m. Public Comments
5:45 p.m. Approval of Agenda—Hubert Joy, Chair
5:50 p.m. Approval of 10/21/98 Minutes
5:52 p.m. Approval of 11/18/98 Minutes
5:55 p.m. Bylaws and Procedures Status Update—Ted Truske, Oversight Committee Chair
6:00 p.m. Regulatory Framework—No Further Action—Presentation Sandia National Laboratory and New Mexico Environment Department
6:30 p.m. Break
6:40 p.m. Self-Evaluation—Report by Informed Vision Associates
7:40 p.m. Draft Site-Wide Environmental Impact Statement—Presentation by Tami Toops, DOE-Kirtland Area Office
8:10 p.m. New Membership Applications—Vote—Hubert Joy, Chair
8:25 p.m. High School and College Students as Members Discussion—Hubert Joy, Chair
8:40 p.m. New/Other Business
8:50 p.m. Public Comments
9:00 p.m. Adjourn

A final agenda will be available at the meeting Wednesday, January 20, 1999.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Mike Zamorski's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Mike Zamorski, Department of Energy Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185, or by calling (505) 845–4094.

Issued at Washington, DC on December 18, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–34319 Filed 12–24–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science; Fusion Energy Sciences Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is given of a meeting of the Fusion Energy Sciences Advisory Committee.

DATES: Wednesday, January 13, 1999, 1:00 p.m. to 6:00 p.m., Thursday, January 14, 1999, 8:30 a.m. to 6:00 p.m., and Friday, January 15, 1999, 8:30 a.m. to 12:00 noon.

ADDRESSES: Crowne Plaza Pleasanton, 11950 Dublin Canyon Road, Pleasanton, California 94588.

FOR FURTHER INFORMATION CONTACT: Albert L. Opdenaker, III, Executive Assistant, Office of Fusion Energy Sciences, U.S. Department of Energy, Germantown, MD 20874, Telephone: 301–903–4941.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting

The major purposes of this meeting are to review the Panel report on the opportunities and requirements of a fusion energy sciences program, including the technical requirements of a fusion energy program; to discuss how to proceed with a program review; to review recommendations for maximizing effectiveness of international collaborations; to discuss the possibility of the U.S. hosting the 2004 International Atomic Energy Agency (IAEA) meeting; to hear presentations on the fusion programs at Lawrence Berkeley National Laboratory (LBNL) and Lawrence Livermore National Laboratory (LLNL); and to visit the facilities at LLNL.

Tentative Agenda

Wednesday, January 13, 1999

1:00 p.m. Opening Remarks
1:10 p.m. Discuss
  Panel Report
  Program Review
  International Collaborations
  2004 IAEA Meeting
  LLNL and LBNL Programs
5:30 p.m. Public Comments
6:00 p.m. Adjourn

Thursday, January 14, 1999

8:30 a.m. Visit LLNL
1:30 p.m. Continue Discussions
6:00 p.m. Adjourn

Friday, January 15, 1999

8:30 a.m. Continue Discussions
12:00 noon Adjourn

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Albert L. Opdenaker at 301–903–8584 (fax) or albert.opdenaker@science.doe.gov (e-mail). Requests to make oral statements must be received 5 days prior to the meeting; reasonable provision will be made to include the statement in the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes

The minutes of this meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room, I–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on December 22, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–34320 Filed 12–24–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

State Energy Program Special Projects Financial Assistance

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice for 1999 State Energy Program Special Projects.

SUMMARY: As options offered under the State Energy Program (SEP) for fiscal year 1999, the Office of Energy Efficiency and Renewable Energy is announcing the availability of financial assistance to States for a group of special project activities. Funding is being provided by a number of end-use sector programs in the Office of Energy Efficiency and Renewable Energy. States may apply to undertake any of the projects being offered by these programs. States will be awarded separate grants for special projects, to be carried out in conjunction with their efforts under SEP. The special projects funding and activities are tracked separately so that the end-use sector programs may follow the progress of their projects.

The projects must meet the relevant requirements of the program providing the funding, as well as of SEP, as specified in the program guidance/solicitation. Among the goals of the special projects activities are to assist States to: accelerate deployment of energy efficiency and renewable energy technologies; facilitate the acceptance of emerging and underutilized energy efficiency and renewable energy technologies; and increase the responsiveness of federally funded technology development efforts to private sector needs.

DATES: The program guidance/solicitation will be available on December 28, 1998. Applications must be received by April 1, 1999.

ADDRESSES: Ms. Faith Lambert, U.S. Department of Energy Headquarters, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–2319, for referral to the appropriate DOE Regional Support Office.

FOR FURTHER INFORMATION CONTACT: Ms. Faith Lambert, U.S. Department of Energy Headquarters, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–2319, for referral to the appropriate DOE Regional Support Office.

SUPPLEMENTARY INFORMATION: Fiscal year 1999 is the fourth year special project activities are funded in conjunction with the State Energy Program (10 CFR part 420). Most of these State-oriented special projects are related to or based on similar efforts that have been funded separately by the various DOE end-use sector programs that are now providing funding for these optional SEP activities.

Availability of Fiscal Year 1999 Funds

With this publication, DOE is announcing the availability of $13,800,000 in financial assistance funds for fiscal year 1999. The awards will be made through a competitive process. The end-use sector programs that are participating in the SEP special projects for fiscal year 1999, with the estimated amount of funding available for each, are as follows:

- *Clean Cities/Alternative Fuels/Advanced Vehicle Technologies/:* Accelerating the introduction and increasing the use of alternative fuels and alternative fueled vehicles through the development of infrastructure and clean corridors, and promoting the use of advanced transportation technologies ($2,700,000).

• *Federal Energy Management Program:* Developing Federal/State partnerships to increase technical capability and funding for energy efficiency, renewable energy, and water conservation measures for Federal and State buildings ($950,000).

• *Industrial Technologies:* Improving energy efficiency, environmental performance, and productivity of materials and process industries by developing and delivering advanced science and technology options to: (1) lower raw material and depletable energy use per unit of output; (2) improve labor and capital productivity; and (3) reduce the generation of wastes and pollutants ($2,800,000).

• *Rebuild America:* Helping community and regional partnerships improve commercial and multifamily building energy efficiency ($1,250,000).

• *Codes and Standards:* Supporting States' actions to update, implement, and enforce residential and commercial building energy codes ($4,200,000).

• *Home Energy Ratings Systems:* Providing incentive funding to support State actions to overcome barriers to improving the energy efficiency of residences through the use of Home Energy Ratings Systems and related activities ($250,000).

• Remote Applications of Solar and Renewable Energy: Supporting State actions to design, purchase, and install solar and renewable energy technologies in remote areas where they would displace or avoid the use of diesel fuel or gasoline ($1,000,000).

• *Solar Thermal Projects:* Identifying potential partners for the field validation and operation of a concentrating solar power system and the investigation of the benefits and design of a residential size concentrating solar power system ($50,000).

• *Biomass Power Program:* Identifying low-cost project opportunities for the introduction and utilization of biomass power technologies and biomass energy feedstocks ($200,000).

• *Small Wind Turbine Field Verification:* Supporting State actions to design, purchase, and install small wind energy systems to verify the viability of such systems to produce electricity to augment or replace electricity available from grids or direct generation ($200,000).

• *Million Solar Roofs:* Providing incentive funding to support State and community partnerships under the Million Solar Roofs Initiative whose goal is to install solar energy systems on one million U. S. buildings by 2010 ($100,000).

• *Geothermal Heat Pumps for Energy Smart Schools:* Supporting programs to apply geothermal heat pump technology in schools. ($200,000).

Restricted Eligibility

Eligible applicants for purposes of funding under this program are limited to the 50 States, the District of Columbia, Puerto Rico, and any territory or possession of the United States, specifically, the State energy or other agency responsible for administering the State Energy Program pursuant to 10 CFR part 420. For convenience, the term State in this notice refers to all eligible State applicants.

The Catalog of Federal Domestic Assistance number assigned to the State Energy Program is 81.041.

Requirements for cost sharing contributions will be addressed in the program guidance/solicitation for each special project activity, as appropriate. Cost sharing contributions beyond any required percentage are desirable.

Any application must be signed by an authorized State official, in accordance with the program guidance/solicitation.

Evaluation Review and Criteria

A first tier review for completeness will occur at the appropriate DOE Regional Support Office. Applications found to be complete will undergo a merit review process by panels comprised of members representing the participating end-use sector program in DOE's Office of Energy Efficiency and Renewable Energy. The end-use sector offices select projects for funding.

The Office of State and Community Programs then recommends project allocations to the Assistant Secretary for Energy Efficiency and Renewable Energy for final determination. DOE reserves the right to fund, in whole or in part, any, all or none of the applications submitted in response to this notice.

More detailed information is available from the U.S. Department of Energy Headquarters at (202) 586–2319.

Issued in Washington, DC, on December 21, 1998.

Dan W. Reicher,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 98–34321 Filed 12–24–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–830–000]

Merrill Lynch Capital Services, Inc.; Notice of Filing

December 21, 1998.

Take notice that on December 9, 1999, Merrill Lynch Capital Services, Inc. (MLCS), tendered for filing Attachment No. 1, to its December 4, 1998, application in the above-referenced docket.

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 31, 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. 98–34216 Filed 12–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–115–000]

National Fuel Gas Supply Corporation; Notice of Application To Abandon

December 21, 1998.

Take notice that on December 15, 1998, National Fuel Gas Transmission Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed under Section 7(b) of the natural Gas Act, for authority to abandon in place, 4.8 miles of 8-inch pipeline known as Line Z–54(S) located in Steuben County, New York all as more fully described in the application on file with the Commission and open to public inspection.

National Fuel wants to retire Line Z–54(S) because of its age and condition. National Fuel states that the pipeline was constructed and placed in service

in 1945 and is now deteriorated. National Fuel notes that abandonment will not effect its services because the parallel Line Z–20(S) has enough capacity to maintain current delivery volumes from its Tuscarora Storage Field.

Any person desiring to be heard or make any protest with reference to said application should on or before January 11, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protesters parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required, or if the Commission on its own review of the matter finds that permission and approval of the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for National Fuel to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–34215 Filed 12–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–4608–000]

PP&L EnergyPlus Company; Notice of Issuance of Order

December 21, 1998.

PP&L EnergyPlus Company (PP&L EnergyPlus), a wholly-owned subsidiary of PP&L, Inc., filed an application requesting that the Commission grant it authority to charge market-based rates for wholesale sales of energy and capacity, and for certain waivers and authorizations. In particular, PP&L EnergyPlus requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by PP&L EnergyPlus. On December 17, 1998, the Commission issued an Order Conditionally Accepting For Filing Proposed Market-Based Rates For Power Sales And Reassignment Of Transmission Rights (Order), in the above-docketed proceeding.

The Commission's December 17, 1998 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (D), (E), and (G):

(D) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by PP&L EnergyPlus 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.

(E) Absent a request to be heard within the period set forth in Ordering Paragraph (D) above, PP&L EnergyPlus is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of PP&L EnergyPlus, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of PP&L EnergyPlus' issuances of securities or assumptions of liabilities * * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is January 19, 1999.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–34217 Filed 12–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER95–257–016, et al.]

Industrial Gas & Electric Company, et al.; Electric Rate and Corporate Regulation Filings

December 16, 1998.

Take notice that the following filings have been made with the Commission:

1. Industrial Gas & Electric Services Company

[Docket No. ER95–257–016]

Take notice that on December 10, 1998, the above-mentioned power marketer filed a quarterly report with the Commission in the above-mentioned proceeding for information only. This filing is available for public inspection and copying in the Public Reference Room or on the internet under Records Information Management System (RIMS) for viewing and downloading.

2. Southwestern Electric Cooperative, Inc. v. Soyland Power Cooperative, Inc.

[Docket No. EL99–14–000]

Take notice that on December 8, 1998, Southwestern Electric Cooperative, Inc. (Southwestern) submitted a complaint against Soyland Power Cooperative, Inc. (Soyland). Southwestern alleges that Soyland violated the Withdrawal Agreement between the parties by charging Southwestern for amounts in excess of the actual cost to Soyland associated with Southwestern's withdrawal from membership in Soyland. Southwestern also alleges that Soyland overcharged Southwestern for energy sales under two short-term power sales arrangements.

Comment date: January 7, 1999, in accordance with Standard Paragraph E at the end of this notice. Answers to the Complaint are also be due on January 7, 1999.

3. American Electric Power Service Corporation and Central and South West Services, Inc.

[Docket No. ER98–2786–002]

Take notice that on December 10, 1998, American Electric Power Service Corporation and Central and South West Services, Inc., on behalf of the Operating Companies of the American Electric Power (AEP) system and the Central and Southwest (CSW) system, submitted for filing a proposed amendment to Section 11 (Creditworthiness) of the Open Access Transmission Tariff filed in Docket No. ER98–2786–000. The amendment is being filed in compliance with Ordering Paragraph C of the Commission's November 10, 1998 Order Accepting for Filing and Suspending Proposed Tariffs and Agreements, Consolidating Dockets and Establishing Hearing Procedures in the above-referenced dockets, 85 FERC ¶ 61,201 (1998).

Copies of the filing have been served upon all participants in the above dockets. AEP and CSW request that the amendment become effective on the effective date of the Open Access Transmission Tariff.

Comment date: January 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Allegheny Power Service Corp. on Behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company

[Docket Nos. ER98–3926–000 and ER98–4357–000 (not consolidated)]

Take notice that on December 11, 1998, Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power) tendered for filing fully executed Network Operating Agreements and Open Access Transmission Tariff Service Agreements with the City of Hagerstown, Maryland, the Towns of Thurmont and Williamsport, Maryland, and the Town of Front Royal, Virginia (''City and Towns''). Allegheny Power states that these executed agreements replace previously filed unexecuted agreements and reflect rates for low voltage and primary voltage wholesale delivery services and other changes as agreed to in the Stipulation and Agreement filed on December 11, 1998 in Docket No. ER98–2048–000.

Allegheny Power has requested permission to place these changes into effect on December 12, 1998.

Comment date: December 31, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Select Energy, Inc.

[Docket No. ER99–14–000]

Take notice that on December 11, 1998, Select Energy, Inc., (Select), tendered for filing a revised Code of Conduct made in compliance to the Commission's order issued on November 21, 1998, in the above referenced docket.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Entergy Services, Inc.

[Docket No. ER99–484–000]

Take notice that on December 11, 1998, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc. (EGS), Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies), tendered for filing an amendment to its filing of the Letter Agreement between Entergy Services, Inc., and Cajun Electric Power Cooperative, Inc., for the installation of a new delivery point off of EGS's 69 KV Line No. 206.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Entergy Services, Inc.

[Docket No. ER99–486–000]

Take notice that on December 11, 1998, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc. (EGS), Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies), tendered for filing an amendment to its filing of the Letter Agreement between Entergy Services, Inc., and Cajun Electric Power Cooperative, Inc., for the installation of a new delivery point off of EGS's 69 KV Line No. 230, servicing Warren Petroleum.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Entergy Services, Inc.

[Docket No. ER99–519–000]

Take notice that on December 11, 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 the filing of the Letter Amendment (dated August 19, 1998) to the Capacity and Energy Letter Agreement between Entergy Services, Inc., and Sam Rayburn G&T Electric Cooperative, Inc.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Entergy Services, Inc.

[Docket No. ER99–520–000]

Take notice that December 11, 1998, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Gulf States, Inc. tendered for filing an amendment to the filing of the First Amendment to the Agreement for Special Requirements Wholesale Electric Service between Entergy Gulf States, Inc. and East Texas Electric Cooperative, Sam Rayburn G&T Electric Cooperative, Inc., and Tex-La Electric executed on August 21, 1998.

Comment date: December 31, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Entergy Services, Inc.

[Docket No. ER99–606–000]

Take notice that on December 11, 1998, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc. (EAI), tendered for filing an amendment to the filing of the Fifth Amendment to the Power Agreement between EAI and the City of North Little Rock, Arkansas, filed on November 16, 1998.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Entergy Services, Inc.

[Docket No. ER99–619–000]

Take notice that on December 11, 1998, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., tendered for filing an amendment to filing of the First Amendment to the Agreement for Wholesale Power Service between Entergy Arkansas, Inc., and the City of Prescott, Arkansas.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Entergy Services, Inc.

[Docket No. ER99–635–000]

Take notice that on December 11, 1998, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Gulf States, Inc., tendered for filing an amendment to the filing of three Letter Amendments to the Agreements for Wholesale Electric Service between Entergy Gulf States Utilities, Inc., and the Cities of Caldwell, Kirbyville and Newton, Texas.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Southwestern Public Service Company

[Docket No. ER99–797–000]

Take notice that on December 11, 1998, Southwestern Public Service Company (Southwestern) amended its filing of a proposed Power Sale Agreement (Agreement) with e prime, Inc. in order to provide a complete copy of the Agreement.

Southwestern requests that the Agreement become effective on January 1, 1999.

Comment date: December 31, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Maine Electric Power Company

[Docket No. ER99–813–000]

Take notice that on December 14, 1998, Maine Electric Power Company (MEPCO), tendered for filing a service agreement for Short Term Firm Point-to-Point Transmission Service entered into with Energy Atlantic, LLC. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. New Century Services, Inc.

[Docket No. ER99–879–000]

Take notice that on December 11, 1998, New Century Services, Inc., on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company (collectively Companies), tendered for filing a Service Agreement under their Joint Open Access Transmission Service Tariff for Non-Firm Point-to-Point Transmission Service between the Companies and Ameren Services Company.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Wisconsin Power & Light Company

[Docket No. ER99–880–000]

Take notice that on December 11, 1998, Wisconsin Power & Light Company (WPL), tendered for filing a Service Agreement, Certificate of Concurrence and a Certificate of Cancellation, all with the City of Stoughton. WPL states that this Service Agreement replaces Rate Schedule FERC No. 115. Service under the new Agreement will be provided in accordance with WPL's Bulk Power Sales Tariff.

WPL requests an effective date of January 1, 1999.

WPL indicates that copies of the filing have been provided to the City of Stoughton and to the Public Service Commission of Wisconsin.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Ameren Services Company

[Docket No. ER99–881–000]

Take notice that on December 11, 1998, Ameren Services Company (ASC), tendered for filing a Service Agreement for Firm Point-to-Point Transmission Services between ASC and Louisville Gas & Electric Company (LG&E). ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to LG&E pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER96–677–004.

ASC requests that as directed in the Commission's Order No. 888, the Service Agreement be allowed to become effective November 30, 1998, the date for said agreement.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Ameren Services Company

[Docket No. ER99–882–000]

Take notice that on December 11, 1998, Ameren Services Company (ASC), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service between ASC and Louisville Gas & Electric Company (LG&E). ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to LG&E pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER96–677–004.

ASC requests that as directed in the Commission's Order No. 888, the Service Agreement be allowed to become effective November 30, 1998, the date for said agreement.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. PP&L, Inc.

[Docket No. ER99–883–000]

Take notice that on December 11, 1998, PP&L, Inc. (PP&L), tendered for filing a Service Agreement dated December 4, 1998, with Allegheny Electric Cooperative, Inc. (Allegheny), under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Volume No. 5. The Service Agreement adds Allegheny as an eligible customer under the Tariff.

PP&L requests an effective date of December 11, 1998, for the Service Agreement.

PP&L states that copies of this filing have been supplied to Allegheny and to the Pennsylvania Public Utility Commission.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Allegheny Power Service Corporation, on behalf of Monongahela Power Co., The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER99–884–000]

Take notice that on December 11, 1998, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing an Amendment No. 3, to its Standard Generation Service Rate Schedule seeking authorization to sell ancillary services at cost-based rates.

Allegheny Power requests a January 1, 1999, effective date for this amendment.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. New Century Services, Inc.

[Docket No. ER99–885–000]

Take notice that on December 11, 1998, New Century Services, Inc., on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company (collectively Companies), tendered for filing a Service Agreement under their Joint Open Access Transmission Service Tariff for Firm Point-to-Point Transmission Service between the Companies and Ameren Services Company.

The Companies request that the Agreement be made effective on December 2, 1998.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Duke Electric Transmission, a division of Duke Energy Corporation

[Docket No. ER99–886–000]

Take notice that on December 11, 1998, Duke Electric Transmission, a division of Duke Energy Corporation (Duke), tendered for filing Non-Firm Transmission Service Agreements (TSA), between Duke and TransAlta Energy Marketing (U.S.), Inc., dated as of November 4, 1998, and between Duke and Cargill-Alliant, LLC, also dated as of November 4, 1998.

Duke requests that the TSA's be made effective as rate schedules as of November 19, 1998. In seeking such an effective date, Duke requests a limited waiver of the Commission's sixty-day notice requirement.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Florida Power & Light Company

[Docket No. ER99–887–000]

Take notice that on December 11, 1998, Florida Power & Light Company (FPL), tendered for filing proposed service agreements with El Paso Power Services Company for Non-Firm transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed service agreements be permitted to become effective on January 1, 1999.

FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Alliant Services Company

Docket No. ER99–888–000]

Take notice that on December 11, 1998, Alliant Services Company tendered for filing an executed Service Agreement for Network Integration Transmission Service and an executed Network Operating Agreement, establishing the City of Stoughton as a Network Customer under the terms of the Alliant Services Company transmission tariff.

Alliant Services Company requests an effective date of January 1, 1999 and, accordingly, seeks waiver of the Commission's notice requirements.

A copy of this filing has been served upon the Public Service Commission of Wisconsin, the Iowa Utilities Board, the Illinois Commerce Commission and the Minnesota Public Utilities Commission.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. Rochester Gas and Electric Corporation

[Docket No. ER99–889–000]

Take notice that on December 11, 1998, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Market Based Service Agreement between RG&E and Niagara Mohawk Power Corporation on (Customer). This Service Agreement specifies that the Customer has agreed to the rates, term and conditions of RG&E's FERC Electric Rate Schedule, Original Volume No. 1 (Power Sales Tariff) accepted by the Commission.

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of December 3, 1998, for Niagara Mohawk Power Corporation's Service Agreement.

RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. CL Power Sales Fifteen, L.L.C.

[Docket No. ER99–890–0000]

Take notice that on December 11, 1998, CL Power Sales Fifteen, L.L.C., tendered for filing initial FERC electric service tariff, Rate Schedule No. 1, and a petition for blanket approvals and waivers of various Commission Regulations under the Federal Power Act.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. CL Power Sales Fourteen, L.L.C.

[Docket No. ER99–891–000]

Take notice that on December 11, 1998, CL Power Sales Fourteen, L.L.C., tendered for filing initial FERC electric service tariff, Rate Schedule No. 1, and a petition for blanket approvals and waivers of various Commission regulations under the Federal Power Act.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. CL Power Sales Thirteen, L.L.C.

[Docket No. ER99–892–000]

Take notice that, on December 11, 1998, CL Power Sales Thirteen, L.L.C. tendered for filing initial FERC electric service tariff, Rate Schedule No. 1, and a petition for blanket approvals and waivers of various Commission regulations under the Federal Power Act.

Comment date: December 31, 1998, in accordance with Standard Paragraph E at the end of this notice.

29. CL Power Sales Twelve, L.L.C.

[Docket No. ER99–893–000]

Take notice that, on December 11, 1998, CL Power Sales Twelve, L.L.C. tendered for filing initial FERC electric service tariff, Rate Schedule No. 1, and a petition for blanket approvals and waivers of various Commission regulations under the Federal Power Act.

Comment date: December 31, 1998, in accordance with Standard Paragraph E at the end of this notice.

30. CL Power Sales Eleven, L.L.C.

[Docket No. ER99–894–000]

Take notice that, on December 11, 1998, CL Power Sales Eleven, L.L.C. tendered for filing initial FERC electric service tariff, Rate Schedule No. 1, and a Petition for Blanket Approvals and Waivers of various Commission regulations under the Federal Power Act.

Comment date: December 31, 1998, in accordance with Standard Paragraph E at the end of this notice.

31. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company

[Docket No. ER99–895–000]

Take notice that on December 11, 1998, Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power) tendered for filing amendments to Section 4.2 of its Power Service Agreements with the City of Hagerstown, Maryland, the Towns of Thurmont and Williamsport, Maryland, and the Town of Front Royal, Virginia (City and Towns). Allegheny Power states that the purpose of these amendments is to change the real power transmission loss service percentages for wholesale distribution service provided to these customers to reflect the percentages agreed to in the Stipulation and Agreement filed on December 11, 1998 in Docket No. ER98–2048–000.

Allegheny Power has requested permission to place these changes into effect on December 12, 1998.

Comment date: December 31, 1998, in accordance with Standard Paragraph E at the end of this notice.

32. California Independent System Operator Corporation

[Docket No. ER99–896–000]

Take notice that on December 11, 1998, the California Independent System Operator Corporation (ISO) tendered for filing a proposed

amendment (Amendment No. 13) to the ISO Tariff. Amendment No. 13 would modify the ISO Tariff and protocols in several respects. The modifications fall within four categories (a) changes to encourage compliance with the ISO Tariff, (b) a change to eliminate a problem associated with the allocation of cost responsibility for transmission capacity that is associated with the allocation of cost responsibility for transmission capacity that is derated in the ISO's Hour-Ahead Market (HA Market), (c) a change to use market mechanisms to assist in resolving overgeneration conditions, and (d) changes addressing a number of miscellaneous issues that have arisen in the course of the ISO's administration of the ISO Tariff.

The ISO states that this filing has been served upon the Public Utilities Commission of California, the California Energy Commission, the California Electricity Oversight Board, and all parties with effective scheduling Coordinator Service Agreements under the ISO Tariff.

Comment date: December 31, 1998, in accordance with Standard Paragraph E at the end of this notice.

33. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, and Southwestern Electric Power Company

[Docket No. ER99–897–000]

Take notice that on December 11, 1998, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively, the CSW Operating Companies) submitted for filing revised pages to the CSW Operating Companies' open access transmission service tariff.

The CSW Operating Companies state that a copy of the filing was served on all parties to Docket No. OA97–24–000, all customers under the CSW Operating Companies' currently effective open access tariff, the Public Utility Commission of Texas, the Oklahoma Corporation Commission, the Louisiana Public Service Commission and the Arkansas Public Service Commission.

Comment date: December 31, 1998, in accordance with Standard Paragraph E at the end of this notice.

34. Consumers Energy Company

[Docket No. ES98–31–001]

Take notice that on December 7, 1998, Consumers Energy Company (Consumers), tendered for filing an amendment to its original application in this proceeding, under Section 204 of the Federal Power Act. The amendment seeks authorization to issue a portion of the long-term securities already authorized in this docket, including first mortgage bonds to be issued as securities for other long-term issuances, for general corporate purposes rather than solely for refunding or refinancing other long-term securities.

Consumers also requests a waiver of the Commission's competitive bid or negotiated placement requirements, under 18 CFR 34.2, Placement of Securities.

Comment date: January 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

35. Public Service Company of Colorado

[Docket No. FA91–47–002]

Take notice that on November 4, 1998, Public Service Company of Colorado, tendered for filing its refund report in the above referenced docket.

Comment date: December 30, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–34218 Filed 12–24–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL99–15–000, et al.]

Sithe New England Holdings, LLC and Sithe New Boston, LLC v. New England Power Pool, and ISO New England, Inc., et al; Electric Rate and Corporate Regulation Filings

December 17, 1998.

Take notice that the following filings have been made with the Commission:

1. Sithe New England Holdings, LLC and Sithe New Boston, LLC v. New England Power Pool, and ISO New England, Inc.

[Docket Nos. EL99–15–000 and ER99–913–000]

Take notice that on December 15, 1998, Sithe New England Holdings, LLC and Sithe New Boston, LLC (together, Sithe) submitted for filing a Request for Emergency Relief, Request for Acceptance of Rate Schedule for Filing, Petition for Declaratory Order and Complaint against NEPOOL and the ISO New England, Inc., pursuant to Sections 205 and 206 of the Federal Power Act (FPA) (16 U.S.C. §§ 824d and 824e), and Rules 205, 206, 207 and Part 35 of the Commission's Rules and Regulations.

Sithe states that it has tendered for filing an unexecuted, cost-based Rate Schedule for the provision of reliability-related electricity services to NEPOOL and ISO New England. Sithe further states that it seeks a determination from the Commission that certain provisions of the NEPOOL Agreement, and certain NEPOOL billing rules and procedures, are inapplicable to merchant generators such as Sithe.

Copies of the filing were served on NEPOOL, ISO New England, Boston Edison Company, and the Massachusetts Department of Telecommunications and Energy.

Comment date: January 14, 1999, in accordance with Standard Paragraph E at the end of this notice. Answers to the Complaint are also due on January 14, 1999.

2. Alfalfa Electric Cooperative, Inc.

[Docket No. EL99–16–000]

Take notice that on December 15, 1998, Alfalfa Electric Cooperative, Inc. (Alfalfa Electric) filed a request for waiver of the requirements of Order Nos. 888 and 889 on the basis that Alfalfa Electric owns only limited and discrete transmission facilities and is a small public utility.

Comment date: January 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Texas Utilities Electric Company

[Docket No. ER99–899–000]

Take notice that on December 14, 1998, Texas Utilities Electric Company (TU Electric), tendered for filing an executed Amendment to Transmission Service Agreement (TSA Amendment) with Tex-La Electric Cooperative of Texas, Inc., for service under TU Electric's Tariff for Transmission Service To, From and Over Certain HVDC Interconnections.

TU Electric requests an effective date for the TSA Amendment that will permit it to become effective on or before the January 1, 1999, service commencement date under the TSA Amendment.

Accordingly, TU Electric seeks waiver of the Commission's notice requirements.

Copies of the filing were served on Tex-La Electric Cooperative of Texas, Inc., as well as the Public Utility Commission of Texas.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. PacifiCorp

[Docket No. ER99–900–000]

Take notice that on December 14, 1998, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, a revised Facilities Agreement dated October 1, 1998, between SUVPP, Strawberry and PacifiCorp providing for the construction, ownership, operation and maintenance of new equipment owned by SUVPP installed by PacifiCorp at Spanish Fork Substation.

Copies of this filing were supplied to the Public Utility Commission of Oregon and the Washington Utilities and Transportation Commission.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. PacifiCorp

[Docket No. ER99–901–000]

Take notice that on December 14, 1998, PacifiCorp tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, Mutual Netting/Closeout Agreements (Netting Agreements) between PacifiCorp and Valley Electric Association, Inc. (VEIA), and Utah Associated Municipal Power Systems (UAMPS).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Virginia Electric and Power Company

[Docket No. ER99–902–000]

Take notice that on December 14, 1998, Virginia Electric and Power Company filed an unexecuted Generation Imbalance Agreement with North Carolina Electric Membership Corporation. This unexecuted agreement extends the existing agreement filed on July 31, 1998 in Docket No. ER98–3712–000.

Virginia Power requests an effective date for this agreement of December 9, 1998.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Virginia Electric and Power Company

[Docket No. ER99–903–000]

Take notice that on December 14, 1998, Virginia Electric and Power Company filed an unexecuted Generation Imbalance Agreement with Cinergy Services, Inc. This unexecuted agreement extends the existing agreement filed on September 11, 1998 in Docket No. ER98–4519–000.

Virginia Power requests an effective date for this agreement of December 9, 1998.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. New Century Services, Inc.

[Docket No. ER99–904–000]

Take notice that on December 14, 1998, New Century Services, Inc., on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company (collectively Companies), tendered for filing a Service Agreement under their Joint Open Access Transmission Service Tariff for Long Term Firm Point-to-Point Transmission Service between the Companies and Southwestern Public Service Company—Wholesale Merchant Function.

The Companies request waiver of the notice requirements to permit the Service Agreement to become effective January 1, 1999.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Delmarva Power & Light Company

[Docket No. ER99–906–000]

Take notice that on December 14, 1998, Delmarva Power & Light Company (Delmarva or the Company), tendered for filing a supplement to the rate schedules of each of its wholesale power supply customers, including the Town of Berlin, City of Seaford, Town of Clayton, Town of Middletown, Town of Smyrna, City of Lewes, City of Milford, City of Newark, City of New Castle and Old Dominion Electric Cooperative. The supplement consists of an agreement between Delmarva and the customers pursuant to which Delmarva will refund to the customers amounts received by Delmarva in settlement of litigation related to outages at the Salem Nuclear Generating Station.

Delmarva states that copies of this filing have been posted and served upon each of the Customer Parties.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Niagara Mohawk Power Corporation

[Docket No. ER99–907–000]

Take notice that on December 14, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing notification that effective December 25, 1998, Rate Schedule FERC No. 237, effective date January 5, 1996, and any supplements thereto, filed with the Federal Energy Regulatory Commission by Niagara Mohawk Power Corporation is to be canceled.

Notice of the proposed cancellation has been served upon KCS Power Marketing, Inc.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Niagara Mohawk Power Corporation

[Docket No. ER99–908–000]

Take notice that on December 14, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing notification that effective January 4, 1999, Rate Schedule FERC No. 242, effective date May 13, 1996, and any supplements thereto, filed with the Federal Energy Regulatory Commission by Niagara Mohawk Power Corporation is to be canceled.

Notice of the proposed cancellation has been served upon PECO Energy Company.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Niagara Mohawk Power Corporation

[Docket No. ER99–909–000]

Take notice that on December 14, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing notification that effective December 25, 1998, Rate Schedule FERC No. 233, effective date November 10, 1995, and any supplements thereto, filed with the Federal Energy Regulatory Commission by Niagara Mohawk Power Corporation is to be canceled.

Notice of the proposed cancellation has been served upon Industrial Energy Applications.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Niagara Mohawk Power Corporation

[Docket No. ER99–910–000]

Take notice that on December 14, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing notification that effective December 25, 1998, Rate Schedule FERC No. 235, effective date December 15, 1995, and any supplements thereto, filed with the Federal Energy Regulatory Commission by Niagara Mohawk Power Corporation is to be canceled.

Notice of the proposed cancellation has been served upon Commonwealth Electric.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Minnesota Power Inc.

[Docket No. ER99–911–000]

Take notice that on December 14, 1998, Minnesota Power & Light Company tendered for filing a signed Service Agreement with each of Cargill-Alliant, L.L.C., and Minnesota Municipal Power Agency under its market-based Wholesale Coordination Sales Tariff (WCS–2) to satisfy its filing requirements under this tariff.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Houston Lighting & Power Company

[Docket No. ER99–912–000]

Take notice that on December 14, 1998, Houston Lighting & Power Company (HL&P), tendered for filing an executed transmission service agreement (TSA) with Tex-La Electric Cooperative of Texas, Inc., for Long-Term Firm Transmission Service under HL&P's FERC Electric Tariff, Third Revised Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections.

HL&P has requested an effective date for the TSA of December 31, 1998.

Copies of the filing were served on Tex-La and the Public Utility Commission of Texas.

Comment date: January 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. American Electric Power Service Corporation

[Docket No. ER99–914–000]

Take notice that on December 15, 1998, the American Electric Power Service Corporation (AEPSC), tendered for filing executed Firm and Non-Firm Point-to-Point Transmission Service Agreements Ameren Services Company, under the AEP Companies' Open Access Transmission Service Tariff (OATT). The OATT has been designated as FERC Electric Tariff Original Volume No. 4, effective July 9, 1996.

AEPSC requests waiver of notice to permit the Service Agreements to be made effective for service billed on and after November 20, 1998.

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: January 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Columbus Southern Power Company

[Docket No. ER99–915–000]

Take notice that on December 15, 1998, Columbus Southern Power Company (CSP), tendered for filing with the Commission a Facilities and Operations Agreement (Agreement) dated November 13, 1998, between CSP and Buckeye Rural Electric Cooperative, Inc. (BREC), and Buckeye Power, Inc. (Buckeye). Buckeye has requested CSP provide a delivery point, pursuant to provisions of the Power Delivery Agreement between CSP, Buckeye, The Cincinnati Gas & Electric Company, The Dayton Power and Light Company, Monongahela Power Company, Ohio Power Company and Toledo Edison Company, dated January 1, 1968.

CSP requests an effective date of February 10, 1999, for the tendered agreements.

CSP states that copies of its filing were served upon Buckeye Rural Electric Cooperative and the Public Utilities Commission of Ohio.

Comment date: January 5, 1999 in accordance with Standard Paragraph E at the end of this notice.

18. Southern California Edison Company

[Docket No. ER99–916–000]

Take notice that on December 15, 1998, Southern California Edison Company (SCE), tendered for filing a change in rate for the Transmission Revenue Balancing Account Adjustment (TRBAA) set forth in its Transmission Owner Tariff (TO Tariff) to become effective January 1, 1999.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: January 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. American Electric Power Service Corporation

[Docket No. ER99–917–000]

Take notice that on December 15, 1998, the American Electric Power Service Corporation (AEPSC), tendered for filing notification that Ohio Edison Company and Market Responsive Energy are now doing business as FirstEnergy Corporation and FirstEnergy Trading & Power Marketing, Inc., respectfully under the Power Sales Tariff of the AEP Operating Companies (Power Tariff). The Power Tariff was accepted for filing effective October 1, 1995, and has been designated AEP Companies' FERC Electric Tariff First Revised Volume No. 2.

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: January 5, 1999, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–34219 Filed 12–24–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–3722–000, et al.]

Wisconsin Power & Light Company, et al.; Electric Rate and Corporate Regulation Filings

December 15, 1998.

Take notice that the following filings have been made with the Commission:

1. Wisconsin Power & Light Company

[Docket No. ER98–3722–000]

Take notice that on December 10, 1998, Wisconsin Power & Light Company tendered for filing a settlement in the above-referenced docket.

Comment date: December 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Edgar Electric Cooperative d/b/a/ EnerStar Power Corporation

[Docket No. ER98–2305–001]

Take notice that on December 3, 1998, the above-mentioned power marketer filed a quarterly report with the Commission in the above-mentioned proceeding for information only. This filing is available for public inspection and copying in the Public Reference Room or on the internet under Records Information Management System (RIMS) for viewing and downloading.

3. Entergy Services, Inc.

[Docket No. ER98–4410–000]

Take notice that on December 10, 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. (together Entergy), tendered for filing its response to the October 21, 1998, letter in the above-referenced docket (Letter). The Letter requested additional information concerning Entergy's August 31, 1998, filing of a proposed amendment to its Open Access Transmission Tariff (OATT). The amendment revises OATT Attachment C, Methodology to Assess Available Transmission Capability, to continue Entergy's practice of using a transmission Reliability Margin to maintain native load reliability at a one-day-in-ten-year loss of load expectation.

Comment date: December 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Public Service Company of Colorado

[Docket No. ER98–4426–001]

Take notice that on December 10, 1998, Public Service Company of Colorado (Public Service) tendered for filing information in compliance with the October 29, 1998, Commission order issued in the above referenced docket.

Comment date: December 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Consolidated Water Power Company

[Docket No. ER98–4512–001]

Take notice that on December 11, 1998, Consolidated Water Power Company, tendered for filing revisions to its FERC Electric Rate Schedule No. 1, in compliance with the November 27, 1998, order issued in Docket No. ER98–4512–000. The revision include the September 9, 1998, effective date authorized by the Commission.

Comment date: December 31, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Commodore Gas Company d/b/a Commodore Electric

[Docket No. ER99–719–000]

Take notice that on December 10, 1998, Commodore Gas Company d/b/a Commodore Electric (Commodore), an amendment to its petition requesting acceptance Commodore Rate Schedule FERC No. 1., under which Commodore intends to engage in wholesale electric power and energy transactions as a marketer; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

Comment date: December 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Entergy Services, Inc.

[Docket No. ER99–871–000]

Take notice that on December 10, 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 five Interchange Agreements. The Interchange Agreements are between Entergy Services, Inc., acting as agent for the Entergy Operating Companies and the following entities: Jacksonville Electric Authority, Commonwealth Edison Company, Wisconsin Electric Power Company, Virginia Electric and Power Company and Paragould City Light & Water.

Comment date: December 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Virginia Electric and Power Company

[Docket No. ER99–872–000]

Take notice that on December 10, 1998, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement for Transmission Service with Jerome H. Rhoads, Inc., d/b/a Rhoads Energy Corp., under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreement, Virginia Power will provide service to the Transmission Customer under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of December 10, 1998, the date of filing the Service Agreement.

Copies of the filing were served upon Jerome H. Rhoads, Inc., d/b/a Rhoads Energy Corp., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: December 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Virginia Electric and Power Company

[Docket No. ER99–873–000]

Take notice that on December 10, 1998, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service with Columbia Energy Power Marketing Corporation under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreement, Virginia Power will provide non-firm point-to-point service to the Transmission Customers under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of December 10, 1998, the date of filing the Service Agreement.

Copies of the filing were served upon Columbia Energy Power Marketing Corporation, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: December 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Virginia Electric and Power Company

[Docket No. ER99–874–000]

Take notice that on December 10, 1998, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service with Columbia Energy Power Marketing Corporation 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 December 10, 1998, the date of filing the Service Agreement.

Copies of the filing were served upon Columbia Energy Power Marketing Corporation, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: December 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Peco Energy Company

[Docket No. ER99–875–000]

Take notice that on December 10, 1998, PECO Energy Company (PECO), tendered for filing a Service Agreement dated December 7, 1998 with NEV EAST, L.L.C., (NEV EAST) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds NEV EAST as a customer under the Tariff.

PECO requests an effective date of December 8, 1998, for the Service Agreement.

PECO states that copies of this filing have been supplied to NEV EAST and to the Pennsylvania Public Utility Commission.

Comment date: December 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Public Service Company of New Mexico

[Docket No. ER99–876–000]

Take notice that on December 10, 1998, Public Service Company of New Mexico (PNM), tendered for filing an executed service agreement, for electric power and energy sales at negotiated rates under the terms of PNM's Power and Energy Sales Tariff, with Tucson Electric Power Company (dated December 8, 1998). PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to Tucson Electric Power Company and to the New Mexico Public Utility Commission.

Comment date: December 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Southern California Edison Company

[Docket No. ER99–877–000]

Take notice that on December 10, 1998, Southern California Edison Company (SCE), tendered for filing the 33 kV Added Facilities Agreement, Amendment No. 2, to the Agreement for Services, Amendment No. 2 to the Transmission Service Agreement and the Partial Requirements Resale Service, Rate Schedule R–8.2, between SCE and Southern California Water Company (SCWC).

The documents serve to reflect the increased amount of transfer capability available to SCWC from 30 MW to 34 MW at the Goldhill point of delivery resulting from the 33 kV Added Facilities Agreement.

SCE is requesting an effective date of December 11, 1998, the day after filing.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: December 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Central Maine Power Company

[Docket No. ER99–878–000]

Take notice that on December 10, 1998, Central Maine Power Company (Central Maine), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35.12, as an initial rate schedule, an interconnection agreement (IA) with Androscoggin Energy LLC (AELLC). The IA provides for interconnection service to AELLC at the rates, terms, charges, and conditions set forth therein.

Central Maine is requesting that the IA become effective on October 21, 1998, or alternatively, December 11, 1998.

Copies of this filing have been served upon the Maine Public Utilities Commission and AELLC.

Comment date: December 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. UtiliCorp United Inc.

[Docket No. ES99–16–000]

Take notice that on December 4, 1998, UtiliCorp United Inc. (UtiliCorp), submitted an application, under Section 204 of the Federal Power Act, for authorization to issue additional shares of common stock, par value $1 per share, to be issued to holders of common stock in connection with a three-for-two common stock split to be effected in the form of a fifty percent stock dividend.

Comment date: January 4, 1999, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–34220 Filed 12–24–98; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6211–4]

Clean Air Act Advisory Committee; Mobile Sources Technical Review Subcommittee, Notification of Public Advisory Subcommittee Open Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, notice is hereby given that the Mobile Sources Technical Review Subcommittee of the Clean Air Act Advisory Committee will meet on: Wednesday, January 13, 1999 from 9:30 am to 3 pm Eastern Standard Time (registration at 9 am) at:

Key Bridge Marriott Hotel, 1401 Lee Highway, Arlington, VA 22209, Ph: 703/524–6400; Fax. 703/524–8964.

This is an open meeting and seating is on a first-come basis. During this meeting, the subcommittee will hear progress reports from its workgroups, discuss formation of possible new workgroups, and be briefed on and

discuss other current issues in the mobile source program including a NAS/NRC study to evaluate the MOBILE model.

Members of the public requesting further technical information should contact:

Mr. Philip A. Lorang, Designated Federal Officer, Assessment and Modeling Division, U.S. EPA, 2000 Traverwood Drive, Ann Arbor, MI 48105, Ph: 734/214–4374, Fax: 734/214–4321, email: lorang.phil@epa.gov

Mr. John T. White, Alternate Designated Federal Officer, Assessment and Modeling Division, U.S. EPA, 2000 Traverwood Drive, Ann Arbor, MI 48105, Ph: 734/214–4353, Fax: 734/214–4321, email: white.johnt@epa.gov

Background information can also be obtained by visiting the subcommittee's website at:

http://transaq.ce.gatech.edu/epatac/index.htm

Subcommittee members and interested parties requesting administrative information should contact:

Ms. Jennifer Criss, FACA Management Officer, Assessment and Modeling Division, U.S. EPA, 2000, Traverwood Drive, Ann Arbor, MI 48105, FACA Help Line: 734/214–4518, Ph: 734/214–4329, Fax: 734/214–4821, email: criss.jennifer@epa.gov

Written comments of any length (with at least 20 copies provided) should be sent to the subcommittee no later than January 6, 1999.

The Mobile Sources Technical Review Subcommittee expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

Margo T. Oge,

Director, Office of Mobile Sources.

[FR Doc. 98–34294 Filed 12–24–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6210–6]

Benchmark Dose Software

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of and request for public comment on beta test version of Benchmark Dose Software (version 1.1b).

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing the availability of, and requests public comment on, the beta test version of Benchmark Dose Software (BMDS) (version 1.1b). The BMDS system is being developed as a tool to facilitate the application of a benchmark dose (BMD) method to EPA risk assessments of hazardous pollutants. The EPA Risk Assessment Forum has written guidelines for the use of the BMD approach in the assessment of noncancer health risk (U.S. Environmental Protection Agency, 1995, EPA/630/R–94/007) and the EPA Benchmark Dose Workgroup is in the process of drafting technical guidance for the application of the BMD approach in cancer and noncancer dose-response assessments. The use of BMD methods involves fitting mathematical models to dose-response data and using the results to select a BMD that is associated with a predetermined benchmark response (BMR), such as a 10% increase in the incidence of a particular health effect. The EPA BMDS facilitates these operations by providing an easy-to-use interface to run up to sixteen (16) different models that are appropriate for the analysis of dichotomous (quantal) data (nine models: Gamma, Logistic, Log-Logisitic, Multistage, Probit, Log-Probit, Quantal-Linear, Quantal-Quadratic, and Weibull), continuous data (four models: Linear, Polynomial, Power, and Hybrid) and nested developmental toxicology data (three models: NLogistic, NCTR, and Rai & Van Ryzin). Results from these models include goodness-of-fit information, the BMD, and the estimate of the lower-bound confidence limit (the BMDL) on the BMD. Model results are presented in textual and graphical output files which can be printed or saved and incorporated into other documents.

In May–June 1997, a prior beta test version of the BMDS (version 1.0b) was reviewed by risk assessors and statisticians from within EPA and from outside organizations. Comments received as a result of that review were considered in preparing this latest beta test release (version 1.1b) for public comment.

DATES: Comments on this software will be accepted until March 31, 1999.

ADDRESSES: Comments should be in writing and mailed to the Project Manager for Benchmark Dose Software Development, National Center for Environmental Assessment—RTP Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711 or sent by e-mail to bmds.ncea@epa.gov by March 31, 1999. To obtain a copy of the beta test version of Benchmark Dose Software (version 1.1b), direct your internet browser to http://www.epa.gov/ncea/bmds.htm. You will be instructed on how to download a self-extracting compressed file (approximately eight megabytes in size) containing the entire BMDS program. Windows 95 or Windows 98 and at least sixteen megabytes of RAM are required to run this version of the BMDS.

Accessing a copy of the BMDS program via the internet is highly recommended as the BMDS web site will be the official and most current source of updates and notifications. However, those for whom internet access is impractical may obtain a copy of the program via e-mail or CD-Rom by contacting Ms. Diane H. Ray, National Center for Environmental Assessment—RTP Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone: 919–541–3637; facsimile: 919–541–1818; e-mail: ray.diane@epa.gov.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey S. Gift, National Center for Environmental Assessment—RTP Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone: 919–541–4828; facsimile: 919–541–1818; E-mail: gift.jeff@epa.gov.

Dated: November 23, 1998.

William H. Farland,

Director, National Center for Environmental Assessment.

[FR Doc. 98–34300 Filed 12–24–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404–DC; FRL–6042–9]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; District of Columbia's Authorization Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comments and opportunity for public hearing.

SUMMARY: On August 17, 1998, the District of Columbia submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). This notice announces the receipt of the District of Columbia's application, provides a 45–day public comment period, and

provides an opportunity to request a public hearing on the application.

DATES: Comments on the authorization application must be received on or before February 11, 1999. Public hearing requests must be received on or before January 27, 1999.

ADDRESSES: Submit all written comments and/or requests for a public hearing identified by docket control number PB–402404–DC (in duplicate) to: Environmental Protection Agency, Region III, Waste and Chemicals Management Division, Toxics Programs and Enforcement Branch (3WC33), 1650 Arch St., Philadelphia, PA 19103–2029.

Comments, data, and requests for a public hearing may also be submitted electronically to: gerena.enid@epa.gov. Follow the instructions under Unit IV. of this document. No information claimed to be Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: Enid A. Gerena (3WC33), Waste and Chemicals Management Division, Environmental Protection Agency, Region III, 1650 Arch St., Philadelphia, PA 19103–2029, telephone: (215) 814–2067, e-mail address: gerena.enid@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 28, 1992, the Housing and Community Development Act of 1992, Pub. L. 102–550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681–2692), entitled ''Lead Exposure Reduction.''

Section 402 of TSCA authorizes and directs EPA to promulgate final regulations governing lead-based paint activities in target housing, public and commercial buildings, bridges, and other structures. Those regulations are to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that individuals engaged in these activities are certified and follow documented work practice standards. Under section 404 of TSCA, a State may seek authorization from EPA to administer and enforce its own lead-based paint activities program.

On August 29, 1996 (61 FR 45777) (FRL–5389–9), EPA promulgated final TSCA section 402/404 regulations governing lead-based paint activities in target housing and child-occupied facilities (a subset of public buildings). Those regulations are codified at 40 CFR part 745 and allow both States and Indian Tribes to apply for program authorization. Pursuant to section 404(h) of TSCA, EPA is to establish the Federal program in any State or Tribal Nation without its own authorized program in place by August 31, 1998.

States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA office for review. Those applications will be reviewed by EPA within 180 days of receipt of the complete application. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement (section 404(b) of TSCA, 15 U.S.C. 2684(b)). EPA's regulations (40 CFR part 745, subpart Q) provide the detailed requirements a State or Tribal program must meet in order to obtain EPA approval.

A State may choose to certify that its lead-based paint activities program meets the requirements for EPA approval by submitting a letter signed by the Governor (Mayor in the case of the District of Columbia) or Attorney General stating that the program meets the requirements of section 404(b) of TSCA. Upon submission of such certification letter, the program is deemed authorized. This authorization becomes ineffective, however, if EPA disapproves the application.

Pursuant to section 404(b) of TSCA, EPA provides notice and an opportunity for a public hearing on a State or Tribal program application before authorizing the program. Therefore, by this notice EPA is soliciting public comment on whether the District of Columbia's application meets the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. If a hearing is requested and granted, EPA will issue a **Federal Register** notice announcing the date, time, and place of the hearing. EPA's final decision on the application will be published in the **Federal Register**.

II. State Program Description Summary

The following summary of the District of Columbia's proposed program has been provided by the applicant:

The primary agency that is responsible for administering and enforcing the District Lead-Based Paint Activities Program is the Department of Health, Environmental Health Administration (DHEHA).

Proposed lead abatement control legislation was initially introduced to the District of Columbia City Council and referred to the Council's Committee on Housing and Urban affairs on June 20, 1996. The Committee held a round table to receive comments from the public on the proposed regulations. At that hearing, several organizations that advocate promoting and implementing safe lead abatement practices testified in support of a lead abatement program in the District of Columbia. Some comments were incorporated into the revised bill, which was then approved by the Council, the Mayor, the District of Columbia Financial Recovery Authority, and, finally, the U.S. Congress. In October 1997, proposed regulations implementing the Act were published for public review and comment. No comments were received and the final regulations were published in the D.C. Register on January 2, 1998 (45 DCR 20). The District of Columbia's Title 20 DCMR Section 806 (Regulations) became effective January 2, 1998.

The DHEHA is seeking program authorization from EPA to administer and enforce the ''District of Columbia Lead-Based Paint Abatement Control Act of 1996'' in accordance with sections 402/404 of TSCA ''Requirements for Lead-Based Paint Abatement in Target Housing and Child-Occupied Facilities.'' EPA designed this program to ensure that DHEHA properly trains and certifies individuals conducting lead-based paint inspections, risk assessments and abatements in target housing and child-occupied facilities in the District of Columbia, that training programs providing instruction in such activities are accredited and that these activities are conducted according to reliable, effective, and safe work practice standards.

The regulations established:

1. Procedures and requirements for the accreditation of lead-based paint training activities.
2. Procedures and requirements for the certification of individuals engaged in lead-based paint activities.
3. Work practice standards for the conduct of lead-based paint activities.
4. Requirements that all lead-based paint activities be conducted by appropriately certified contractors.
5. Development of the appropriate infrastructure or government capacity to carry out and enforce a State program effectively.

The overall objective of the District of Columbia's Lead-Based Paint Program is to ultimately establish a registry of lead safe houses and interface proactively with other District agencies and the community to eliminate lead-based paint hazards. With a pool of qualified technicians and lead abatement workers

who are trained and certified to remove lead in the environment in a safe manner, future generations will be assured of a cleaner environment and healthier lives.

III. Federal Overfiling

TSCA section 404(b) makes it unlawful for any person to violate, or fail, or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

IV. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established under docket control number PB–402404–DC. Copies of this notice, the District of Columbia's authorization application, and all comments received on the application are available for inspection in the Region III office, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The docket is located at U.S. Environmental Protection Agency, Region III, Waste and Chemicals Management Division, Toxics Programs and Enforcement Branch, 1650 Arch St., Philadelphia, PA.

Electronic comments can be sent directly to EPA at:

gerena.enid@epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number PB–402404–DC. Electronic comments on this document may be filed online at many Federal Depository Libraries. Information claimed as CBI should not be submitted electronically.

Commenters are encouraged to structure their comments so as not to contain information for which CBI claims would be made. However, any information claimed as CBI must be marked ''confidential,'' ''CBI,'' or with some other appropriate designation, and a commenter submitting such information must also prepare a nonconfidential version (in duplicate) that can be placed in the public record. Any information so marked will be handled in accordance with the procedures contained in 40 CFR part 2. Comments and information not claimed as CBI at the time of submission will be placed in the public record.

V. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

EPA's actions on State or Tribal lead-based paint activities program applications are informal adjudications, not rules. Therefore, the requirements of the Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*), Executive Order 12866 (*Regulatory Planning and Review*, 58 FR 51735, October 4, 1993), and Executive Order 13045 (*Protection of Children from Environmental Health Risks and Safety Risks*, 62 FR 1985, April 23, 1997), do not apply to this action. This action does not contain any Federal mandates, and therefore is not subject to the requirements of the Unfunded Mandates Reform Act (2 U.S.C. 1531–1538). In addition, this action does not contain any information collection requirements and therefore does not require review or approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), 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 the mandate is unfunded, EPA must provide to OMB 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, Executive Order 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 mandates.''

Today's action does not create an unfunded Federal mandate on State, local, or Tribal governments. This action does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this action.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute and that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's action does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

Authority: 15 U.S.C. 2682, 2684.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: December 15, 1998.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 98–34293 Filed 12–24–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

December 19, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other

Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before January 27, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, Room 234, 1919 M St., NW, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at 202–418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0065.

Title: Application for New or Modified Radio Stations Authorization Under Part 5 of the FCC Rules—Experimental Radio Service (Other than Broadcast).

Form Number: FCC Form 442.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, Local or Tribal governments.

Number of Respondents: 700.

Estimated Time per Response: 4 hours.

Frequency of Response: Recordkeeping; on occasion reporting requirements.

Total Annual Burden: 2,800 hours.

Total Annual Costs: None.

Needs and Uses: FCC Form 442 is required to be filed by Sections 5.55(a), (b), and (c) of the FCC Rules and Regulations by applicants requiring an FCC license to operate a new or modified experimental radio station. The data supplied by this form are used by communications clerks, legal instruments examiners and engineers of the FCC to determine: (1) if the applicant is eligible for an experimental license; (2) the purpose of the experiment; (3) compliance with the requirements of Part 5 of the FCC Rules; and (4) if the proposed operation will cause interference to existing operations. The FCC could not grant an experimental license without the information contained on this form. Revision of the form is not required.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–34239 Filed 12–24–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Meeting of Network Reliability and Interoperability Council

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, this notice advises interested persons of a meeting of the Network Reliability and Interoperability Council (''Council''), which will be held at the Federal Communications Commission in Washington, DC.

DATES: January 14, 1999 at 1:30 p.m.-3:30 p.m.

ADDRESSES: Federal Communications Commission, Room 856, 1919 M Street, NW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Marsha MacBride, Director of the FCC Year 2000 Task Force and Designated Federal Officer of the Council, 2000 M Street, NW, Suite 290, Washington, DC 20554; telephone (202) 418–2379.

SUPPLEMENTARY INFORMATION: The Council was established by the Federal Communications Commission to bring together leaders of the telecommunications industry and telecommunications experts from academic, consumer and other organizations to explore and recommend measures that would enhance network reliability. One of the current issues before the Council is the risk that the Year 2000 date conversion problem presents for the telecommunications networks.

The agenda for the meeting is as follows: The Council will review progress reports of Focus Groups 1 and 2 which will give observations, assessments, and initial recommendations on the Year 2000 date conversion problem and the telecommunications networks. Focus Group 3 will provide a status report. Finally, NRSC will provide its quarterly report.

Information concerning the activities of NRIC can be reviewed at the Council's website www.nric.org. Material relevant to the January 14, 1999 meeting will be posted there.

Members of the general public may attend the meeting. The Federal Communications Commission will attempt to accommodate as many people as possible. However, admittance will be limited to the seating available. The public may submit written comments to the Council's designated Federal Officer before the meeting.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 98–34373 Filed 12–24–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Early Closing on December 24, 1998

Released: December 21, 1998.

In accordance with the guidance issued by the U.S. Office of Personnel Management to implement the half-day closing of government department and agencies on Thursday, December 24th, 1998, the Federal Communications Commission will close its offices at 1:30 p.m. on December 24, 1998. All filings, paper and electronic, due on December 24, 1998, will be accepted as timely on the next official work day.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 98–34173 Filed 12–24–98; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed extension of a currently approved information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the exemption of State owned buildings that have an adequate plan of self-insurance for its State from the insurance purchase requirements under the Flood Disaster Protection Act (The Act) of 1973.

SUPPLEMENTARY INFORMATION: 44 CFR Part 75 establishes standards with respect to the Federal Insurance Administrator's determinations, that a State's plan of self-insurance is adequate and satisfactory for the purposes of the Act, from the requirement of purchasing flood insurance coverage for State-owned structures and their contents in areas identified by the Administrator as A, AO, AH, A1–A30, AE, A99, M, V, VO, V1–V30 and E zones, in which the sale of insurance has been made available. It also establishes the procedures by which a State may request exemption under Section 102(C) of the Act.

Collection of Information

Title: Exemption of State-Owned Properties Under Self-Insurance Plan.

Type of Information Collection: Extension of a currently approved collection.

OMB Number: 3067–0127.

Abstract: The application for exemption is made to the Administrator by the Governor or other duly authorized official of the State. The application is accompanied by sufficient supporting documentation that certifies that the plan of self-insurance, upon which the application for exemption is based, meets or exceeds the standards set forth in 44 CFR section 75.11. Upon determining that the State's plan of self-insurance equals or exceeds the standards, the Administrator then certifies that the State is exempt from the requirements for the purchase of flood insurance for State-owned structures and their contents.

Affected Public: State, Local or Tribal Government.

Estimated Total Annual Burden Hours. 100 hours.

Estimated Cost. $3,000.

COMMENTS: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. Comments should be received within 60 days of the date of this notice.

ADDRESSES: Interested persons should submit written comments to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Room 316, Washington, DC 20472. Telephone number (202) 646–2625. FAX number (202) 646–3524 or email muriel.anderson@fema.gov.

FOR FURTHER INFORMATION CONTACT: Contact Mary Ann Chang, Federal Insurance Administration, (202) 646–2790 for additional information. Contact Ms. Anderson at (202) 646–2625 for copies of the proposed collection of information.

Dated: December 21, 1998.

Reginald Trujillo,

Director, Program Services Division, Operations Support Directorate.

[FR Doc. 98–34288 Filed 12–24–98; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed extension of a currently approved information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the application for participation in the National Flood Insurance Program (NFIP).

SUPPLEMENTARY INFORMATION: The NFIP is authorized by Public Law 90–488 (1968) and expanded by Public Law 93–234 (1973). Communities must make application for eligibility in the program by submitting the items listed on the enclosed ''prerequisites for the sale of flood insurance'' which is taken from section 44 CFR, Section 59.22 of the NFIP regulations. Section 201 of the Flood Disaster Protection Act of 1973 requires all flood-prone identification or submit to the prohibition of certain types of Federal and Federally related financial assistance for use in their floodplains.

Collection of Information

Title: Application for Participation in the National Flood Insurance program.

Type of Information Collection: Extension of a currently approved collection.

OMB Number: 3067–0020.

Form Numbers: FEMA Form 81–64.

Abstract: The NFIP provides flood insurance to communities that apply for participation and make a commitment to adopt and enforce land use control measures that are designed to protect development from future flood damages. The application form will enable FEMA to continue to rapidly process new community applications and to thereby more quickly provide flood insurance protection to the residents of the communities. Participation in the NFIP is mandatory in order for flood related Presidential-declared communities to receive Federal disaster assistance.

Affected Public: State, Local or Tribal Government.

Estimated Total Annual Burden Hours: 400 hours.

Estimated Cost: The estimated annual cost to the government is $21,000 for printing and mailing the forms to regional and state offices.

COMMENTS: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden

of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. Comments should be received within 60 days of the date of this notice.

ADDRESSES: Interested persons should submit written comments to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Room 316, Washington, DC 20472. Telephone number (202) 646–2625. FAX number (202) 646–3524 or email muriel.anderson@fema.gov.

FOR FURTHER INFORMATION CONTACT: Contact Robert F. Shea, Division Director, Program Support Division, Mitigation Directorate (202) 646–4621 for additional information. Contact Ms. Anderson at (202) 646–2625 for copies of the proposed collection of information

Dated: December 21, 1998.

Reginald Trujillo,

Director, Program Services Division, Operations Support Directorate.

[FR Doc. 98–34289 Filed 12–24–98; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Next Generation Logistics, Inc., 1611 Colonial Parkway, Inverness, IL 6067–4732, Officers: Artistides P. Smith, President, William J. Saunders, Director.

Dated: December 21, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–34201 Filed 12–24–98; 8:45 am]

BILLING CODE 1730–01–M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System

SUMMARY: *Background*. On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83-Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for comment on information collection proposals.

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection(s), along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collections of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collections, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before February 26, 1999.

ADDRESSES: Comments, which should refer to the OMB control number or agency form number, should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M-P-500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.14 of the Board's Rules Regarding Availability of Information, 12 CFR 261.14(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form and instructions, the Paperwork Reduction Act Submission (OMB 83-I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Mary M. McLaughlin, Chief, Financial Reports Section (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins (202-452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal to approve under OMB delegated authority the extension for three years, with revision, of the following reports:

1. Report title: Consolidated Financial Statements for Bank Holding Companies

Agency form number: FR Y-9C

OMB control number: 7100-0128

Frequency: Quarterly

Reporters: Bank holding companies

Annual reporting hours: 211,995

Estimated average hours per response: 33.93

Number of respondents: 1,562

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 1844(b) and (c) and 12 CFR 225.5(b)). Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the reporting information, in whole or in part, can be requested in

accordance with the instructions to the form. Data reported on the FR Y-9C, Schedule HC-H, Column A, requiring information of ''assets past due 30 through 89 days and still accruing'' and memoranda item 2 are confidential pursuant to Section (b)(8) of the Freedom of Information Act 5 U.S.C. 552(b)(8).

Abstract: The FR Y-9C consists of standardized consolidated financial statements similar to commercial bank Report of Condition and Income (Call Report) (FFIEC 031-034; OMB No. 7100-0036). The FR Y-9C is filed quarterly by top-tier bank holding companies that have total assets of $150 million or more and by lower-tier bank holding companies that have total consolidated assets of $1 billion or more. In addition, multibank holding companies with total consolidated assets of less than $150 million with debt outstanding to the general public or engaged in certain nonbank activities must file the FR Y-9C.

Current actions: The Federal Reserve proposes to make the following changes to the FR Y-9C effective with the March 31, 1999, reporting date.

Changes Related to Proposed Changes to the Call Report

Schedule HC—Consolidated Balance Sheet

(1) Add an item on the balance sheet for net gains (losses) on cash flow hedges due to Financial Accounting Standards Board (FASB) Statement No. 133, *Accounting for Derivative Instruments and Hedging Activities* (FAS 133). This statement takes effect for fiscal years beginning after June 15, 1999, with earlier application encouraged.

Under FAS 133, all derivatives must be reported as either assets or liabilities on the balance sheet and must be carried at fair value. If certain conditions are met, a derivative may be specifically designated as a ''cash flow hedge.'' In a cash flow hedge, to the extent the hedge is effective, the gain or loss on the derivative is initially reported outside of earnings in a component of equity capital. The gain or loss will subsequently go through earnings in the period or periods when the transaction being hedged affects earnings. The ineffective portion of the hedge is reported in earnings immediately.

As part of the disclosure requirements of FAS 133, an entity must disclose the accumulated net gains (losses) on cash flow hedges that are included in equity capital as of the balance sheet date. The Federal Reserve proposes to add the item ''Accumulated net gains (losses) on cash flow hedges,'' as of the report date, as new item 27.f in the equity capital section of the balance sheet. Current items 27.f through 27.h would be renumbered as items 27.g through 27.i.

(2) Add an item for the separate reporting of ''Nonmortgage servicing assets,'' or include this item in the existing line for ''Purchased credit card relationships.'' On August 10, 1998, the Federal Reserve published a final rule amending the regulatory capital treatment of servicing assets (63 FR 42668). Under this amendment, nonmortgage servicing assets (NMSAs) will now be recognized (rather than deducted) for regulatory capital purposes. However, these servicing assets are subject to a sublimit of 25 percent of Tier 1 capital that previously applied only to purchased credit card relationships (PCCRs). To date, bank holding companies have reported their NMSAs as part of ''All other identifiable intangible assets,'' item 10.b.(2). This is because these intangibles generally have been deducted in full from Tier 1 capital and from assets in regulatory capital calculations. As a result of the revised regulatory capital treatment of NMSAs, these assets need to be distinguished from ''All other identifiable intangible assets.'' This change is needed to enable the Federal Reserve to verify the regulatory capital amounts that bank holding companies report in the FR Y-9C and to calculate regulatory capital ratios.

The FFIEC plans to seek public comment for two reporting alternatives for the Call Report to respond to this change in regulatory capital standards. One alternative would be the equivalent to adding a new item 10.b.(2) for ''Nonmortgage servicing assets'' to Schedule HC and to renumber existing item 10.b.(2), ''All other identifiable intangible assets,'' as 10.b.(3). Another alternative would be the equivalent to revising Schedule HC, item 10.b.(1), ''Purchased credit card relationships,'' to include NMSAs because these two types of intangibles are subject to the same Tier 1 capital sublimit. The proposed caption for this item would be ''Purchased credit card relationships and nonmortgage servicing assets.'' The Federal Reserve proposes to revise the FR Y-9C consistent with the option selected by the FFIEC for the Call Report.

Schedule HC-A—Securities

Eliminate memorandum item 5, ''High-risk mortgage securities.'' The definition of high-risk mortgage securities was taken from the Supervisory Policy Statement on Securities Activities, which the FFIEC approved and the Federal Reserve adopted in December 1991, effective February 10, 1992 (57 FR 4029, February 3, 1992). In April 1998, the FFIEC and the Federal Reserve rescinded this policy statement and approved in its place a Supervisory Policy Statement on Investment Securities and End-User Derivatives Activities, effective May 26, 1998 (63 FR 20191, April 23, 1998). In adopting the new policy statement, the Federal Reserve removed the previous policy statement's specific constraints concerning investments in high-risk mortgage securities, including its ''high risk'' tests, and substituted broader guidance covering all investment securities.

Schedule HC-I—Risk-Based Capital

Add an item for the separate reporting of ''Fair market value of nonmortgage servicing assets,'' or include this item in the existing (relabeled) line for ''Fair market value of purchased credit card relationships'' (see 'Other Revisions Not Related to Call Report Changes' section below). The Federal Reserve has determined that this information is needed to accurately measure the risk-based capital treatment of servicing assets under the Federal Reserve's amended capital adequacy guidelines. The Federal Reserve proposes to revise memorandum item 7 consistent with the option selected by the FFIEC on the Call Report for the balance sheet (book value) treatment of this item. Thus one alternative would be to add a new memorandum item 7.b for ''Fair market value of nonmortgage servicing assets, and renumber proposed memorandum item 7 as 7.a. Another alternative would be to revise proposed memorandum item 7 as, ''Fair market value of purchased credit card relationships and nonmortgage servicing assets.''

Schedule HI-A—Changes in Equity Capital

Add an item for the change in accumulated net gains (losses) on cash flow hedges. As part of the disclosure requirements of FAS 133, bank holding companies would also disclose the year-to-date change in accumulated net gains (losses) on cash flow hedges that are included in equity capital. Bank holding companies would report the year-to-date change in these accumulated gains (losses), net of any reclassification adjustment, in the changes in equity capital schedule as new item 13.b. Existing item 13 on Schedule HI-A would be renumbered as item 13.a.

Other Revisions Not Related to Call Report Changes

Schedule HC-A—Securities

Add an item for net unrealized holding gains on available-for-sale equity securities. On August 26, 1998, the Federal Reserve along with the other

banking agencies announced a final rule amending the capital treatment of unrealized holding gains on certain equity securities. The final rule permits bank holding companies to include in supplementary (Tier 2) capital up to 45 percent of the pretax net unrealized holding gains (that is, of the fair value over historical cost) on available-for-sale equity securities with readily determinable fair values. This is an optional designation for bank holding companies. However, if an institution opts to include an amount of unrealized holding gains in its Tier 2 capital, it must also include that same amount in its risk-weighted assets. Bank holding companies that take this option would report net unrealized holding gains on available-for-sale equity securities included in Tier 2 and total capital ratios on Schedule HC-A, as new memorandum item 4.c.

Schedule HC-I—Risk-Based Capital

Eliminate the reporting requirements of memorandum item 7.a, ''Purchased credit card relationships: Discounted value.'' The Federal Reserve has determined that this item is of limited use. See ''Changes Related to Proposed Changes to the Call Report'' section above.

Notes to the Balance Sheet/Income Statement

Expand the ''Notes to the Balance Sheet'' and ''Notes to the Income Statement'' sections to allow space for up to twenty optional comments.

Instructions

Instructional revisions and clarifications will be done in accordance with changes made to the Call Report instructions and revisions to the Capital Guidelines.

2. Report title: Parent Company Only Financial Statements for Large Bank Holding Companies

Agency form number: FR Y-9LP

OMB control number: 7100-0128

Frequency: Quarterly

Reporters: Bank holding companies

Annual reporting hours: 34,925

Estimated average hours per response: 4.61

Number of respondents: 1,894

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 1844(b) and (c) and 12 CFR 225.5(b)). Confidential treatment is not routinely given to the data in this report. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form.

Abstract: The FR Y-9LP includes standardized financial statements filed quarterly on a parent company only basis from each bank holding company that files the FR Y-9C. In addition, for tiered bank holding companies, a separate FR Y-9LP must be filed for each lower tier bank holding company.

Current actions: The Federal Reserve proposes the following revisions to the FR Y-9LP effective with the March 31, 1999, reporting date.

Schedule PC—Parent Company Only Balance Sheet

Add an item on the balance sheet for accumulated net gains (losses) on cash flow hedges. As part of the disclosure requirements for FAS 133, the Federal Reserve proposes to add the item ''Accumulated net gains (losses) on cash flow hedges,'' as of the report date, as new item 20.f in the equity capital section of the balance sheet. Current items 20.f and 20.g would be renumbered as items 20.g and 20.h.

Instructions

Instructional revisions and clarifications would be made as necessary, to conform with changes made to the Call Report instructions.

3. Report title: Parent Company Only Financial Statements for Small Bank Holding Companies

Agency form number: FR Y-9SP

OMB control number: 7100-0128

Frequency: Semiannual

Reporters: Bank holding companies

Annual reporting hours: 31,324

Estimated average hours per response: 3.87

Number of respondents: 4,047

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 1844(b) and (c) and 12 CFR 225.5(b)). Confidential treatment is not routinely given to the data in this report. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form.

Abstract: The FR Y-9SP is a parent company only financial statement filed on a semiannual basis by one-bank holding companies with total consolidated assets of less than $150 million, and multibank holding companies with total consolidated assets of less than $150 million that meet certain other criteria. This report, an abbreviated version of the more extensive FR Y-9LP, is designed to obtain basic balance sheet and income statement information for the parent company, information on intangible assets, and information on intercompany transactions.

Current actions: The Federal Reserve proposes the following revisions to the FR Y-9SP effective with the June 30, 1999, reporting date.

Balance Sheet

Add an item on the balance sheet for accumulated net gains (losses) on cash flow hedges. As part of the disclosure requirements for FAS 133, the Federal Reserve proposes to add the item ''Accumulated net gains (losses) on cash flow hedges,'' as of the report date, as new item 16.e in the equity capital section of the balance sheet. Current item 16.e would be renumbered as item 16.f.

Instructions

Instructional revisions and clarifications would be made as necessary, to conform with changes made to the Call Report instructions.

Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following report:

1. Report title: Supplement to the Consolidated Financial Statements for Bank Holding Companies

Agency form number: FR Y-9CS

OMB control number: 7100-0128

Frequency: up to 4 times per year

Reporters: Bank holding companies

Annual reporting hours: 1,200

Estimated average hours per response: 0.50

Number of respondents: 600

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 1844(b) and (c)) and 12 CFR 225.5(b). Confidential treatment is not routinely given to the data in this report. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form.

Abstract: The FR Y-9CS is a free form supplement to the Consolidated Financial Statements for Bank Holding Companies (FR Y-9C; OMB No. 7100-0128) used to collect any additional information deemed critical and needed in an expedited manner. The FR Y-9C consists of standardized consolidated financial statements filed quarterly by bank holding companies.

Proposal to approve under OMB delegated authority the revision, without extension, of the following reports:

1. Report title: Quarterly Financial Statements of Nonbank Subsidiaries of Bank Holding Companies

Agency form number: FR Y-11Q

OMB control number: 7100-0244

Frequency: Quarterly

Reporters: Bank holding companies

Annual reporting hours: 10,683

Estimated average hours per response: 6.24

Number of respondents: 428

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 1844(b) and (c) and 12 CFR 225.5(b)). Confidential treatment is not

routinely given to most of the data in this report. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form. FR Y-11Q, memorandum item 7.a, ''loans and leases past due 30 through 89 days'' and FR Y-11Q, memorandum item 7.d, ''loans and leases restructured and included in past due and nonaccrual loans'' are confidential pursuant to Section (b)(8) of the Freedom of Information Act 5 U.S.C. 552(b)(8).

Abstract: The FR Y-11Q is filed quarterly by the top tier bank holding companies for each nonbank subsidiary of a bank holding company with total consolidated assets of $150 million or more in which the nonbank subsidiary has total assets of 5 percent or more of the top-tier bank holding company's consolidated Tier 1 capital, or where the nonbank subsidiary's total operating revenue equals 5 percent or more of the top-tier bank holding company's consolidated total operating revenue. The report consists of a balance sheet, income statement, off-balance-sheet items, information on changes in equity capital, and a memoranda section.

Current actions: The Federal Reserve proposes minor revisions to the FR Y-11Q effective with the March 31, 1998, reporting date.

Balance Sheet

Add an item on the balance sheet for accumulated net gains (losses) on cash flow hedges. As part of the disclosure requirements for FAS 133, the Federal Reserve proposes to add the item ''Accumulated net gains (losses) on cash flow hedges,'' as of the report date, as new item 20.f in the equity capital section of the balance sheet. Current items 20.f through 20.h would be renumbered as items 20.g through 20.i.

Notes to the Financial Statements

Add a section for ''Notes to the Financial Statements.'' The Federal Reserve proposes to add this section to allow respondents the opportunity to provide, at their option, any material information included in specific line items on the financial statements that the bank holding company wishes to explain. The section would have space for up to ten comments.

Instructions

Instructional revisions and clarifications would be made as necessary, to conform with changes made to the Call Report instructions.

2. Report title: Annual Financial Statements of Nonbank Subsidiaries of Bank Holding Companies

Agency form number: FR Y-11I

OMB control number: 7100-0244

Frequency: Annual

Reporters: Bank holding companies

Annual reporting hours: 6,762

Estimated average hours per response: 3.24

Number of respondents: 2,087

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 1844(b) and (c) and 12 CFR 225.5(b)). Confidential treatment is not routinely given to the data in this report. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form. FR Y-11I, Schedule A, item 7.a, ''loans and leases past due 30 through 89 days'' and FR Y-11I, Schedule A, item 7.d, ''loans and leases restructured and included in past due and nonaccrual loans'' are confidential pursuant to Section (b)(8) of the Freedom of Information Act 5 U.S.C. 552(b)(8).

Abstract: The FR Y-11I is filed annually by the top tier bank holding companies for each of their nonbank subsidiaries that are not required to file a quarterly FR Y-11Q. The FR Y-11I report consists of similar balance sheet, income statement, off-balance-sheet, and change in equity capital information that is included on the FR Y-11Q. However, some of the items on the FR Y-11I are collected in a less detailed manner. In addition, the FR Y-11I also includes a loan schedule to be submitted only by respondents engaged in extending credit.

Current actions: The Federal Reserve proposes a minor revision to the FR Y-11I effective with the December 31, 1999, reporting date.

Notes to the Financial Statements

Add a section for ''Notes to the Financial Statements.'' The Federal Reserve proposes to add this section to allow respondents the opportunity to provide, at their option, any material information included in specific line items on the financial statements that the bank holding company wishes to explain. The section would have space for up to ten comments.

Instructions

Instructional revisions and clarifications would be made as necessary, to conform with changes made to the Call Report instructions.

Board of Governors of the Federal Reserve System, December 21, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–34183 Filed 12–24–98; 8:45AM]

Billing Code 6210–01–F

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 11, 1999.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Terry Lynn Frierson, Jonesboro, Arkansas; to acquire additional voting shares of MSB Shares, Inc., Monette, Arkansas, and thereby indirectly acquire voting shares of Midsouth Bank, Monette, Arkansas.

Board of Governors of the Federal Reserve System, December 21, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–34184 Filed 12–24–98; 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 January 22, 1998.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Wells Fargo & Company, San Francisco, California; to acquire Mercantile Financial Enterprises, Inc., Brownsville, Texas; and thereby indirectly acquire Mercantile Bank, N.A., Brownsville, Texas.

Board of Governors of the Federal Reserve System, December 21, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–34185 Filed 12–24–98; 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 January 22, 1998.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Greenville Community Financial Corporation, Greenville, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Greenville Community Bank, Greenville, Michigan (in organization).

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Durant Bancorp, Inc., Durant, Oklahoma; to acquire 100 percent of the voting shares of Security National Bancshares of Sapulpa, Inc., Sapulpa, Oklahoma; and thereby indirectly acquire Security National Bank of Sapulpa, Sapulpa, Oklahoma.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Bauer Management, Inc., and Bauer Investments, Ltd., both of Port Lavaca, Texas; to become bank holding companies by acquiring 60.30 percent of the voting shares of The First National Bank, Port Lavaca, Texas, and 63.5 percent of the voting shares of Seaport Bank, Seadrift, Texas.

Board of Governors of the Federal Reserve System, December 22, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–34338 Filed 12–24–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., Tuesday, February 2, 1999.

PLACE: Federal Trade Commission Building, Room 532, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions Open to Public:

(1) Oral Argument in Trans Union Corporation, Docket 9255 Portions Closed to the Public:

(2) Executive Session to follow Oral Argument in Trans Union Corporation, Docket 9255

CONTACT PERSON FOR MORE INFORMATION: Victoria Streitfeld, Office of Public Affairs: (202) 326–2180, Recorded Message: (202) 326–2711.

Donald S. Clark,

Secretary.

[FR Doc. 98–34389 Filed 12–23–98; 11:57 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTION GRANTED EARLY TERMINATION

ET date	Transaction No.	ET req status	Party name
23–Nov–98	19990549	G	ADCO Equities
		G	FirstPlus Financial Group, Inc.
		G	FirstPlus Financial Group, Inc.
	19990550	G	CTC Trust
		G	FirstPlus Financial Group, Inc.
		G	FirstPlus Financial Group, Inc.
24–Nov–98	19990345	G	Texas Instruments Incorporated.
		G	Harris Corporation.
		G	Harris Corporation.
	19990395	G	Independence Blue Cross.
		G	La Cruz Azul de Puerto Rico, Inc.
		G	La Cruz Azul de Puerto Rico, Inc.
	19990403	G	Tyler Corporation.
		G	Richard Hollomon.
		G	Vision Software, Inc.
	19990407	G	Caterpilliar Inc.
		G	A.S.V. Inc.
		G	A.S.V. Inc.
	19990419	G	Fundacion de Suscriptores de La Cruz Azul.
		G	La Cruz Azul de Puerto Rico, Inc.
		G	La Cruz Azul de Puerto Rico, Inc.
	19990437	G	Severn Trent Plc.
		G	H.I.G. Investment Group, L.P.
		G	Exceltech Holdings Corporation.
	19990443	G	Delphi Financial Group, Inc.
		G	Unicover Managers, Inc.
		G	Unicover Managers, Inc.
	19990445	G	Lumbermens Mutual Casualty Company.
		G	William J. and Judi E Shupper Family Trust.
		G	Lou Jones & Associates.
	19990451	G	Roanoke Electric Steel Corporation.
		G	Steel of West Virginia, Inc.
		G	Steel of West Virginia, Inc.
	19990457	G	John W. Henry.
		G	H. Wayne Huizenga.
		G	Florida Marlins Baseball, Ltd.
	19990458	G	Warburg, Pincus Ventures, L.P.
		G	Eclipsys Corporation.
		G	Eclipsys Corporation.
	19990459	G	Eclipsys Corporation.
		G	Transition Systems, Inc.
		G	Transition Systems, Inc.
	19990472	G	United States Filter Corporation.
	19990472	G	Insync Systems, Inc.
		G	Insync Systems, Inc.
	19990473	G	Park-Ohio Holdings Corp.
		G	Metalloy Corporation (The).
		G	Metalloy Corporation (The).
	19990482	G	Stonington Capital Appreciation 1994 Fund, L.P.
		G	Global Motorsport Group, Inc.
		G	Global Motorsport Group, Inc.
	19990483	G	ICG Communications, Inc.
		G	Central and South West Corporation.
		G	CWS/ICG ChoiceCom, L.P., CSW/ICG ChoiceCom Management, L.L.C.
	19990486	G	Inso Corporation.
		G	Sherpa Systems Corporation.
		G	Sherpa Systems Corporation.
25–Nov–98	19984021	G	Hanson PLC.
		G	Nelson Family Trust (The).
		G	Nelson Holding Company, d/b/a Nelson & Sloan.
	19984184	G	Arrow International, Inc.
		G	C.R. Bard, Inc.
		G	C.R. Bard, Inc.
	19984515	G	Chancellor Media Corporation.
		G	Dean V. White.
		G	Whiteco Industries, Inc.
		G	Metro Management Associates.
	19990291	G	The General Electric Company, p.l.c.
		G	Elbit Medical Imaging Ltd.
		G	Elscint Ltd.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Transaction No.	ET req status	Party name
	19990450	G	CM Equity Partners, L.P.
		G	John M. Utley.
		G	EMSI Holding Company.
	19990476	G	Community Newspaper Holdings, Inc.
		G	Bobby L. and Joyce Edwards.
		G	Edwards Publications, Inc.
	19990494	G	Pre-Paid Legal Services, Inc.
		G	Conseco, Inc.
		G	Universal Fidelity Life Insurance Company.
	19990507	G	Joseph Littlejohn & Levy Fund II, L.P.
		G	Pelican Companies, Inc.
		G	Pelican Comparies, Inc.
	19990508	G	General Electric Company.
		G	Ted D. Parker.
		G	Ted Parker Home Sales, Inc.
27–Nov–98	19990343	G	New Colt, L.P.
		G	Richard L.Duchossois.
		G	SACO Defense, Inc.
	19990405	G	Welsh, Carson, Anderson & Stowe VIII, L.P.
		G	Cougar Holdings Corporation.
		G	Cougar Holdings Corporation.
	19990428	G	Iceberg Transport, S.A.
		G	Roger B. and Rosalind M. Abbott.
		G	Communications TeleSystems International d/b/a WorldxChange.
	19990432	G	Intel Corporation.
		G	Shiva Corporation.
		G	Shiva Corporation.
	19990536	G	O. Bruton Smith.
		G	Las Vegas Motor Speedway, Inc.
		G	Las Vegas Motor Speedway, Inc.
30–Nov–98	19990307	G	Exxon Corporation.
		G	Sempra Energy.
		G	Pacific Offshore Pipeline Company.
	19990442	G	BARCO N.V.P.
		G	Artios Corporation.
		G	Artios Corporation.
	19990452	G	Kellwood Company.
		G	Robert Tandler and Valli Benesch.
		G	Fritzi California.
	19990453	G	Robert Tandler and Valli Benesch.
		G	Kellwood Company.
		G	Kellwood Company.
	19990463	G	CBS Corporation.
		G	USA Digital Radio, Inc.
		G	USA Digital Radio, Inc.
	19990465	G	Richard F. Bemis.
		G	Marshall & Ilsley Corporation.
		G	The Kelch Corporation.
	19990466	G	Peter F. Bemis.
		G	Marshall & Ilsley Corporation.
		G	The Kelch Corporation.
	19990474	G	Executive Risk, Inc.
		G	Fund American Enterprises Holdings, Inc.
		G	Valley National Insurance Company.
	19990480	G	Arkansas Electric Cooperatives, Inc.
		G	General Electric Company.
		G	General Electric Company.
		G	Caribe GE Group, Inc.
	19990490	G	Ignacio Aranguren Castiello.
		G	Corn Products International, Inc.
		G	Corn Products International, Inc.
	19990492	G	El Paso Energy Corporation.
		G	El Paso Energy Corporation.
		G	Pearl East Power Partners, L.P.
		G	Colorado Power Partners.
	19990495	Y	Hewlett-Packard Company.
		Y	Telcom Technologies, Inc.
		Y	Telcom Technologies, Inc.
	19990496	G	THOR Capital Holdings, LLC.
		G	Nations Healthcare, Inc.
		G	Nations Healthcare, Inc.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Transaction No.	ET req status	Party name
	19990499	G	Microage, Inc.
		G	Electronic Data Systems Corporation.
		G	Electronic Data Systems Corporation.
	19990500	G	Paul J. Ramsay.
		G	Ramsay Health Care, Inc.
		G	Ramsay Health Care, Inc.
	19990509	G	Zurich Allied A.G.
		G	Sun Life Assurance Company of Canada.
		G	Massachusetts Casualty Insurance Company.
	19990511	G	Fried. Krupp AG Hoesch-Krupp (a German company)
		G	Walter Hauk.
		G	Combined Metals of Chicago, LP.
	19990513	G	Golder, Thomas, Cressey, Rauner Fund IV, LP.
		G	Global Imaging Systems, Inc.
		G	Global Imaging Systems, Inc.
	19990514	G	Fried. Krupp AG Hoesch-Krupp (a German company)
		G	Cyrus Tang.
		G	Combined Metals of Chicago, LP.
	19990516	G	Alliance Energy Corp.
		G	Exxon Corporation
		G	Exxon Corporation
	19990528	G	Trans World Entertainment Corporation.
		G	Camelot Music Holdings, Inc.
		G	Camelot Music Holdings, Inc.
	19990530	G	Exxon Corporation.
		G	Tonen Corporation.
		G	TCA Plastics, Inc.
01–Dec–98	19984455	G	BBA Group PLC.
		G	General Electric Company.
		G	UNC Airwork Corporation.
		G	UNC Engine & Engine Parts, Inc.
		G	UNC International, Inc.
	19990329	G	RCBA G.P., L.L.C.
		G	Haemonetics Corporation.
		G	Haemonetics Corporation.
	19990409	G	NCO Group, Inc.
		G	David E. D'Anna.
		G	JDR Holdings, Inc.
	19990410	G	David E. D'Anna.
		G	NCO Group, Inc.
		G	NCO Group, Inc.
	19990488	G	Catherine L. Hughes.
		G	Syndicated Communications Venture Partners II, L.P.
		G	Allur-Detroit, Inc.
	19990501	G	GTFC Equity Investors, L.L.C.
		G	NovaQuest InfoSystems, Inc.
		G	NovaQuest InfoSystems, Inc.
	19990526	G	J. Frank Harrison, Jr.
		G	Carolina Coca Cola Bottling Company, Inc.
		G	Carolina Coca Cola Bottling Company, Inc.
	19990529	G	Horseshoe Casinos, Inc.
		G	Empress Entertainment, Inc.
		G	Empress Casino Hammond Corporation.
		G	Empress Casino Joliet Corporation.
	19990531	G	Medtronic, Inc.
		G	MiniMed, Inc.
		G	MiniMed, Inc.
	19990537	G	Blackstone Real Estate Partners II L.P.
		G	Crestline Capital Corporation.
		G	Crestline Capital Corporation.
	19990538	G	Blackstone Real Estate Partners II.T.E.1 L.P.
		G	Crestline Capital Corporation.
		G	Crestline Capital Corporation.
	19990555	G	Ford Motor Company.
		G	Jackie Cooper.
	19990555	G	Jackie Cooper Lincoln/Mercury, Inc.
		G	Jackie Cooper Ford, Inc.
	19990557	G	USS Holdings, Inc.
		G	Arlene E. Kraus.
		G	Better Materials Corporation.
	19990559	G	MSX International, Inc.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Transaction No.	ET req status	Party name
		G	Johnson Controls, Inc.
		G	Megatech Engineering, Inc.
	19990560	G	Affiliated Managers Group, Inc.
		G	Mr. Edward C. Rorer.
		G	Edward C. Rorer & Co.
	19990570	G	Genuine Part Company.
		G	Johnson Industries, Inc.
		G	Johnson Industries, Inc.
	19990573	G	Stonach Trust.
		G	Meditrust Operating Company.
		G	Santa Anita Enterprises, Inc.
		G	Los Angeles Turf Club, Inc.
	19990576	G	George T. Holden.
		G	Advance Voting Trust.
		G	Advance Direct, Inc.
	19990581	G	Richard Marconi.
		G	Micelle Laboratories, Inc.
		G	Micelle Laboratories, Inc.
	19990591	G	Lillie Heinrich.
		G	Republic Industries, Inc.
		G	Desert GMC-East, Inc.
02–Dec–98	19990349	G	INSpire Insurance Solutions, Inc.
		G	Patrick J. Kilkenny.
		G	Arrow Claims Management, Inc.
		G	Arrowhead General Insurance Agency, Inc.
	19990420	G	Medical Inter-Insurance Exchange of New Jersey.
		G	Medical Society of New Jersey.
		G	New Jersey State Medical Underwriters.
	19990436	G	Alcatel.
		G	Packet Engines Incorporated.
		G	Packet Engines Incorporated.
	19990487	G	DQE, Inc.
		G	41/75 Corp.
		G	Rotunda West Utility Corporation.
	19990497	G	Kjell Inge Rokke.
		G	Constructor-Dexion plc.
		G	Constructor-Dexion plc.
	19990584	G	Charming Shoppes, Inc.
		G	Warburg, Pincus Ventures, L.P.
		G	Petrie Retail, Inc.
03–Dec–98	19990107	G	Associated Wholesale Grocers Inc.
		G	Fred Meyers, Inc.
		G	Ralphs Grocery Company, Falley's Inc.
	19990471	G	R&G Financial Corporation.
		G	Banco Santander, S.A.
		G	Santander Mortgage Corporation.
	19990479	G	Frederick W. Field.
		G	The Seagram Company Ltd.
		G	Interscope TVT JV.
	19990578	G	Royal & Sun Alliance Insurance Group plc.
		G	Pitney Bowes, Inc.
		G	Financial Structures Limited.
	19990598	G	Lumbermens Mutual Casualty Company.
		G	Universal Bonding Holding Company, Inc.
		G	Universal Bonding Holding Company, Inc.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Parcellena P. Fielding, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580 (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 98–34227 Filed 12–24–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 9723063]

General Signal Power Systems, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or

deceptive acts or practices of unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before February 26, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pa. Ave., NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Matthew D. Gold or Linda K. Badger, San Francisco Regional Office, Federal Trade Commission, 901 Market Street, Suite 570, San Francisco, California 94103, (415) 356–5270.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 21, 1998), on the World Wide Web, at ''http://www.ftc.gov/os/actions97.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania, NW, Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or reviews will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from General Signal Power Systems, Inc., a Wisconsin corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

General Signal Power Systems, Inc. (''GSPS''), through its division, Best Power, manufactures and markets computer-related products, including the ''Patriot'' and ''Fortress'' uninterruptible power systems (''UPS''). Uninterruptible power systems are devices that protect consumer appliances, such as personal computers, from damage resulting from power disturbances or power failures.

The Commission's complaint charges the GSPS's advertising contained false and unsubstantiated claims regarding the extent to which these devices can reduce a consumer's computer problems. Specifically, the complaint alleges that GSPS made unsubstantiated claims that: (1) Best Power products can reduce computer problems, such as crashed networks, crashed hard drives, faulty data transmissions, read/write errors, premature failure of components, system lockups, corrupted or lost data, by up to 80%; (2) Best Power products can reduce computer and network downtime up to 80%; (3) 80% of a typical computer's downtime is due to power problems, rather than to hardware or software problems; and (4) a Patriot or Fortress UPS can reduce the number of calls for computer service by 82%.

The Commission's complaint also alleges that GSPS made a false claim that a five-year power quality study showed that the number of calls for computer service dropped 82% after installation of a UPS. In fact, the complaint states that the 82% figure cited in the advertisements was taken from a one-time customer survey. Moreover, the complaint alleges that the underlying consumer survey offered to support the claim that consumers experienced an 82% reduction in computer problems after the installation of a Patriot or Fortress UPS was not competent and reliable. As an example, the complaint alleges that this consumer survey only considered the experience of purchasers of UPSs which feature a ''ferroresonant transformer.'' UPSs which include this feature provide a higher degree of protection from power disturbances than do the Patriot or Fortress models shown in the advertisements at issue.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondent from engaging in similar acts and practices in the future. Part I of the proposed order would prevent GSPS from making any representations regarding UPSs, or any substantially similar product, about: (1) The ability of any such product to reduce computer and network downtime; or (2) The extent to which any such product reduces the number of calls for computer service, unless it possesses and relies upon competent and reliable scientific evidence that substantiates the representations.

To remedy GSPS's misrepresentations regarding the consumer survey, part II of the proposed order prohibits GSPS from misrepresenting, in any manner, expressly or by implication, the existence, contents, validity, results, conclusions or interpretations of any test, study, or research regarding any product. As fencing-in relief, Part III of the proposed order would require the company to possess and rely upon competent and reliable evidence to substantiate any claim regarding the benefits, performance, or efficacy of any computer-related product.

Finally, the proposed order requires the respondent to maintain materials relied upon to substantiate claims covered by the order; to provide copies of the order to certain personnel of the respondent; to notify the Commission of any changes in corporate structure that might affect compliance with the order; and to file one or more reports detailing compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 98–34226 Filed 12–24–98; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Request for Applications Under the Office of Community Services' Fiscal Year 1999 Combined Program Announcement No. OCS.99.01

AGENCY: Office of Community Services, ACF, DHHS.

ACTION: Announcement of availability of funds and request for applications under the Office of Community Services' Fiscal Year (FY) 1999 Combined Program Announcement No. OCS.99.01.

SUMMARY: The Office of Community Services (OCS) invites eligible entities

to submit applications for FY 1999 funding of competitive grants serving low income persons and families under the following OCS programs:

(1) Urban and Rural Community Economic Development
(2) Community Food and Nutrition
(3) Job Opportunities for Low-Income Individuals
Residential Energy Assistance CHallenge (REACH) Option Program

The Office of Community Services intends to publish a second Fiscal Year 1999 Combined Program Announcement at a later date to include the following programs: (1) CSBG/ Training, Technical Assistance and Capacity Building; and (2) Family Violence Prevention and Services. In addition, OCS intends to publish in the **Federal Register** a separate program announcement soon for a new program, The Assets for Independence Demonstration Program. Applications received in response to this FY 1999 Combined Program Announcement OCS.99.01 will be screened and evaluated as indicated in this document. Awards will be contingent on the outcome of the competition and the availability of funds. There is no limit on the number of applications that can be submitted under a specific Program/ Priority Area as long as each application contains a proposal for a different project. *However, an applicant can receive only one grant in each Program/ Priority Area.* Also, applicants that receive more than one grant for a common budget/project period must be mindful that salaries and wages claimed for the same persons cannot collectively exceed 100% of total annual salary.

ADDRESSES: Prior to submitting an application, potential applicants must obtain a copy of the Application Kit, containing additional program information, forms, and instructions. Application Kits are available by writing or calling the Office of Community Services at 5th Floor West, Aerospace Building, 370 L'Enfant Promenade, SW, Washington, DC 20447.

To obtain a copy of the applicable Application Kit, call:

(202) 401–9354 and 401–9345 for Community Economic Development
(202) 401–9354 and 401–9345 for Community Food and Nutrition Kit
(202) 401–1195 for REACH and/or JOLI Kit

FOR FURTHER INFORMATION CONTACT: Requests for program-specific technical information should be directed to the Program Contact Person identified for each program covered by FY 1999 Combined Program Announcement OCS.99.01.

A copy of the **Federal Register** containing FY 1999 Combined Program Announcement OCS.99.01 is available for reproduction at most local libraries and Congressional District Offices. It is also available on the Internet through GPO Access at the following web address:

http://www.access.gpo.gov/su__docs/aces/aces140.html

If FY 1999 Combined Program Announcement OCS.99.01 is not available at these sources, it may be obtained by writing to the office listed under **ADDRESSES** above.

APPLICATION DEADLINES: The closing dates for submission of applications are provided in the Supplementary Information section of the FY 1999 Combined Program Announcement. Mailed applications postmarked after the closing date will be classified as late. Refer to APPLICATION SUBMISSION below for other details.

SUPPLEMENTARY INFORMATION:

A. Program Announcements

Individual Program Announcements *for FY 1999 will not be published in the* **Federal Register**. Rather, OCS is publishing FY 1999 Combined Program Announcement OCS.99.01 in the **Federal Register**. Where applicable, FY 1999 Combined Program Announcement OCS.99.01 contains the following information for each of the above-listed programs: Program Contact Person; Date of Application Kit; Application Deadline; Legislative Authority; Eligible Activities; Type of Awards; Project Periods and Budget Periods; Eligible Applicants and Availability of Funds; and Review Criteria. Detailed information on how to obtain Application Kits containing additional program information, forms, and instructions for preparing and submitting applications can be found in the next paragraph.

B. General Instructions

In order to be considered for a grant under the FY 1999 Combined Program Announcement OCS.99.01, an application must be submitted on the forms supplied and in the manner prescribed by OCS in the applicable Application Kit. When requesting an Application Kit, the applicant must specify the particular Program for which detailed information is desired. This is to ensure receipt of all necessary forms and information, including any program-specific evaluation criteria. Application Kits for each program include all necessary forms and instructions; they are available for reading and downloading from the Internet at the OCS Website at:

http://www.acf.dhhs.gov/programs/ocs

C. Application Submission

Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ACF in time for the independent review to: U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants and Audit Resolution, 370 L'Enfant Promenade, S.W., Mail Stop 6C–462, Washington, D.C. 20447; with the note ''Attention: [insert Name of Program *or* CFDA No.]''.

Mailed applications for the REACH program should be addressed to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services, Division of Community Demonstration Programs, 370 L'Enfant Promenade, S.W., 5th Floor West, Washington, D.C. 20447; Attention: Application for REACH Program.

Applicants must ensure that a legibly dated U.S. Postal Service postmark or a legibly dated, machine produced postmark of a commercial mail service is affixed to the envelope/package containing the application(s). To be acceptable as proof of timely mailing, a postmark from a commercial mail service must include the logo/emblem of the commercial mail service company and must reflect the date the package was received by the commercial mail service company from the applicant. Private Metered postmarks shall not be acceptable as proof of timely mailing. (Applicants are cautioned that express/ overnight mail services do not always deliver as agreed.)

Applications handcarried by applicants, applicant couriers, or by other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m., EST, at the U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants and Audit Resolution, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, S.W., Washington, D.C. 20024, between Monday and Friday (excluding Federal holidays). The address must appear on the envelope/ package containing the application with the note ''Attention: [insert Program Name *or* CFDA No.]''. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

Late applications: Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of the mail service. Determinations to extend or waive deadline requirements rest with ACF's Chief Grants Management Officer.

D. Programs Included in This Combined Program Announcement

Pertinent information of concern for potential applicants for each of the above-listed programs is set forth below:

1. Urban and Rural Community Economic Development (CFDA No. 93.570) Deadline Date: April 23, 1999.

(A) *Program Contact Person:* Thornell Page (202) 401–5333 or Thelma Woodland (202) 401–5294.

(B) *Date of Application Kit:* January 22, 1999.

(C) *Application Deadline:* Applications must be *POSTMARKED* by April 23, 1999. Detailed application submission instructions are included in the Application Kit.

(D) *Legislative Authority:* Section 681(a) and 681(b)(2) of the Community Services Block Grant Act, as amended; and the Coats Human Services Reauthorization Act of 1998 (P.L. 105–285).

(E) *Type of Awards:* Grants.

(F) *Project Periods and Budget Periods:* For Sub-Priority Areas 1.1, 1.2, and 1.4, applicants with projects involving construction only may request a project period of up to 60 months and a budget period of up to 36 months. Applicants for non-construction projects under these priority areas may request project periods of up to 36 months and budget periods of up to 17 months. Sub-Priority Areas 1.5 and 1.6 may request project and budget periods of up to 17 months. For Sub-Priority Area 2.1, grantees will be funded for 24 month project and budget periods. For Sub-Priority Area 1.3, applicants may request project and budget periods of up to 12 months.

(G) *Eligible Applicants and Availability of Funds:* The OCS is authorized to make funds available to support program activities of national or regional significance to alleviate the causes of poverty in distressed communities with special emphasis on community and economic development activities:

(1) Operational Grants (Sub-Priority Area 1.1): Funds are awarded for the purpose of providing employment and ownership opportunities for low-income people through business, physical or commercial development. Eligible applicants are private, locally initiated, non-profit community development corporations (CDCs), governed by a board consisting of low income residents of the community and business and civic leaders which have as a principal purpose planning, developing, or managing low income housing or community development projects.

Funds Available: $17,000,000. Approximately 30 grants will be awarded competitively.

(2) Historically Black Colleges and Universities (Sub-Priority Area 1.2): Funds are awarded to CDCs in conjunction with HBCUs for the purposes stated above. The CDC must partner with an HBCU and the HBCU must play a significant role in the project. Maximum grant award will not exceed $350,000.

Funds Available: $2,100,000. Approximately 6 grants will be awarded competitively.

(3) Pre-Development Grants (Sub-Priority Area 1.3): Funds are provided to recently established CDCs which need funds for evaluating the feasibility of potential projects which address identified needs in low income communities, develop a business plan related to one of those projects, and mobilize resources to be contributed to one of those projects. Eligible applicants are private, locally initiated, non-profit community development corporations (CDCs), governed by a board consisting of low income residents of the community and business and civic leaders. In addition, the CDCs must not have received prior OCS funding; have been in existence for no more than 3 years or have been in existence longer than 3 years, but have no record of participating in economic development-type projects. Maximum grant award will not exceed $75,000.

Funds Available: $750,000. Approximately 10 grants will be awarded competitively.

(4) Developmental Grants (Sub-Priority Area 1.4): Funds are awarded in the form of discretionary grants through a competitive process to provide employment and community development opportunities for low income individuals through business, physical or commercial development. Maximum grant award will not exceed $250,000. Eligible applicants are organizations which received pre-development grants from OCS in FY 1997 and FY 1998.

Funds Available: $2,500,000. Approximately 10 grants will be awarded competitively.

(5) Administration and Management Expertise (Sub-Priority Area 1.5): Funds are awarded in the form of discretionary grants through a competitive process to provide administrative and management expertise to OCS-funded grantees who have less experience in dealing with the day-to-day issues and challenges presented in promoting community economic development as well as to those grantees who have encountered difficulties in operationalizing their work program.

Eligible applicants are OCS-funded grantees that have completed several successful projects.

Funds Available: $500,000. Approximately 1 grant will be awarded competitively.

(6) Training and Technical Assistance (Sub-Priority Area 1.6): Funds are awarded in the form of discretionary grants through a competitive process to develop instructional programs, national conferences, seminars, and other activities to assist community development corporations (CDCs).

Eligible applicants are private non-profit organizations. Applicants must operate on a national basis and have significant and relevant experience in working with CDCs.

Funds Available: $210,000. Approximately 1 grant will be awarded competitively.

(7) Rural Community Development Activities (Sub-Priority 2.0): Funds are provided to help low income rural communities develop the capability and expertise to establish and/or maintain affordable, adequate and safe water and waste water treatment facilities.

Eligible applicants are multi-state, regional private non-profit organizations that can provide training and technical assistance to small, rural communities in meeting their community facility needs.

Funds Available: $3,500,000. Approximately 8 grants will be awarded competitively.

(H) *Review Criteria for Urban and Rural Community Economic Development Applications (Criteria Listed Below):*

1. Criteria for Review and Evaluation of All Applications Submitted Under Sub-Priority Areas 1.1, 1.2, and 1.4

(a) *Criterion I: Analysis of Need (Maximum: 5 points)*

The application documents that the project addresses a vital need in a distressed community. (0–3 points)

Most recent available statistics and other information are provided in support of its contention. (0–2 points)

(b) *Criterion II: Organizational Experience in Program Area and Staff Responsibilities (Maximum: 25 points).*

(i) *Organizational Experience in Program Area (sub-rating: 0–15 points).*

Documentation provided indicates that projects previously undertaken have been relevant and effective and have provided permanent benefits to the low-income population. (0–5 points)

The applicant has demonstrated the ability to implement major activities in such areas as business development, commercial development, physical development, or financial services; the ability to mobilize dollars from sources such as the private sector (corporations, banks, etc.), foundations, the public sector, including State and local governments, or individuals; that it has a sound organizational structure and proven organizational capability; and an ability to develop and maintain a stable program in terms of business, physical or community development activities that will provide needed permanent jobs, services, business development opportunities, and other benefits to community residents. (0–10 points)

(ii) *Staff Skills, Resources and Responsibilities (sub rating: 0–10 points).*

The application describes in brief résumé form the experience and skills of the project director who is not only well qualified, but his/her professional capabilities are relevant to the successful implementation of the project. If the key staff person has not yet been identified, the application contains a comprehensive position description which indicates that the responsibilities to be assigned to the project director are relevant to the successful implementation of the project. (0–5 points)

The applicant has adequate facilities and resources (i.e. space and equipment) to successfully carry out the work plan. (0–2 points)

The assigned responsibilities of the staff are appropriate to the tasks identified for the project and sufficient time of senior staff will be budgeted to assure timely implementation and cost-effective management of the project. (0–3 points)

(c) *Criterion III: Project Implementation (Maximum: 25 points).*

The Work Plan, or Business Plan where appropriate, is both sound and feasible. Briefly, the plan should describe the key work tasks and show how the project objectives will be accomplished including the development of business and creation of jobs for low-income persons during the allowable OCS project period. The project is responsive to the needs identified in the Analysis of Need. (0–5 points).

It sets forth realistic quarterly time targets by which the various work tasks will be completed. (0–5 points).

Critical issues or potential problems that might impact negatively on the project are defined and the project objectives can be reasonably attained despite such potential problems. (0–5 points).

The application contains a full and accurate description of the proposed use of the requested financial assistance. Also, if the project proposes the development of a new or expanding business, service, physical or commercial activity, the application must address applicable elements of a business plan. Refer to the section on ''Instructions for Completing Application Package'' found in the Application Kit for details. Special attention should be given to assure that the financial plan element, which indicates the project's potential and timetable for financial self-sufficiency, is included. It must include the following exhibits for the first three years (on a quarterly basis) of business' operations:

Profit and Loss Forecasts, Cash Flow Projections and Proforma Balance Sheets. Also, an initial Source and Use of Funds statement for all project funding must be included. (0–10 points)

(d) *Criterion IV: Significant and Beneficial Impact (Maximum: 20 points)*

(i) *Significant and Beneficial Impact (sub-rating: Maximum: 0–5 points)*

The proposed project will produce permanent and measurable results that will reduce the incidence of poverty and AFDC/TANF assistance in the community. (0–3 points)

The OCS grant funds, in combination with private and/or other public resources, are targeted into low-income communities, distressed communities, and/or designated enterprise zones and enterprise communities. (0–2 points)

(ii) *Community Empowerment Consideration and Partnership with Child Support Enforcement Agency (Maximum: 0–5 points)*

Special consideration will be given to applicants who are located in areas which are characterized by poverty and other indicators of socio-economic distress such as a poverty or AFDC/TANF assistance rate of at least 20%, designation as an Empowerment Zone or Enterprise Community (EZ/EC), high levels of unemployment, high levels of incidences of violence, gang activity, crime, drug use and low-income noncustodial parents of children receiving AFDC/TANF. (0–3 points)

Applicants should document that they were involved in the preparation and implementation of a comprehensive community-based strategic plan to achieve both economic and human development in an integrated manner; and how the proposed project will support the goals of that plan. Also applicants should document that they have entered into partnership agreements with local Child Support Enforcement agencies to increase capability of low-income parents and families to fulfill their parental responsibilities. (0–2 points)

Note: Applicants that have projects located in EZ/EC target areas or those who have included signed current agreements with child support enforcement agencies will automatically receive the maximum 2 points.

(iii) *Cost-per-Job (sub-rating: 0–5 points)*

During the project period, the proposed project will create new, permanent jobs or maintain permanent jobs for low-income residents at a cost-per-job below $15,000 in OCS funds *unless* there are extenuating circumstances, i.e., Alaska where the cost of living is much higher.

Note: The maximum number of points will be given to those applicants proposing estimated cost-per-job for low-income residents of $10,000 or less of OCS requested funds. Higher cost-per-job estimates will receive correspondingly fewer points unless adequately justified by extenuating circumstances.)

(iv) *Career Development Opportunities (sub-rating: 0–5 Points)*

The application documents that the jobs to be created for low-income people have career development opportunities which will promote self-sufficiency.

(e) *Criterion V: Public-Private Partnerships (Maximum: 20 Points)*

(i) *Mobilization of resources: (sub-rating: 15 points)*

The application documents that the applicant will mobilize from public and/or private sources cash and/or in-kind contributions valued at an amount equal to the OCS funds requested. Applicants documenting that the value of such contributions will be at least equal to the OCS funds requested will receive the maximum number of points

for this sub-criterion. Lesser contributions will be given consideration based upon the value documented.

Note 1: Cash resources such as cash or loans contributed from all project sources (except for those contributed directly by the applicant) must be documented by letters of commitment from third parties making the contribution. Third party in-kind contributions such as equipment or real property contributed by applicant or third parties must be documented by an inventory for equipment and a copy of deed or other legal document for real property. In addition, future or projected program income such as gross or net profits from the project or business operations will not be recognized as mobilized or contributed resources.

Note 2: Applicants under Sub-Priority Area 1.2 who have a signed, written agreement for a partnership with Historically Black Colleges and Universities are deemed to have fully met this criterion and will receive the maximum number of points if they include the agreement with the HBCU.

(ii) *Integration/coordination of services: (sub-rating: 5 points).*

The applicant demonstrates a commitment to or agreements with local agencies responsible for administering, child support enforcement, employment, education and training programs (such as JTPA) to ensure that welfare recipients, at-risk youth, displaced workers, public housing tenants, homeless and low-income individuals and low-income noncustodial parents will be trained and placed in the newly created jobs. The applicant provides written agreements from the local AFDC/TANF or other employment, education and training office, and child support enforcement agency indicating what actions will be taken to integrate/coordinate services that relate directly to the project for which funds are being requested. (0–2 points.)

Specifically, the agreements should include: (1) the goals and objectives that the applicant and (a) the AFDC/TANF or other employment, education and training office and/or (b) child support enforcement agency expect to achieve through their collaboration; (2) the specific activities/actions that will be taken to integrate/coordinate services on an on-going basis; (3) the target population that this collaboration will serve; (4) the mechanism(s) to be used in integrating/coordinating activities; (5) how those activities will be significant in relation to the goals and objectives to be achieved through the collaboration; and (6) how those activities will be significant in relation to their impact on the success of the OCS-funded project. (0–2 points.)

The applicant should also provide documentation that illustrates the organizational experience related to the employment education and training program (refer to Criterion II for guidelines). (0–1 points.)

(f) *Criterion VI: Budget Appropriateness and Reasonableness (Maximum: 5 points.)*

Funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the project. (0–2 points.)

The application includes a detailed budget break-down for each of the budget categories in the SF–424A. The applicant presents a reasonable administrative cost. (0–2 points.)

The estimated cost to the government of the project also is reasonable in relation to the anticipated results. (0–1 point.)

2. Criteria for Review and Evaluation of Applications Submitted Under Sub-Priority Area 1.3

(a) *Criterion I: Analysis of Need (Maximum: 15 points.)*

The application documents that there are clearly identified needs in a low-income community not being effectively addressed. (0–10 points.)

Most recent available statistics and other information are provided in support of its contention. (0–5 points)

(b) *Criterion II: Organizational Capability and Capacity (Maximum: 20 Points)*

(i) *Organizational experience in program area (sub-rating: 5 Points).*

Each applicant must briefly show why their organization can successfully implement the project for which they are requesting funds. (0–3 points)

If an applicant has a history of prior achievements in economic development within the past three (3) years, it should address the relevance and effectiveness of those projects undertaken, especially their cost effectiveness and the relevance and effectiveness of any services and the permanent benefits provided to the targeted population. (0–2 points)

(ii) *Management capacity (sub-rating: 5 points).*

Applicants must fully detail their ability to implement sound and effective management practices and if they have been recipients of other Federal or other governmental grants, they must also detail that they have consistently complied with financial and program progress reporting and audit requirements. (0–3 points)

Applicants should submit any available documentation on their management practices and progress reporting procedures along with a statement by a Certified or Licensed Public Accountant as to the sufficiency of the applicant's financial management system to protect adequately any Federal funds awarded under the application submitted. (0–2 points)

Note: The documentation of the applicant's management practices, etc., and statement from the Accountant on the financial management system must address the applicant organization's own internal system rather than an external system of an affiliate, partner or management support organization, etc.

(iii) *Staffing (sub-rating: 5 points).*

The application must fully describe (e.g., résumés) the experience and skills of key staff showing that they are not only well qualified but that their professional capabilities are relevant to the successful implementation of the project.

(iv) *Staffing responsibilities (sub-rating: 5 points).*

The application must describe how the assigned responsibilities of the staff are appropriate to the tasks identified for the project.

(c) *Criterion III: Project Design, Implementation and Evaluation (Maximum: 30 Points)*

(i) *Project implementation component (sub-rating: 25 points.)*

The work plan must address a clearly identified need in the low-income community described in Criterion I. The plan must include a methodology to evaluate the feasibility of potential projects that conform to the type projects and activities allowable under Sub-priority areas 1.1, 1.2, and 1.4. (0–10 points.)

It must set forth realistic quarterly time schedules of work tasks by which the objectives (including the development of a business plan and mobilization of resources) will be accomplished. Because quarterly time schedules are used by OCS as a key instrument to monitor progress, failure to include these time targets will seriously reduce an applicant's point score in this criterion. (0–10 points.)

It must define critical issues or potential problems that might impact negatively on the project and it must indicate how the project objectives will be attained notwithstanding any such potential problems. (0–5 points)

(ii) *Evaluation component (sub-rating: 5 points).*

All proposals should include a self-evaluation component. The evaluation data collection and analysis procedures should be specifically oriented to assess

the degree to which the stated goals and objectives are achieved. (0–3 points)

Qualitative and quantitative measures reflective of the scheduling and task delineation in (1) above should be used to the maximum extent possible. This component should indicate the ways in which the potential grantee would integrate qualitative and quantitative measures of accomplishment and specific data into its program progress reports that are required by OCS from all pre-development grantees. (0–2 points)

(d) *Criterion IV: Significant and Beneficial Impact (Maximum: 25 Points)*

Funding under this Sub-priority area is targeted to result in a Business Plan for a proposed project. The proposed project around which the Business Plan is to be developed with the use of OCS grant funds must be targeted into low-income communities, and/or designated empowerment zones or enterprise communities with the goals of increasing the economic conditions and social self-sufficiency of residents. Also the project proposes to produce permanent and measurable results that will reduce the incidence of poverty and AFDC/TANF recipients in the low-income area targeted. (0–20 points)

Note: This Sub-priority area permits applicants to conduct several feasibility studies related to various potential projects. However on completion of the studies, one proposed project must be selected and a business plan prepared for the selected project. The activity targets mobilization of non-discretionary program dollars from private sector individuals, public resources, corporations, and foundations including the utilization of Historically Black Colleges and Universities, if the proposed project is implemented. (0–5 points)

(e) *Criterion V: Budget Appropriateness and Reasonableness (Maximum: 10 points)*

Funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the project. The estimated cost to the government of the project also is reasonable in relation to the anticipated results. (0–5 points)

The application includes a narrative detailed budget break-down for each of the budget categories in the SF 424–A. The applicant presents a reasonable administrative cost. (0–5 points)

3. Criteria for Review and Evaluation of Applications Submitted Under Sub-Priority Area 1.5

(a) *Criterion I: Organizational Experience in Program Area and Staff Responsibilities (Maximum: 20 points)*

(i) *Organizational Experience in Program Area (sub-rating: 0–10 points)*

Applicant has documented the capability to provide leadership in solving long-term and immediate problems locally and/or nationally in such areas as business development, commercial development, organizational and staff development, board training, and micro-entrepreneurship development. (0–2 points)

Applicant must document a capability (including access to a network of skilled individuals and/or organizations) in two or more of the following areas: Business Management, including strategic planning and fiscal management; Finance, including development of financial packages and provision of financial/accounting services; and Regulatory Compliance, including assistance with zoning and permit compliance. (0–2 points)

Further, the applicant has the demonstrated ability to mobilize dollars from sources such as the private sector (corporations, banks, foundations, etc.) and the public sector, including state and local governments. (0–2 points)

Applicant also demonstrates that it has a sound organizational structure and proven organizational capability as well as an ability to develop and maintain a stable program in terms of business, physical or community development activities that have provided permanent jobs, services, business development opportunities, and other benefits to poverty community residents. (0–2 points)

Applicants must indicate why they feel that their successful experiences would be of assistance to existing grantees which are experiencing difficulties in implementing their projects. (0–2 points)

(ii) *Staff Skills, Resources and Responsibilities (sub-rating: 0–10 points)*

The application describes in brief resume form the experience and skills of the project director who is not only well qualified, but who has professional capabilities relevant to the successful implementation of the project. If the key staff person has not yet been identified, the application contains a comprehensive position description which indicates that the responsibilities to be assigned to the project director are relevant to the successful implementation of the project. (0–5 points)

The applicant has adequate facilities and resources (i.e. space and equipment) to successfully carry out the work plan. (0–3 points)

The assigned responsibilities of the staff are appropriate to the tasks identified for the project and sufficient time of senior staff will be budgeted to assure timely implementation and cost effective management of the project. (0–2 points)

(b) *Criterion II: Work Program (Maximum: 30 points)*

Based upon the applicant's knowledge and experience related to OCS's Discretionary Grants Program (particularly community economic development), the application should demonstrate in some specificity a thorough understanding of the problems a grantee may encounter in implementing a successful project. (0–15 points)

The application should include a strategy for assessing the specific nature of the problems, outlining a course of action and identifying the resources required to resolve the problems. (0–15 points)

(c) *Criterion III: Significant and Beneficial Impact (Maximum: 30 points)*

Project funds under this sub-priority area must be used for the purposes of transferring expertise directly, or by a contract with a third party, to other OCS funded grantees. Applicants must document how the success or failure of collaboration with these grantees will be documented. (0–15 points)

Applicants must demonstrate an ability to disseminate results on the kinds of programmatic and administrative expertise transfer efforts in which they participated and successful strategies that they may have developed to share expertise with grantees during the grant period. (0–10 points)

Applicants must also state whether the results of the project will be included in a handbook, a progress paper, an evaluation report or a general manual and why the particular methodology chosen would be most effective. (0–5 points)

(d) *Criterion IV: Public-Private Partnerships (15 Points)*

The applicant demonstrates that it has worked with local, regional, state or national offices to ensure that AFDC/TANF recipients, at-risk youth, displaced workers, public housing tenants, low-income noncustodial parents, homeless and otherwise low-income individuals have been trained and placed in newly created jobs. (0–10 points)

Applicant should demonstrate how it will design a comprehensive strategy which makes use of other available resources to resolve typical and recurrent grantee problems. (0–5 points)

(e) *Criterion V: Budget Appropriateness and Reasonableness (Maximum: 5 points)*

Applicant documents that the funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the project. The application includes a narrative detailed budget break-down for each of the appropriate budget categories in the SF–424A. (0–3 points)

The estimated cost to the government of the project also is reasonable in relation to the anticipated results. (0–2 points)

4. Criteria for Review and Evaluation of Applications Submitted Under Sub-Priority Area 1.6

(a) *Criterion I: Need for Assistance (Maximum: 10 points)*

The application documents that the project addresses a vital nationwide need related to the purposes of Priority Area 1.0 and provides data and information in support of its contention.

(b) *Criterion II: Organizational Experience in Program Area and Staff Responsibilities (Maximum: 20 points)*

(i) Organizational Experience

Applicant has documented the capability to provide leadership in solving long-term and immediate problems locally and/or nationally in such areas as business development, commercial development, organizational and staff development, board training, and micro-entrepreneurship development. Applicant must document a capability (including access to a network of skilled individuals and/or organizations) in two or more of the following areas: Business Management, including strategic planning and fiscal management; Finance, including development of financial packages and provision of financial/accounting services; and Regulatory Compliance, including assistance with zoning and permit compliance. (0–10 points)

(ii) Staff Skills

The applicant's proposed project director and primary staff are well qualified and their professional experiences are relevant to the successful implementation of the proposed project. (0–10 points)

(c) *Criterion III: Work Plan (Maximum 35 points)*

Based upon the applicant's knowledge and experience related to OCS's Discretionary Grants Program (particularly community economic development), the applicant must develop and submit a detailed and specific work plan that is both sound and feasible. Specifically, the work plan should include the following elements:

(i) Demonstrate that all activities are comprehensive and nationwide in scope, and adequately described and appropriately related to the goals of the program. (0–10 points)

(ii) Demonstrate in some specificity a thorough understanding of the kinds of training and technical assistance that can be provided to the network of Community Development Corporations. (0–10 points)

(iii) Delineate the tasks and sub-tasks involved in the areas necessary to carry out the responsibilities to include training, technical assistance, research, outreach, seminars, etc. (0–5 points)

(iv) State the intermediate and end products to be developed by task and sub-task. (0–5 points)

(v) Provide realistic time frames and chronology of key activities for the goals and objectives. (0–5 points)

(d) *Criterion IV: Significant and Beneficial Impact (Maximum: 25 points)*

Project funds under this sub-priority area must be used for the purpose of providing training and technical assistance on a national basis to the network of Community Development Corporations.

Applicant must document how the success or failure of the assistance provided will be documented.

(i) Application should adequately describe how the project will assure long-term program and management improvements for Community Development Corporations; (0–10 points)

(ii) The project will impact on a significant number of Community Development Corporations; (0–10 points)

(iii) Applicant should document how the project will leverage or mobilize significant other non-federal resources for the direct benefit of the project; (0–5 points)

(e) Criterion V: Budget Reasonableness (Maximum 10 points)

(i) The resources requested are reasonable and adequate to accomplish the project. (0–5 points)

(ii) Total costs are reasonable and consistent with anticipated results. (0–5 points)

5. Criteria for Review and Evaluation of all Applications Under Priority Area 2.1

(a) *Criterion I: Analysis of Need (Maximum: 5 points)*

The application documents that the project addresses a vital need in a distressed community and provides statistics and other data and information in support of its contention.

(b) *Criterion II: Organizational Experience in Program Area and Staff Responsibilities (Maximum: 15 points)*

(i) *Organizational Experience in Program Area (sub-rating: 0–5 points)*

Documentation provided indicates that projects previously undertaken have been relevant and effective and have provided permanent benefits to the low-income population.

Organizations which propose providing training and technical assistance have detailed competence in the specific program priority area and as a deliverer with expertise in the fields of training and technical assistance. If applicable, information provided by these applicants also addresses related achievements and competence of each cooperating or sponsoring organization.

(ii) *Staff Skills, Resources and Responsibilities (sub-rating 0–10 points)*

The application describes in brief resume form the experience and skills of the project director who is not only well qualified, but his/her professional capabilities are relevant to the successful implementation of the project. If the key staff person has not yet been identified, the application contains a comprehensive position description which indicates that the responsibilities to be assigned to the project director are relevant to the successful implementation of the project. The applicant has adequate facilities and resources (i.e. space and equipment) to successfully carry out the work plan. The assigned responsibilities of the staff are appropriate to the tasks identified for the project and sufficient time of senior staff will be budgeted to assure timely implementation and cost effective management of the project.

(c) *Criterion III: Project Implementation (Maximum: 25 points)*

The Business Plan is both sound and feasible. The project is responsive to the needs identified in the Analysis of Need. It sets forth realistic quarterly time targets by which the various tasks will be completed. Critical issues or potential problems that might impact negatively on the project are defined and the project objectives can be reasonably attained despite such potential problems.

(d) *Criterion IV: Significant and Beneficial Impact (Maximum: 30 points)*

The application contains a full and accurate description of the proposed use of the requested financial assistance. The proposed project will produce permanent and measurable results that will reduce the incidence of poverty in the areas targeted and significantly enhance the self sufficiency of program participants. Results are quantifiable in terms of program area expectations, e.g., number of units of housing rehabilitated, agricultural and non-agricultural job placements, etc. The

OCS grant funds, in combination with private and/or other public resources, are targeted into low-income and/or distressed communities and/or designated empowerment zones and enterprise communities.

(e) *Criterion V: Public-Private Partnerships (Maximum: 20 points)*

The application documents that the applicant will mobilize from public and/or private sources cash and/or in-kind contributions valued at an amount equal to the OCS funds requested. Applicants documenting that the value of such contributions will be at least equal to the OCS funds requested will receive the maximum number of points for this Criterion. Lesser contributions will be given consideration based upon the value documented.

(f) *Criterion VI: Budget Appropriateness and Reasonableness (Maximum: 5 points)*

Funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the project. The application includes a narrative detailed budget break-down for each of the budget categories in the SF–424A. The applicant presents a reasonable administrative cost. The estimated cost to the government of the project also is reasonable in relation to the anticipated results.

2. Community Food and Nutrition (CFN) (CFDA No. 93.571) Deadline Date: March 26, 1999

(A) *Program Contact Person:* Thornell Page (202) 401–5333 or Catherine Rivers (202) 401–5252.

(B) *Date of Application Kit:* January 25, 1999.

(C) *Application Deadline:* Applications must be *POSTMARKED* by March 26, 1999. Detailed application submission instructions are included in the Application Kit.

(D) *Legislative Authority:* Section 681 of the Community Services Block Grant Act, as amended; and the Coats Human Services Reauthorization Act of 1998 (Pub. L. 105–285).

(E) *Eligible Activities:* The OCS is authorized to make funds available for the purpose of coordinating existing private and public food assistance resources, whenever such coordination is determined to be inadequate, to better serve low income populations; assisting low income communities to identify potential sponsors of child nutrition programs and to initiate new programs in underserved or unserved areas; and developing innovative approaches to meet the nutrition needs of low income people. Funds are provided to improve the health and nutrition status of low income persons through improved access to healthy nutritious foods or by other means.

(F) *Type of Awards:* Grants.

(G) *Project Period and Budget Period:* For most projects, OCS will grant funds for 1 year. However, in rare instances, depending on the characteristics of any individual project and on the justification presented by the applicant in its application, a grant may be made for up to 17 months.

(H) *Eligible Applicants and Availability of Funds:* Eligible applicants are States and public and private non-profit agencies/organizations with a demonstrated ability to successfully develop and implement such programs and activities.

Funds Available: $2,000,000. Approximately 33 grants will be awarded competitively.

(I) *Review Criteria for Community Food and Nutrition Applications (Criteria Listed Below):*

Criteria for Review and Evaluation of Community Food and Nutrition Applications

Criterion I: Analysis of Needs/Priorities (Maximum: 10 Points)

(a) Target area and population to be served are adequately described. (0–4 Points) In addressing the above Criterion, the applicant should include a description of the target area and population to be served including specific details on any minority population(s) to be served.

(b) Nature and extent of problem(s) and/or need(s) to be addressed are adequately described and documented. (0–6 Points) In addressing the above Criterion, the applicant should include a discussion of the nature and extent of the problem(s) and/or need(s), including specific information on minority populations(s).

Criterion II: Adequacy of Work Program (Maximum: 25 Points)

(a) Realistic quarterly time targets are set forth by which the various work tasks will be completed. (0–10 Points)

(b) Activities are adequately described and appear reasonably likely to achieve results which will have a desired impact on the identified problems and/or needs. (0–15 Points) In addressing the above Criterion, the applicant should address the basic criteria and legislatively-mandated activities and should include:

1. Project priorities and rationale for selecting them which relate to the specific nutritional problem(s) and/or need(s) of the target population which were identified under Criterion I;

2. Goals and objectives which speak to the(se) problem(s) and/or need(s); and

3. Project activities which if successfully carried out can be reasonably expected to result in the achievement of these goals and objectives.

Criterion III: Significant and Beneficial Impact (Maximum: 30 Points)

(a) Applicant proposes to significantly improve or increase nutrition services to low-income people and such improvements or increases are quantified. (0–15 Points)

(b) Project incorporates promotional health and social services activities for low-income people, along with nutritional services. (0–5 Points)

(c) Project will significantly leverage or mobilize other community resources and such resources are detailed and quantified. (0–5 Points)

(d) Project addresses problem(s) which can be resolved by one-time OCS funding or demonstrates that non-Federal funding is available to continue the project without Federal support. (0–5 Points)

In addressing the above Criterion, the applicant *must include* quantitative data for Items (a), (b), and (c), and discuss how the beneficial impact relates to the relevant legislatively-mandated program activities and the problems and/or needs described under Criterion I.

Criterion IV: Coordination/Services Integration (Maximum: 15 Points)

(a) Project shows evidence of coordinated community-based planning in its development, including strategies in the Work Program to carry on activities in collaboration with other locally funded Federal programs (such as DHHS health and social services and USDA Food and Consumer Service programs) in ways that will eliminate duplication and will, for example: 1) unite funding streams at the local level to increase program outreach and effectiveness, 2) facilitate access to other needed social services by coordinating and simplifying intake and eligibility certification processes for clients, or 3) bring project participants into direct interaction with holistic family development resources in the community where needed. (0–10 Points)

(b) Community Empowerment Consideration—Special consideration will be given to applicants who are located in areas which are characterized by poverty and other indicators of socio-economic distress such as a poverty rate of at least 20 percent, designation as an Empowerment Zone or Enterprise Community, high levels of unemployment, and high levels of incidences of violence, gang activity, crime, or drug use. Applicants should document that they were involved in the preparation and planned

implementation of a comprehensive community-based strategic plan to achieve both economic and human development in an integrated manner. (0–5 Points)

If the applicant is receiving funds from the State for community food and nutrition activities, the applicant should address how the funds are being utilized, and how they will be coordinated with the proposed project to maximize the effectiveness of both. If State funds are being used in the project for which OCS funds are being requested, their usage should be specifically described.

Criterion V: Organization Experience in Program Area and Staff Responsibilities (Maximum: 15 Points)

(a) Organizational experiences in program area (0–5 Points) Documentation provided indicates that projects previously undertaken have been relevant and effective and have provided permanent benefits to the low-income population. Organizations which propose providing training and technical assistance have detailed competence in the program area and as a deliverer with expertise in the fields of training and technical assistance. If applicable, information provided by these applicants also addresses related achievements and competence of each cooperating or sponsoring organization.

(b) Management History (0–5 Points) Applicants must demonstrate their ability to implement sound and effective management practices and if they have been recipients of other Federal or other governmental grants, they must also document that they have consistently complied with financial and program progress reporting and audit requirements. Such documentation may be in the form of references to any available audit or progress reports and should be accompanied by a statement by a Certified or Licensed Public Accountant as to the sufficiency of the applicant's financial management system to protect adequately any Federal funds awarded under the application submitted.

(c) Staffing Skills, Resources and Responsibilities (0–5 Points)

The application adequately describes the experience and skills of the proposed project director showing that the individual is not only well qualified, but that his/her professional capabilities are relevant to the successful implementation of the project. If the key staff person has not yet been identified, the application contains a comprehensive position description which indicates that the responsibilities to be assigned to the project director are relevant to the successful implementation of the project. The application must indicate that the applicant has adequate facilities and resources (i.e. space and equipment) to successfully carry out the work plan.

In addressing the above Criterion, the applicant *must clearly show* that sufficient time of the Project Director and other senior staff will be budgeted to assure timely implementation and oversight of the project and that the assigned responsibilities of the staff are appropriate to the tasks identified for the project.

Criterion VI: Adequacy of Budget (Maximum: 5 Points)

The budget is adequate and administrative costs are appropriate in relation to the services proposed. (0–5 Points)

3. Job Opportunities for Low Income Individuals (JOLI) (CFDA No. 93–593) Deadline Date: April 22, 1999

(A) *Program Contact Person:* Thornell Page (202) 401–5333 or Nolan Lewis (202) 401–5282.

(B) *Date of Application Kit:* January 22, 1999.

(C) *Application Deadline:* Applications must be *POSTMARKED* by April 22, 1999. Detailed application submission instructions are included in the Application Kit.

(D) *Legislative Authority:* Section 505 of the Family Support Act of 1988, Public Law 100–485, as amended, authorizes the Secretary of DHHS to enter into agreements with non-profit organizations (including community development corporations) for the purpose of conducting projects designed to create employment and business opportunities for certain low income individuals. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104–193, reauthorized Section 505 of the Family Support Act of 1988 with certain amendments effective July 1, 1997.

(E) *Eligible Activities:* Projects funded under the JOLI Program are for the creation of new jobs and employment opportunities, through micro-business/self-employment, the start-up of a new business, or the expansion of an existing business. Project activities may include training assistance, and support of participants to enable them successfully to fill such jobs; but proposed projects for the training and placement of low income individuals in already existing jobs or jobs expected to be available independent of any job creation activity of the proposed project, will not be considered for funding.

(F) *Type of Awards:* Grants.

(G) *Project Periods and Budget Periods:* Refer to Application Kit for details.

(H) *Eligible Applicants and Availability of Funds:* Applicants eligible to apply for grants under the JOLI program must be not-for-profit organizations exempt from taxation under Section 501(c)(3) or (4) of the Internal Revenue Code. Applicants are encouraged to mobilize resources.

Funds Available: $5,500,000. Approximately 5 to 10 grants will be awarded. JOLI grant awards are approved for up to 3 year project periods and are funded for up to a maximum of $500,000 for the full project period.

(I) Review Criteria for Job Opportunities for Low Income Individuals Applications (Criteria Listed Below)

Criteria for Review of JOLI Applications

Applications which pass the pre-rating review will be assessed and scored by reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and weaknesses under each applicable criterion published in the Announcement.

The in-depth assessment and review process will use the following criteria coupled with the specific requirements described in Part III of the Application Kit. Scoring will be based on a total of 100 points.

The ultimate goals of the projects to be funded under the JOLI Program are: 1) to achieve, through project activities and interventions, the creation of employment opportunities for TANF recipients and other low-income individuals which can lead to economic self-sufficiency of members of the communities served; 2) to evaluate the effectiveness of these interventions and of the project design through which they were implemented; and 3) thus to make possible the replication of successful programs. As noted here, OCS intends to make the awards of all the above grants on the basis of brief, concise applications.

In order to simplify the application preparation and review process, OCS seeks to keep grant proposals cogent and brief. Applications with project narratives (excluding appendices) of more than 30 letter-sized pages of 12 c.p.i. type or equivalent on a single side will not be reviewed for funding. Applicants should prepare and assemble their project description using

the following outline of required project elements. They should, furthermore, build their project concept, plans, and application description upon the guidelines set forth for each of the project elements.

For each of the Project Elements or Sub-Elements below, there is at the end of the discussion a suggested number of pages to be devoted to the particular element or sub-element. These are suggestions only; but the applicant must remember that the overall Project Narrative cannot be longer than 30 pages.

The competitive review of proposals will be based on the degree to which applicants:

(1) incorporate each of the Elements and Sub-Elements below into their proposals, so as to:

(2) describe convincingly a project that will develop new employment or business opportunities for TANF recipients and other low income individuals that can lead to a transition from dependency to economic self-sufficiency;

(3) propose a realistic budget and time frame for the project that will support the successful implementation of the work plan to achieve the project's goals in a timely and cost effective manner; and

(4) provide for the testing and evaluation of the project design, implementation, and outcomes so as to make possible replication of a successful program.

Element I: Organizational Experience in Program Area and Staff Skills, Resources and Responsibilities

Sub Element I(a). Agency's Experience and Commitment in Program Area: Weight of 0–10 points

Applicants should cite their organization's capability and relevant experience in developing and operating programs which deal with poverty problems similar to those to be addressed by the proposed project. They should also cite the organization's experience in collaborative programming and operations which involve evaluations and data collection. Applicants should identify agency executive leadership in this section and briefly describe their involvement in the proposed project and provide assurance of their commitment to its successful implementation.

The application should include documentation which briefly summarizes two similar projects undertaken by the applicant agency and the extent to which the stated and achieved performance targets, including permanent benefits to low-income populations, have been achieved. The application should note and justify the priority that this project will have within the agency, including the facilities and resources that it has available to carry it out.

It is suggested that applicants use no more than 2 pages for this Sub-Element.

Note: The maximum number of points will be given only to those organizations with a demonstrated record of achievement in promoting job creation and enterprise opportunities for low-income people.

Sub Element I(b). Staff Skills, Resources and Responsibilities: Weight of 0–10 points

The application must identify the two or three individuals who will have the key responsibility for managing the project, coordinating services and activities for participants and partners, and for achieving performance targets. The focus should be on the qualifications, experience, capacity and commitment to the program of the Executive Officials of the organization and the key staff persons who will administer and implement the project. The person identified as Project Director should have supervisory experience, experience in finance and business, and experience with the target population. Because this is a demonstration project within an already-established agency, OCS expects that the key staff person(s) would be identified, if not hired.

The application must also include a resume of the third party evaluator, if identified or hired; or the minimum qualifications and a position description for the third-party evaluator, who must be a person with recognized evaluation skills who is organizationally distinct from, and not under the control of, the applicant. (See Element IV, Project Evaluation, below, for fuller discussion of Evaluator qualifications.)

Actual resumes of key staff and position descriptions should be included in an Appendix to the proposal.

It is suggested that applicants use no more than 3 pages for this Sub-Element.

Element II. Project Theory, Design, and Plan

OCS seeks to learn from the application why and how the project as proposed is expected to lead to the creation of new employment opportunities for low-income individuals which can lead to significant improvements in individual and family self-sufficiency.

Applicants are urged to design and present their project in terms of a conceptual cause-effect framework. In the following paragraphs, a framework is described that suggests a way to present a project so as to show the logic of the cause-effect relations between project activities and project results. Applicants don't have to use the exact language described; but it is important to present the project in a way that makes clear the cause-effect relationship between what the project plans to do and the results it expects to achieve.

Sub-Element II(a). Description of Target Population, Analysis of Need, and Project Assumptions: (Weight of 0–10 points)

The project design or plan should begin with identifying the underlying assumptions about the program. These are the beliefs on which the proposed program is built. The assumptions about the needs of the population to be served; about the current services available to that population, and where and how they fail to meet their needs; about why the proposed services or interventions are appropriate and will meet those needs; and about the impact the proposed interventions will have on the project participants.

In other words, the underlying assumptions of the program are the applicant's analysis of the needs and problems to be addressed by the project, and the applicant's theory of how its proposed interventions will address those needs and problems to achieve the desired result. Thus a strong application is based upon a clear description of the needs and problems to be addressed and a persuasive understanding of the causes of those problems.

In this sub-element of the proposal, the applicant must precisely identify the target population to be served. The geographic area to be impacted should then be briefly described, citing the percentage of residents who are low-income individuals and TANF recipients, as well as the unemployment rate, and other data that are relevant to the project design.

The application should include an analysis of the identified personal barriers to employment, job retention and greater self-sufficiency faced by the population to be targeted by the project. (These might include such problems as illiteracy, substance abuse, family violence, lack of skills training, health or medical problems, need for child care, lack of suitable clothing or equipment, or poor self-image.) The application should also include an analysis of the identified community systemic barriers which the project will seek to overcome. These might include lack of jobs (high unemployment rate); lack of public transportation; lack of markets; unavailability of financing, insurance or bonding; inadequate social

services (employment service, child care, job training); high incidence of crime; inadequate health care; or environmental hazards (such as toxic dumpsites or leaking underground tanks). Applicants should be sure not to overlook the personal and family services and support that might be needed by project participants after they are on the job which will enhance job retention and advancement. If the jobs to be created by the proposed project are themselves designed to fill one or more of the needs, or remove one or more of the barriers so identified, this fact should be highlighted in the discussion (e.g. jobs in child care, health care, or transportation).

It is suggested that applicants use no more than 4 pages for this Sub-Element.

Sub-Element II(b). Project Strategy and Design: Interventions, Outcomes, and Goals: Weight of 0–10 points

The work plan must describe the proposed project activities, or interventions, and explain how they are expected to result in outcomes which will meet the needs of the program participants and assist them to overcome the identified personal and systemic barriers to employment, job retention and self-sufficiency. In other words, what will the project staff do with the resources provided to the project and how will what they do (interventions) assist in the creation and sustaining of employment and business opportunities for program participants in the face of the needs and problems that have been identified.

The underlying assumptions concerning client needs and the theory of how they can be effectively addressed, which are discussed above, lead in the project design to the conduct of a variety of project activities or interventions, each of which is assumed to result in immediate changes, or outcomes.

The immediate changes lead to intermediate outcomes; and the intermediate outcomes lead to the attainment of the final project goals.

The applicant should describe the major activities, or interventions, which are to be carried out to address the needs and problems identified in Sub-Element II(a); and should discuss the immediate changes, or outcomes, which are expected to result. These are the results expected from each service or intervention immediately after it is provided. For example, a job readiness training program might be expected to result in clients having increased knowledge of how to apply for a job, improved grooming for job interviews, and improved job interview skills; or business training and training in bookkeeping and accounting might be expected to result in project participants making an informed decision about whether they were suited for entrepreneurship.

At the next level are the intermediate outcomes which result from these immediate changes. Often an intermediate project outcome is the result of several immediate changes resulting from a number of related interventions such as training and counseling. Intermediate outcomes should be expressed in measurable changes in knowledge, attitudes, behavior, or status/condition. In the above examples, the immediate changes achieved by the job readiness program, coupled with technical assistance to an employer in the expansion of a business could be expected to lead to intermediate outcomes of creation of new job openings and the participant applying for a job with the company. The acquisition of business skills, coupled with the establishment of a loan fund, could be expected to result in the actual decision to go into a particular business venture or seek the alternative track of pursuing job readiness and training.

Finally, the application should describe how the achievement of these intermediate outcomes will be expected to lead to the attainment of the project goals: employment in newly created jobs, new careers in non-traditional jobs, successful business ventures, or employment in an expanded business, depending on the project design. Applicants must remember that if the major focus of the project is to be the development and start-up of a new business or the expansion of an existing business, then a Business Plan which follows the outline in the JOLI Application Kit must be submitted as an Appendix to the Proposal.

Applicants don't have to use the exact terminology described above, but it is important to describe the project in a way that makes clear the expected cause-and-effect relationship between what the project plans to do—the activities or interventions, the changes that are expected to result, and how those changes will lead to attainment of the project goals of new employment opportunities and greater self-sufficiency. The competitive review of this Sub-Element will be based on the extent to which the application makes a convincing case that the activities to be undertaken will lead to the projected results.

It is suggested that applicants use no more than 4 pages for this Sub-Element.

Sub-Element II(c). Work Plan: Weight of 0–10 points.

Once the project strategy and design framework are established, the applicant should present the highlights of a work plan for the project. The plan should explicitly tie into the project design framework and should be feasible, i.e., capable of being accomplished with the resources, staff, and partners available. The plan should briefly describe the key project tasks, and show the timelines and major milestones for their implementation. Critical issues or potential problems that might affect the achievement of project objectives should be explicitly addressed, with an explanation of how they would be overcome, and how the objectives will be achieved notwithstanding any such problems. The plan should be presented in such a way that it can be correlated with the budget narrative included earlier in the application.

Applicant may be able to use a simple Gantt or time line chart to convey the work plan in minimal space.

It is suggested that applicants use no more than 3 pages for this Sub-Element.

Element III. Significant and Beneficial Impact

Sub-Element III(a). Quality of Jobs/ Business Opportunities: Weight of 0–10 points.

The proposed project is expected to produce permanent and measurable results that will reduce the incidence of poverty in the community and lead welfare recipients from welfare dependency toward economic self-sufficiency. Results are expected to be quantifiable in terms of: the creation of permanent, full-time jobs; the development of business opportunities; the expansion of existing businesses; or the creation of non-traditional employment opportunities. In developing business opportunities and self-employment for TANF recipients and low-income individuals, the applicant proposes, at a minimum, to provide basic business planning and management concepts, and assistance in preparing a business plan and loan package.

The application should document that:

—the business opportunities to be developed for eligible participants will contribute significantly to their progress toward self-sufficiency; and/or

—jobs to be created for eligible participants will contribute significantly to their progress toward self-sufficiency. For example, they should provide salaries that exceed the minimum wage, plus benefits such as health insurance, child care

and career development opportunities.

It is suggested that applicants use no more than 3 pages for this Sub-Element.

Sub-Element III(b). Community Empowerment Consideration: Weight of 0–3 points.

Special consideration will be given to applicants who are located in areas which are characterized by conditions of extreme poverty and other indicators of socio-economic distress such as a poverty rate of at least 20%, designation as an Empowerment Zone or Enterprise Community, high levels of violence, gang activity or drug use; and who document that in response to these conditions they have been involved in the preparation and planned implementation of a comprehensive community-based strategic plan to achieve both economic and human development in an integrated manner; and how the proposed project will support the goals of that plan.

It is suggested that applicants use no more than 2 pages for this Sub-Element.

Sub-Element III(c). Support for Noncustodial Parents: Weight of 0–2 points.

Applicants who have entered into partnership agreements with local Child Support Enforcement Agencies to develop and implement innovative strategies to increase the capability of low-income parents and families to fulfill their parental responsibilities; and specifically, to this end, to provide for referrals to the funded projects of identified income eligible families and noncustodial parents economically unable to provide child support, will also receive special consideration.

To receive the full credit of two points, applicants should include as an appendix to the application, a signed letter of agreement with the local CSE Agency for referral of eligible noncustodial parents to the proposed project.

It is suggested that applicants use no more than 1 page for this Sub-Element.

Sub-Element III(d). Cost-per-Job: Weight of 0–5 points.

The Application should document that during the project period, the proposed project will create new, permanent jobs through business opportunities or non-traditional employment opportunities for low-income residents at a cost-per-job below $15,000 in OCS funds. The cost per job should be calculated by dividing the total amount of grant funds requested (e.g., $420,000) by the number of jobs to be created (e.g., 60) which would equal the cost-per-job ($7,000)). If any other calculations are used, include the methodology and rationale in this section. In making calculations of cost-per-job, only jobs filled by low-income project participants may be counted. (See Part III, Section I of the Application Kit.) [Note: Except in those instances where independent reviewers identify extenuating circumstances related to business development activities, or high wage levels and living costs such as in Hawaii or Alaska, the maximum number of points will be given only to those applicants proposing cost-per-job created estimates of $5,000 or less of OCS requested funds. Higher cost-per-job estimates will receive correspondingly fewer points.] It is suggested that applicants use no more than 1 page for this Sub-Element.

Element IV. Project Evaluation: Weight of 0–15 points.

Sound evaluations are essential to the JOLI Program. OCS requires applicants to include in their applications a well thought through outline of an evaluation plan for their project. The outline should explain how the applicant proposes to answer the key questions about how effectively the project is being/was implemented; whether the project activities, or interventions, achieved the expected immediate outcomes, and why or why not (the Process Evaluation); and whether and to what extent the project achieved its stated goals, and why or why not (the Outcome Evaluation). Together, the Process and Outcome Evaluations should answer the question ''what did this program accomplish and why did it work/not work?''.

Applicants are not being asked to submit a complete and final Evaluation Plan as part of their proposal; but they must include:

(1) A well thought through outline of an evaluation plan which identifies the principal cause-and-effect relationships to be tested, and which demonstrates the applicant's understanding of the role and purpose of both Process and Outcome Evaluations (see previous paragraph);

(2) a reporting format based on the grantee's documentation of its activities (interventions) and their effectiveness, to be included in the grantee's semi-annual Program Progress Report, which will provide OCS with insights and lessons learned, as they become evident, concerning the various aspects of the Work Plan, such as recruitment, training, support, public-private partnerships, and coordination with other community resources, as they may be relevant to the proposed project;

(3) the identity and qualifications of the proposed third-party evaluator, or if not selected, the qualifications which will be sought in choosing an evaluator, which must include successful experience in evaluating social service delivery programs, and the planning and/or evaluation of programs designed to foster self-sufficiency in low income populations; and

(4) a commitment to the selection of a third-party evaluator approved by OCS, and to completion of a final evaluation design and plan, in collaboration with the approved evaluator and the OCS Evaluation Technical Assistance Contractor during the six-month start-up period of the project, if funded.

Applicants should ensure, above all, that the evaluation outline presented is consistent with their project design. A clear project framework of the type recommended earlier identifies the key project assumptions about the target populations and their needs, as well as the hypotheses, or expected cause-effect relationships to be tested in the project; the proposed project activities, or interventions, that will address those needs in ways that will lead to the achievement of the project goals of self-sufficiency. It also identifies in advance the most important process and outcome measures that will be used to identify performance success and expected changes in individual participants, the grantee organization, and the community.

Finally, as noted above, the outline should provide for prompt reporting, concurrently with the semi-annual program progress reports, of lessons learned during the course of the project, so that they may be shared without waiting for the final evaluation report.

For all these reasons, it is important that each successful applicant have a third-party evaluator selected and performing at the very latest by the time the work program of the project is begun, and if possible before that time so that he or she can participate in the final design of the program, and in order to assure that data necessary for the evaluation will be collected and available. Plans for selecting an evaluator should be included in the application narrative. A third-party evaluator must have knowledge about and have experience in conducting process and outcome evaluations in the job creation field, and have a thorough understanding of the range and complexity of the problems faced by the target population.

The competitive procurement regulations (45 CFR Part 74, Sections 74.40–74.48, esp. 74.43) apply to service contracts such as those for evaluators.

It is suggested that applicants use no more than 3 pages for this Element, plus

the Resume or Position Description for the evaluator, which should be in an Appendix.

Element V. Public/Private Partnerships: Weight of 0–10 points

The proposal should briefly describe any public/private partnerships which will contribute to the implementation of the project. Where partners' contributions to the project are a vital part of the project design and work program, the narrative should describe undertakings of the partners, and a partnership agreement, specifying the roles of the partners and making a clear commitment to the fulfilling of the partnership role, must be included in an Appendix to the Proposal. The firm commitment of mobilized resources must be documented and submitted with the application in order to be given credit under this Element. The application should meet the following criteria:

—Where other resources are mobilized, the application must provide documentation that public and/or private sources of cash and/or third-party in-kind contributions will be available, in the form of letters of commitment from the organization(s)/individual(s) from which resources will be received. Applications that can document dollar for dollar contributions equal to the OCS funds and demonstrate that the partnership agreement clearly relates to the objectives of the proposed project, will receive the maximum number of points for this criterion. Lesser contributions will be given consideration based upon the value documented.

(**Note:** Even though there is no matching requirement for the JOLI Program, grantees will be held accountable for any match, cash or in-kind contribution proposed or pledged as part of an approved application.) Partners involved in the proposed project should be responsible for substantive project activities and services. Applicants should note that partnership relationships are not created via service delivery contracts.

It is suggested that applicants use no more than 4 pages for this Element.

Element VI. Budget Appropriateness and Reasonableness: Weight of 0–5 points

Applicants are required to submit Federal budget forms with their proposals to provide basic applicant and project information (SF 424) and information about how Federal and other project funds will be used (424A). (See Part VI of the Application Kit.) Immediately following the completed Federal budget forms, (Attachments B and C) applicants must submit a Budget Narrative, or explanatory budget information which includes a detailed budget break-down for each of the budget categories in the SF–424A. This Budget Narrative is not considered a part of the Project Narrative, and does not count as part of the thirty pages; but rather should be included in the application following the budget forms.

The duration of the proposed project and the funds requested in the budget must be commensurate with the level of effort necessary to accomplish the goals and objectives of the project. The budget narrative should briefly explain how grant funds will be expended and show the appropriateness of the Federal funds and any mobilized resources to accomplish project purposes within the proposed timeframe. The estimated cost to the government of the project should be reasonable in relation to the project's duration and to the anticipated results, and include reasonable administrative costs, if an indirect cost rate has not been negotiated with a cognizant Federal agency.

Applicants are encouraged to use job titles and not specific names in developing the application budget. However, the specific salary rates or amounts for staff positions identified must be included in the application budget.

Resources in addition to OCS grant funds are encouraged both to augment project resources and to strengthen the basis for continuing partnerships to benefit the target community. The amounts of such resources, their appropriateness to the project design, and the likelihood that they will continue beyond the project time frame will be taken into account in judging the application. As noted in Element V, above, even though there is no matching requirement for the JOLI Program, grantees will be held accountable for any match, cash or in-kind contribution proposed or pledged as part of an approved application.

Applicants should include funds in the project budget for travel by Project Directors and Chief Evaluators to attend two national evaluation workshops in Washington, D.C. *The score for this element will be based on the budget form (SF–424A) and the associated detailed budget narrative.*

4. Residential Energy Assistance Challenge (REACH) Option Program (CFDA No. 93.568) Deadline Date: May 3, 1999

(A) *Program Contact Person:* Anna Guidery (202) 401–5318 or Richard Saul (202) 401–9341

(B) *Date of Application Kit:* February 1, 1999

(C) *Application Deadline:* Applications must be *POSTMARKED* by May 3, 1999. Detailed application submission instructions are included in the Application Kit.

(D) *Program Priority Areas:* Under Priority Area 1.0, funds will be awarded to States, District of Columbia, and Puerto Rico for REACH projects administered by non-profit Community Based Organizations, with a priority given to Community Action Agencies and other eligible entities under Section 673 of the Community Services Block Grant Act [42 U.S.C. 9902(1)]. Under Priority Area 2.0, funds will be awarded to Indian Tribes and Tribal Organizations and other Insular Areas.

(E) *Legislative Authority:* Section 2607B of the Low Income Home Energy Assistance Act, Title XXVI of the Omnibus Budget Reconciliation Act of 1981, Public Law 97–35, as amended [42 U.S.C. 8626b].

(F) *Eligible Activities:* The OCS is authorized to provide competitive grants to LIHEAP grantees that develop innovative programs, administered by community-based organizations, to reduce the energy vulnerability of LIHEAP-eligible households.

(G) *Type of Awards:* Grants.

(H) *Eligible Applicants and Availability of Funds:* Eligible applicants are States, Indian Tribes and Tribal Organizations (including Alaskan Native Villages), and Insular Areas that receive direct grants from the Department of HHS under LIHEAP which are expended for implementing a LIHEAP program. Funds are awarded to LIHEAP grantees on the basis of a competitive application process. Funds available: Approximately $6,875,000. Up to 10 grants will be awarded competitively to States, the District of Columbia and Puerto Rico under Priority Area 1.0. Approximately 4 to 12 grants will be awarded competitively to Indian Tribes, Tribal Organizations, and other insular areas under Priority Area 2.0.

(I) *Review Criteria for REACH Plans (Criteria Listed Below):*

1. Program Elements, Review and Assessment Criteria for REACH Plans under Priority Area 1.0 (States, District of Columbia, and Puerto Rico)

(a) Criterion I: Organizational Experience and Capability (Maximum: 20 points)

(b) Criterion II: Project Theory, Design and Plan (Maximum: 30 points)

(c) Criterion III: Holistic Program Strategies, Mobilization of Resources, and Project Innovations (Maximum: 10 points)

(d) Criterion IV: Budget Appropriateness (Maximum: 10 points)

(e) Criterion V: Significant and Beneficial Impact (Maximum: 10 points)

(f) Criterion VI: Community Empowerment Consideration (Maximum: 5 points)

(g) Criterion VII: Management and Organization of Project (Maximum: 5 points)

(h) Criterion VIII: Project Evaluation (Maximum: 10 points)

2. Program Elements, Review and Assessment Criteria for REACH Plans under Priority Area 2.0 (Tribes and Insular Areas other than Puerto Rico)

(a) Criterion I: Organizational Experience and Capability (Maximum: 10 points)

(b) Criterion II: Project Theory, Design and Plan (Maximum: 50 points)

(c) Criterion III: Management and Organization of Project (Maximum: 10 points)

(d) Criterion IV: Budget Appropriateness (Maximum: 10 points)

(e) Criterion V: Significant and Beneficial Impact (Maximum: 10 points)

(f) Criterion VI: Project Evaluation (Maximum: 10 points)

Additional Requirements: Applicants for grants must also meet the following requirements:

A. Paperwork Reduction Act of 1995 #0970–0062

Under the Paperwork Reduction Act of 1995, Public Law 104–13, the Department is required to submit to OMB for review and approval any reporting and record keeping requirements in regulations, including Program Announcements. 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. This Combined Program Announcement does not contain information collection requirements beyond those approved for ACF grant announcements/applications under OMB Control Number 0970–0062.

B. Intergovernmental Review

With the exception of the REACH program, the programs discussed in this Combined Program Announcement are covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

NOTE: State/Territory participation in the Intergovernmental Review process does not signify applicant eligibility for financial assistance under a program. A potential applicant must meet the eligibility requirements of the program for which it is applying prior to submitting an application to its SPOC, if applicable, or to ACF.

As of September 1998, a number of jurisdictions have elected not to participate in the Executive Order process. Applicants from these jurisdictions or for projects administered by federally recognized Indian Tribes need take no action in regard to E.O. 12372. A list of these non-participating jurisdictions can be found in each Application Kit.

Although the non-participating jurisdictions no longer participate in the process, entities which have met the eligibility requirements of the program are still eligible to apply for a grant even if a State, Territory, Commonwealth, etc. does not have a SPOC. All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions.

Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule. When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants and Audit Resolution, 370 L'Enfant Promenade, S.W., Mail Stop 6C–462, Washington, D.C. 20447.

Dated: December 18, 1998.

Donald Sykes,

Director Office of Community Services.

[FR Doc. 98–34279 Filed 12–24–98; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–1201]

GEO Specialty Chemicals; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that GEO Specialty Chemicals has filed a petition proposing that the food additive regulations be amended to provide for the safe use of the salt of dimethylolpropionic acid and triisopropanolamine as a pigment dispersant.

FOR FURTHER INFORMATION CONTACT: Ellen M. Waldron,Center for Food Safety and Applied Nutrition (HFS–215),Food and Drug Administration,200 C St. SW.,Washington, DC 20204,202–418–3089.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 9B4636) has been filed by GEO Specialty Chemicals, c/o Keller and Heckman LLP, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposes to amend the food additive regulations in § 178.3725 *Pigment dispersants* (21 CFR 178.3725) to provide for the safe use of the salt of dimethylolpropionic acid and triisopropanolamine as a dispersant for pigments intended for food-contact applications.

The agency has determined under 21 CFR 25.32(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: December 7, 1998.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–34170 Filed 12–24–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–1200]

Zeneca Biocides; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Zeneca Biocides has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 2-methyl-4,5-trimethylene-4-isothiazolin-3-one as a preservative for paper coatings intended for use in contact with fatty food.

FOR FURTHER INFORMATION CONTACT: Mark A. Hepp, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3098.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 7B4526) has been filed by Zeneca Biocides, Foulkstone 1405, 2nd, 1800 Concord Pike, P.O. Box 15457, Wilmington, DE 19850-5457. The petition proposes to amend the food additive regulations in § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) to provide for the safe use of 2-methyl-4,5-trimethylene-4-isothiazolin-3-one as a preservative for paper coatings intended for use in contact with fatty foods.

The agency has determined under 21 CFR 25.32(q) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: December 7, 1998.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–34172 Filed 12–24–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–0755]

Determination of Regulatory Review Period for Purposes of Patent Extension; Meridia®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Meridia® 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 Meridia® (sibutramine hydrochloride monohydrate). Meridia® is indicated for management of obesity, including weight loss and maintenance of weight loss. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Meridia® (U.S. Patent No. 4,746,680) from Knoll Aktiengesellschaft, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated November 19, 1998, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Meridia® 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 Meridia® is 4,323 days. Of this time, 3,486 days occurred during the testing phase of the regulatory review period, while 837 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:* January 23, 1986. The applicant claims January 24, 1986, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was January 23, 1986, 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:* August 9, 1995. The applicant claims August 24, 1995, as the date the new drug application (NDA) for Meridia® (NDA 20–632) was initially submitted. However, FDA records indicate that NDA 20–632 was submitted on August 9, 1995.

3. *The date the application was approved:* November 22, 1997. FDA has verified the applicant's claim that NDA 20–632 was approved on November 22, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,825 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before February 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 June 28, 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: December 15, 1998.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 98–34171 Filed 12–24–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following 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 Eye Institute Special Emphasis Panel.

Date: January 7, 1999.

Time: 3:00 PM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd., Suite 350, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Andrew P. Mariani, Phd, Chief, Scientific Review Branch, 6120 Executive Blvd, Suite 350, Rockville, MD 20892, 301/496–5561.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: December 18, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–34284 Filed 12–24–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Deafness and Other Communication Disorders; Notice of 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 meetings of the National Deafness and Other Communication Disorders Advisory Council.

The meetings 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 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/or contract proposals 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 and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Deafness and Other Communication Disorders Advisory Council Planning Subcommittee.

Date: January 21, 1999.

Open: 2:00 PM to 3:00 PM.

Agenda: Report from Institute Director.

Place: National Institutes of Health, Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, MD 20892.

Closed: 3:00 PM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: CRAIG A. JORDAN, PHD, ACTING DIRECTOR, NIH/NIDCD/DEA, EXECUTIVE PLAZA SOUTH, ROOM 400C, BETHESDA, MD 20892–7180, 301–496–8693.

Name of Committee: National Deafness and Other Communication Disorders Advisory Council.

Date: January 21–22, 1999.

Open: January 22, 1999, 8:30 AM to 11:00 AM.

Agenda: Report from Institute Director, discussion of Institute programs.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

Closed: January 22, 1999, 11:00 AM to 2:30 PM.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

Contact Person: CRAIG A. JORDAN, PHD, ACTING DIRECTOR, NIH/NIDCD/DEA, EXECUTIVE PLAZA SOUTH, ROOM 400C, BETHESDA, MD 20892–7180, 301–496–8693.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: December 18, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–34283 Filed 12–24–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4369–N–13]

Notice of Proposed Information; Collection: Comment Request

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: February 26, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding

this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Shelia Jones, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room *7232*, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Deirdre Maguire-Zinni, Director, Entitlement Communities Division, (202) 708–1577 (this is not a toll-free number) for copies of the proposed documents.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Community Development Block Grant (CDBG) Urban County and New York Towns Qualification/Requalification Processes.

OMB Control Number, if applicable: N/A.

Description of the need for the information and proposed use: The Housing and Community Development Act of 1974, as amended, at sections 102(a)(6) and 102(e) requires that any county seeking qualification as an urban county notify each unit of general local government within the county that such unit may enter into a cooperation agreement to participate in the CDBG program as part of the county. Section 102(d) of the statute specifies that the period of qualification will be three years. Based on these statutory provisions, counties seeking qualification/requalification as urban counties under the CDBG program must provide information to HUD on a triannual basis identifying the communities within the county participating as a part of the county for purposes of receiving CDBG funds. The population of included units of local government for each eligible urban county and New York town are used in HUD's allocation of CDBG funds for all entitlement and State CDBG grantees.

New York towns must undertake a similar process on a triannual basis because under New York state law, towns that contain incorporated units of general local government within their boundaries cannot qualify as metropolitan cities unless they execute cooperation agreements with *all* such incorporated units. The New York towns qualification process must be completed prior to the qualification of urban counties so that any town that does not qualify as a metropolitan city can still have an opportunity to participate as part of an urban county.

Agency form numbers, if applicable: N/A.

Members of affected public: Urban counties and New York towns that are eligible as entitlement grantees of the CDBG program.

Elimination of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of response: There are currently 147 qualified urban counties participating in the CDBG program that must requalify on a triannual basis. On average, 2 new counties qualify each year. The burden on new counties is greater than for existing counties that requalify. The Department estimates new grantees use, on average, 72 hours to review instructions, contact communities in the county, prepare and review agreements, obtain legal opinions, have agreements executed at the local and county level, and prepare and transmit copies of required documents to HUD. The Department estimates that counties that are requalifying use, on average, 40 hours to complete these actions. The time savings on requalification is primarily a result of a grantee's ability to use agreements with no specified end date. Use of such ''renewable'' agreements enables the grantee to merely notify affected participating units of government in writing that their agreement will automatically be renewed unless the unit of government terminates the agreement in writing, rather than executing a new agreement every three years.

Average of 2 new urban counties qualify per year	2×hrs	=	144 hrs.
147 grantees requalify on triannual basis; average annual number of respondents = 49	49×40 hrs.	=	1,960 hrs.
Total burden		=	2,104 hrs.

There are 10 New York towns that requalify on a triannual basis. They, too, may use ''renewable'' agreements which reduces the burden required under this process. The Department estimates that New York towns, on average, use 30 hours on a triannual basis to complete the requalification process.

10 towns requalify on triannual basis; average annual number of respondents = 3.3	3.3×30	=	100 hrs.
Total combined burden hours:		=	2,204 hrs.

This total number of combined burden hours can be expected to increase by 144 hours annually given the average of 2 new urban counties becoming eligible entitlement grantees each year.

Status of the proposed information collection: Existing collection in use without an OMB control number.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: December 21, 1998.

Cardell Cooper,

Assistant Secretary for Community Planning and Development.

[FR Doc. 98–34315 Filed 12–24–98; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4424–C–03]

Notice of Funding Availability for: the HUD-Administered Small Cities Community Development Block Grant (CDBG) Program—Fiscal Year 1999, and the Section 108 Loan Guarantee Program for Small Communities in New York State; Correction

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of Funding Availability (NOFA); correction.

SUMMARY: On November 25, 1998, HUD published a notice of funding availability (NOFA) announcing: (1) the availability of approximately $54,558,000 in Fiscal Year (FY) 1999 funding for the HUD-administered Small Cities Program in New York State under the Community Development Block Grant (CDBG) Program; and (2) the availability of a maximum of approximately $200,000,000–$250,000,000 in FY 1999 funding under the Section 108 Loan Guarantee program for small cities in New York State.

On December 7, 1998, a correction notice was published to clarify that the application due date for this NOFA is February 3, 1999.

This correction notice removes language in the ''Final Selection'' portion of the NOFA that is not applicable to the FY 1999 funding process for this program.

FOR FURTHER INFORMATION CONTACT: Yvette Aidara, State and Small Cities Division, Office of Community Planning and Development, Department of Housing and Urban Development, Room 7184, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1322 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On November 25, 1998 (63 FR 65486), HUD published a notice of funding availability (NOFA) (FR–4424) announcing:

(1) The availability of approximately $54,558,000 in Fiscal Year (FY) 1999 funding for the HUD-administered Small Cities Program in New York State under the Community Development Block Grant (CDBG) Program; and

(2) The availability of a maximum of approximately $200,000,000–$250,000,000 in FY 1999 funding under the Section 108 Loan Guarantee program for small cities in New York State.

On December 7, 1998, a correction notice was published to clarify that the application due date for this NOFA is February 3, 1999.

This correction notice, published in today's **Federal Register**, removes language in the ''Final Selection'' portion of the NOFA that is not applicable to the FY 1999 funding process for this program. Specifically, Section I.E.4 of the NOFA (''Final Selection''), which is found in the first column at 63 FR 65497, contains language regarding the submission of two applications. This language was in last year's NOFA for this program and was appropriate because the FY 1997/1998 NOFA, published on December 16, 1997, solicited and authorized applicants to submit a separate application for FY 1997 and 1998 funding. This language should have been removed from the FY 1999 NOFA because, for this fiscal year, applications are for FY 1999 funding only. This correction notice removes this language.

Accordingly, FR Doc. 98–31516, Notice of Funding Availability for: the HUD-Administered Small Cities Community Development Block Grant (CDBG) Program—Fiscal Year 1999; and the Section 108 Loan Guarantee Program for Small Communities in New York State (FR–4424–N–01), published in the **Federal Register** on November 25, 1998 (63 FR 65486), is corrected as follows:

On page 65497, in the first column, the first paragraph of the subsection titled ''4. Final Selection'' (the introductory paragraph) is corrected to read as follows:

The total points received by a project for all of the selection factors are added, and the project is ranked against all other projects from all applications regardless of the program areas in which the projects were rated. The highest ranked projects will be funded to the extent funds are available. In the case of ties at the funding line, HUD will use the following criteria in order to break ties:

* * * * *

Dated: December 21, 1998.

Camille E. Acevedo,

Assistant General Counsel for Regulations.

[FR Doc. 98–34188 Filed 12–24–98; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: Todd Detrick, Stroudsburg, PA, PRT–006038.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Phillip Netznik, New Lenox, IL, PRT–006189.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Wayne Bowser, Brookshire, TX, PRT–006175.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Miguel Gonzalez, Houston, TX, PRT–006174.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa,

for the purpose of enhancement of the survival of the species.

Applicant: Efrain Gonzalez, Houston, TX, PRT–006173.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Riverglenn, Feline Conservation Park, West Fork, AR, PRT–004336.

The applicant requests a permit to export and re-import captive-born tiger (*Panthera tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notificatation covers activities covered by the applicant over a three year period.

Applicant: Riverbanks Zoological Park and Botanical Garden, Columbia, SC, PRT–005517.

The applicant requests a permit to import blood and tissues from wild and captive born Bali mynahs (*Leucopsar rothschildi*) from zoological parks, safari parks and other collections in Indonesia. For the purpose of enhancement of the survival of the species through scientific research.

Applicant: Svend and Lilly Kristensen, Brandon, FL, PRT–703702.

The applicant requests a permit to re-export and re-import captive born leopards (*Panthera pardus*), and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notificatation covers activities conducted by the applicant over a three year period.

Applicant: Ferdinand and Anton Fercos Hantig, Las Vegas, NV, PRT–839021.

The applicant requests a permit to export and re-import captive-born tiger (*Panthera tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notificatation covers activities conducted by the applicant over a three year period.

Applicant: Miami Metrozoo, Miami, FL, PRT–005256.

The applicant requests a permit to import one captive born cheetah (*Acinonyx jubatus*) cub from South Africa for the purpose of enhancement to the survival of the species through conservation education.

Applicant: Praveen Karanth, Albany, NY, PRT–005708.

The applicant requests a permit to export DNA samples from Gray langur (*Semnopithecus entellus*) and Francois' langur (*Trachypithecus francoisi*) to University of Munich, Germany for the purpose of enhancement to the survival of the species through scientific research.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 et seq.) and the regulations governing marine mammals (50 CFR 18).

Applicant: Paul R. Labrecque, Lincoln, MN, PRT–006117.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Northern Beaufort Sea polar bear population, Northwest Territories, Canada for personal use.

Applicant: Dennis Leistico, Elk River, MN, PRT–006163.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the M'Clintock Channel polar bear population, Northwest Territories, Canada for personal use.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: December 21, 1998.

Mary Ellen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98–34207 Filed 12–24–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Letters of Authorization to Take Marine Mammals

AGENCY: Notice of issuance of Letters of Authorization to take marine mammals incidental to oil and gas industry activities.

SUMMARY: In accordance with Section 101(a)(5) of the Marine Mammal Protection Act of 1972, as amended, and the U.S. Fish and Wildlife Service implementing regulations (50 CFR 18.27), notice is hereby given that Letters of Authorization to take polar bears and Pacific walrus incidental to oil and gas industry activities have been issued to the following companies:

Company	Activity	Date issued
ARCO Alaska, Inc	Exploration	October 9, 1998.
ARCO Alaska, Inc	Exploration	October 16, 1998.
ARCO Alaska, Inc	Exploration	October 16, 1998.
BP Exploration, (Alaska) Inc	Exploration	October 19, 1998.
BP Exploration, (Alaska) Inc	Exploration	October 19, 1998.
BP Exploration, (Alaska) Inc	Exploration	October 19, 1998.

Company	Activity	Date issued
ARCO Alaska, Inc	Exploration	October 19, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Rosa Meehan or Mr. John W. Bridges, at the U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, Alaska 99503, (800) 362–5148 or (907) 786–3800.

SUPPLEMENTARY INFORMATION: All Letters of Authorization were issued in accordance with U.S. Fish and Wildlife Service Federal Rule and Regulations ''Marine Mammals; Incidental Take During Specified Activities'' (58 FR 60402).

Dated: December 17, 1998.

David B. Allen,

Regional Director.

[FR Doc. 98–34325 Filed 12–24–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–933–99–1320–01; COC 62540]

Colroado; Notice of Invitation for coal Exploration License Application, Ark Land Company

Pursuant to the Mineral Leasing Act of February 25, 1920, as amended, and to Title 43, Code of Federal Regulations, Subpart 3410, members of the public are hereby invited to participate with Ark Land Company in a program for the exploration of unleased coal deposits owned by the United States of America in the following described lands located in Gunnison County, Colorado:

T. 14 S., R. 90 W., 6th P.M.

Sec. 10, NE¼SW¼, and SE¼;
Sec. 11, S½N½, and S½;
Sec. 12, S½N½, and S½;
Sec. 13, NW¼NE¼, NW¼, and NW¼SW¼;
Sec. 14, all;
Sec. 15, E½E½ and NW¼SE¼.

The area described contains approximately 2,240 acres.

The application for coal exploration license is available for public inspection during normal business hours under serial number COC 62540 at the Bureau of Land Management (BLM), Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215, and at the Uncompahgre Field Office, 2505 South Townsend Avenue, Montrose, Colorado 81401.

Written Notice of Intent to Participate should be addressed to the attention of the following persons and must be received by them within 30 days after publication of this Notice of Invitation in the **Federal Register**:

Karen Purvis, Solid Minerals Team, Resource Services, Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215

and

Wendell Koontz, Ark Land Company, P.O. Box 591, Somerset, Colorado 81434

Any party electing to participate in this program must share all costs on a pro rata basis with Ark Land Company and with any other party or parties who elect to participate.

Dated: December 15, 1998.

Karen Purvis,

Solid Minerals Team Resource Services.

[FR Doc. 98–34198 Filed 12–24–98; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–030–09–1220–00: GP9–0065]

Restrictions on Public Lands in Leslie Gulch Area of Critical Environmental Concern

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Notice of closures and restrictions of use within Leslie Gulch Area of Critical Environmental Concern.

SUMMARY: The Vale District is initiating certain closures and restrictions as part of the implementation of the approved 1995 Leslie Gulch Area of Critical Environmental Concern (ACEC) Management Plan. The closures and restrictions are consistent with decisions of the ACEC management plan, and implementation is necessary to protect and enhance the identified relevant and important ACEC values of high quality scenery, California bighorn sheep habitat and special status plant species. The approved ACEC management plan complies with all applicable subparts of Title 43 of the Code of Federal Regulations (CFR), Part 1610 (Resource Management Planning) and meets all requirements of the National Environmental Policy Act.

Persons exempt from the closures and restrictions include any authorized Federal, State or local officers, or any member of an organized rescue or fire-fighting unit in performance of official duties recognized by the Bureau of Land Management, Vale District, or any person authorized by the Bureau of Land Management, Vale District.

In accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations under Title 43, CFR, part 8340, the Dago Gulch Road south of the northern gate in T. 26 S., R. 45 E., section 19 is designated closed to motorized and mechanical vehicles.

Pursuant to Closure and Restriction Orders under Title 43 CFR, part 8364.1, the following acts are prohibited on all public lands within the boundaries of the Leslie Gulch ACEC:

1. Motorized and Mechanized Vehicles. Operating a motorized or mechanized vehicle within the ACEC other than on designated roads, parking areas and campgrounds (currently only Slocum Creek Campground).

2. Camping/Campfires.

(a) Camping outside designated campgrounds (currently only Slocum Creek Campground).

(b) Use of open fires outside of designated campgrounds (currently only Slocum Creek Campground).

3. Recreational Domestic Livestock. Using or possessing a horse or other domestic livestock for any purpose.

4. Minerals and Vegetation. Collection of living or dead vegetation or any mineral or petrified wood without authorization.

5. Rock Climbing.

(a) Placement of permanent anchoring devices.

(b) Altering of natural features.

(c) Leaving temporary hardware on natural features or at climbing locations for longer than needed for immediate use.

(d) Competitive or commercial rock climbing activities.

The lands administered by the Bureau of Land Management for which this order applies are within the Maheur Resource Area. The approved management plan and boundary of the Leslie Gulch ACEC can be viewed at the Vale District office. This order remains in effect until further notice.

EFFECTIVE DATE: December 28, 1998.

PENALTY: Any person failing to comply with this closure and restriction order may be subject to imprisonment for not more than 12 months, or a fine in accordance with the applicable provisions of 18 U.S.C. 3571, or both.

FOR FURTHER INFORMATION CONTACT: Roy L. Masinton, Malheur Resource Area Manager, Bureau of Land Management, 100 Oregon Street, Vale, Oregon 97918, Telephone (541) 473–3144.

Roy L. Masinton,

Malheur Resource Area Manager.

[FR Doc. 98–34180 Filed 12–24–98; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–067–1990; CA–40204]

Notice of Intent To Prepare an Environmental Impact Statement (EIS) on the Proposed Expansion of an Existing Gold Mining/Processing Operation

AGENCY: Bureau of Land Management.

ACTION: Notice of intent.

SUMMARY: Newmont Gold Company (NGC), operator of the Mesquite gold mine located in Imperial County, California, has proposed to expand mining operations by a plan modification submitted to the Bureau of Land Management (BLM), El Centro field office, on November 30, 1998. Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the BLM will direct the preparation of an environmental impact statement (EIS) by a third party contractor on the impacts of an expansion of this gold mining/processing operation. Comments are being requested to help identify significant issues or concerns related to the proposed action, to determine the scope of the issues (including alternatives) that need to be analyzed, and to eliminate from detailed study those issues that are not significant. Supporting documentation should be included with comments recommending that the EIS address specific environmental issues. Public scoping meetings will be held (see below).

DATES: For scoping meetings and comments: Three public scoping meetings will be held during 1999 on the following dates and locations: January 26, from 7–10 pm, at the Best Western Yuma Inn Suites, Palm Canyon Room, 1450 Castle Dome Ave., Yuma, Az. ph (520) 783–8341; January 27, from 7–10 pm, at the El Centro Community Center, 375 South First Street, El Centro, Ca. ph (760) 337–4555; and January 28, from 7–10 pm, at San Diego State University, Aztec Center-Backdoor Room, 5500 Campanile Drive, San Diego, Ca. ph (619) 594–5278. Written comments must be postmarked no later than Monday, February 8, 1999.

ADDRESSES: Written comments should be addressed to the Field Manager, Bureau of Land Management, El Centro Field Office, 1661 South 4th Street, El Centro, California 92243, ATTN: Geologist.

FOR FURTHER INFORMATION CONTACT: Kevin Marty, Bureau of Land Management, El Centro Field Office, 1661 South 4th Street, El Centro, California 92243, (760) 337–4400.

SUPPLEMENTARY INFORMATION: This Mesquite Mine began operations under an approved plan of operations during 1985. Since this time, several expansions and plan modifications have occurred, which are summarized within the approved Mesquite Mine consolidated plan of operations dated October, 1995. According to the Code of Federal Regulations found at Title 43 CFR 3809.1–7, a significant modification of an approved plan must be reviewed and approved by the authorized officer (i.e., BLM) in the same manner as the initial plan. Pursuant to Title 43 CFR 3809.1–7, Newmont has submitted a plan of operations for their proposed mine expansion for approval by the Bureau of Land Management.

This plan modification is now under review by the BLM and other Federal, State and local agencies. The public may review this document at the BLM, El Centro Field Office, 1661 South 4th Street, El Centro, CA 92243, or at the Imperial County Planning Department, 939 Main Street, Suite B–1, El Centro, CA 92243.

The expansion would allow the company to continue extracting and processing economical gold deposits, delineated by drilling programs' initiated during 1988 and continuing to date. Current ore reserves would be depleted by the end of year 2000, while expansion would increase the mine life a projected seven years into year 2006. The plan modification proposes to process approximately 60 million tons of ore and 180 million tons of waste rock by the expansion of two existing pits: the Big Chief and Rainbow open pits. The pit expansions would encompass approximately 300 acres of Federal, State and private (patented) land, of which 150 acres would be new land disturbance. The plan amendment also describes expansion of an existing heap leach facility on approximately 70 acres of private land to accommodate the new leach material; alternative methods for storage of waste rock, either in existing mined-out open pits, at new or expanded out-of-pit storage areas, or a combination of both; and construction of ancillary facilities including roads, fencing and drainage diversions.

Dated: December 18, 1998.

Thomas Zale,

Acting Field Manager.

[FR Doc. 98–34248 Filed 12–24–98; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Meeting Notice

SUMMARY: The Lower Snake River District Resource Advisory Council will meet in Boise to discuss implementation of standards and guidelines for administering livestock grazing, the 1999 Payette River Recreation Fee Demonstration Project, and other issues.

DATES: February 9, 1999. The meeting will begin at 9:00 AM. Public comment periods will be held at 9:30 AM and 4:00 PM.

ADDRESS: The meeting will be held at the Lower Snake River District Office, located at 3948 Development Avenue, Boise, Idaho.

FOR FURTHER INFORMATION CONTACT: Barry Rose, Lower Snake River District Office (208–384–3393).

Dated: December 15, 1998.

Katherine Kitchell,

District Manager.

[FR Doc. 98–34190 Filed 12–24–98; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV 910 0777 30]

Northeastern Great Basin Resource Advisory Council Meeting Location and Time

AGENCY: Bureau of Land Management.

ACTION: Resource Advisory Councils' meeting location and time.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C., the Department of the Interior, Bureau of Land Management (BLM), Council meetings will be held as indicated below. The agenda for the February 4, 1999 meeting includes: approval of minutes of the previous meeting, Standards and Guidelines for wild horses, pinyon-juniper, mining and recreation, Wilderness Study Areas, 3809 draft mining regulations update,

field manager reports on current BLM activities and planned actions in the Battle Mountain, Elko and Ely Field Offices. The Council will also determine subject matter for future meetings.

On February 5, 1999, the Council will take a field tour of a gold mine in the Elko vicinity. Up to fifteen members of the public may attend.

All meetings are open to the public. Citizens may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. The public comment period for the Council meeting is listed below. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Up to fifteen members of the public may attend the mine tour. Individuals who plan to attend or need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Curtis Tucker, Special Projects Coordinator, Ely District Office, 702 North Industrial Way, HC 33 Box 33500, Ely, NV 89301–9408, telephone 702–289–1841.

DATES, TIMES: The time and location of the meeting is as follows: Northeastern Great Basin Resource Advisory Council meeting, February 4, 1999, starting at 9:00 a.m.; BLM Office, 3900 East Idaho Street, Elko, Nevada, 89801; public comments will be at 11:30 a.m.; tentative adjournment 5:00 p.m. February 5, 1999, starting at 8:00 a.m., the gold mine tour will depart from the Elko Convention Center, 700 Moren Way in Elko and return at approximately 4 p.m. Tentative adjournment will be at 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Curtis Tucker, Special Projects Coordinator, Ely District Office, 702 North Industrial Way, HC 33 Box 33500, Ely, NV 89301–9408, telephone 775–289–1841.

SUPPLEMENTARY INFORMATION: The purpose of the Council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues, associated with the management of the public lands.

Those planning to attend the tour should wear warm clothing and sturdy footwear. Lunch will be provided.

Dated: December 17, 1998.

Helen Hankins,

District Manager, Elko.

[FR Doc. 98–34196 Filed 12–24–98; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–935–1430–01; COC–28582; COC–0123470]

Public Land Order No. 7244, Correction; Partial Revocation of Secretarial Order Dated March 25, 1910, Which Established Power Site Reserve No. 133; Opening of Lands Subject to Section 24 of the Federal Power Act in the Secretarial Order Dated July 12, 1957, Which Established Power Project No. 2204; Colorado

Dated: December 16, 1998.

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: This action corrects Public Land Order No. 7244, 62 FR 8263, published February 24, 1997, as FR Doc. 97–4391.

On page 8263, third column, paragraph 2, center of the page should be corrected to include the following described lands:

T. 1 N., R. 79 W.,

Sec. 14, SE¼SE¼;
Sec. 23, NE¼NE¼, E½W½NE¼, SW¼, NE¼SE¼ and W½SE¼;
Sec. 26, W½NE¼.

The areas described aggregate an additional 600 acres in Grand County.

Jenny L. Saunders,

Realty Officer.

[FR Doc. 98–34197 Filed 12–24–98; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–025–09–1430–01: G–0060]

Realty Action: Sale of Public Land in Harney County, Oregon

AGENCY: Bureau of Land Management (BLM), DOI.

ACTION: Notice of realty action, sale of public land.

SUMMARY: The following described public land in Harney County, Oregon, has been examined and found suitable for sale under Section 203 and 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713 and 1719), at not less than the appraised market value. All parcels being offered are identified for disposal in the Three Rivers Resource Management Plan.

All of the land described is within the Willamette Meridian.

Parcel No.	Legal description	Acres	Minimum acceptable bid	Bidding procedures	Preference bidders
OR–52578	T.26S., R.29E., sec. 1, lots 2, 3 SW¼NE¼, SE¼NW¼.	159.36	$8,000.00	Unsold Competitive	None.
OR–52579	T.26S., R.29E., sec. 2, SE¼SE¼	40	2,000.00	Unsold Competitive	None.
OR–52784	T.25S., R.30E., sec. 33, NE¼NE¼	40	2,000.00	Competitive	None.
OR–52786	T.26S., R.30E. (north of Harney Lake), sec. 5, SE¼ NW¼, NE¼, SW¼, NW¼.	120	8,000.00	Unsold Competitive	None.
OR–53942	T.23S., R.27E., sec. 18, NE¼ NW¼	40	2,000.00	Modified Competitive	Meadow Creek Enterprises, Inc., and Richard O. and Patricia Ann Raney.
OR–53944	T.25S., R.33E., sec. 3, NW¼ SW¼	40	2,000.00	Modified Competitive	Richard and Nancy Adams, Naomi Arnold, Frank Catterson and the State of Oregon.
OR–53945	T.25S., R.33E. sec. 4, lot 7	41.67	2,100.00	Competitive	None.
OR–53947	T.26S., R.31E., north of Malheur Lake, sec. 5, S½N½, N½SW¼.	240	12,000.00	Modified Competitive	Sylvester and Mary Morris, Herbert R. Vloedman, Anna C. Vloedman, Joseph M. and Kathryn A. Sylvia, and the State of Oregon.
OR–53948	T.26S., R.31E., north of Malheur Lake, sec. 6, lot 4, SE¼ SW¼; sec. 7, NW¼ NE¼, S½ NE¼, E½ NW¼, SE¼.	439.65	22,000.00	Modified Competitive	Roger Perry White, William White, Herbert R. Vloedman, Anna C. Vloedman, and the State of Oregon.
OR–53949	T.25S., R.13E., north of Malheur Lake, sec. 8, N½ SE¼.	80	4,000.00	Modified Competitive	Chester C. and Joan Knight, and William White.
OR–53950	T.26S., R.31E., north of Malheur Lake sec. 9, N½ NW¼.	80	4,000.00	Modified Competitive	Chester C. and Joan Knight, Gilbert L. and Dixie L. Keith, Kevin L. Keith, and Taylor and Riddle.
OR–53951	T26S., R.31E., north of Malheur Lake, sec. 15, W½; sec. 22, N½ NW¼.	400	20,000.00	Competitive	None.
OR–53952	T27S., R.33E., sec. 1, SW¼ NW¼, W½ SW¼; sec. 2, S½ NE¼, SE¼.	360	52,200.00	Competitive	None.

The following rights, reservations, and conditions will be included on the patents conveying the land:

All Parcels—A reservation for a right-of-way for ditches and canals constructed thereon by the authority of United States under the Act of August 30, 1890 (43 U.S.C. 945).

OR–53945—A reservation to the United States of all saleable mineral deposits pursuant to the Act of October 21, 1976 (43 U.S.C. 1719)

OR–53947—A wetland restrictive covenant pursuant to Executive Order 11990. The patent will be subject to a covenant that the portions of the land containing wetland habitat must be managed to protect and maintain the wetland.

OR–53947, OR–53948, OR–53950, OR–53951—A floodplain restrictive covenant pursuant to Executive Order 11988. The patent will be subject to a covenant that the land may be used only for agricultural purposes, livestock grazing or for park and nonintensive open space recreation purposes, but not for dwellings or buildings.

OR–53952, OR–52786—Patents will be subject to a right-of-way for electric power transmission and distribution purposes.

Access will not be guaranteed to any of the parcels being offered for sale, nor any warranty made as to the use of the property in violation of applicable land use laws and regulations. Before submitting a bid, prospective purchasers should check with the appropriate city or county planing department to verify approved uses.

All persons, other than the successful bidder, claiming to own unauthorized improvements on the land are allowed 60 days from the date of sale to remove the improvements.

All land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action, or 270 days from the date of publication of this notice, whichever occurs first.

Bidding Procedures

Competitive Procedures

The Federal Land Policy and Management Act and its implementing regulations (43 CFR 2710) provide that competitive bidding will be the general method of selling land supported by factors such as competitive interest, accessibility and usability of the parcel, regardless of adjacent ownership.

Under competitive procedures the land will be sold to any qualified bidder submitting the highest bid. Bidding will be by sealed bid followed by an oral auction to be held at 2:00 p.m. PST on Wednesday, March 10, 1999, at the Burns District Office, Bureau of Land Management, Hwy 20 West, Hines, Oregon. To qualify for the oral auction bidders must submit a seal bid meeting the requirements as stated below. The highest valid sealed bid will become the starting bid for the oral auction. Bidding in the oral auction will be in minimum increments of $50. The highest bidder from the oral auction will be declared the prospective purchaser.

If no valid bids are received, the parcel will be declared unsold and offered by unsold competitive procedures on a continuing basis until sold or withdrawn from sale.

Modified Competitive Procedures

Modified competitive procedures are allowed by the regulations (43 CFR 2710.0–6(c)(3)(ii) to provide exceptions to competitive bidding to assure compatibility with existing and potential land uses.

Under modified competitive procedures the preference bidders designated above will be given the opportunity to match or exceed the apparent high bid. The apparent high bid will be established by the highest valid sealed bid received from the general public. If two or more valid sealed bids of the same amount are received for the same parcel, that amount shall be determined to be the apparent high bid. The bid deposit for the apparent high bid(s) will be retained and all others will be returned. In the absence of any sealed bids the parcel will be offered to the preference bidder(s) at the minimum bid (appraised market value). The designated preference bidders need not bid in the initial round of bidding to remain qualified for preference consideration.

The preference bidders will be notified by certified mail of the apparent high bid.

Where there are two or more preference bidders for a single parcel, they will be allowed 30 days to provide the authorized officer with an agreement as to the division of the property or, if agreement cannot be reached, sealed bids for not less than the apparent high bid. Failure to submit an agreement or a bid shall be considered a waiver of the option to divide the property equitably and forfeiture of the preference consideration. Failure to act by all of the preferred bidders will result in the parcel being offered to the apparent high bidder or declared unsold, if no bids were received in the initial round of bidding.

Unsold Competitive Procedures

Unsold competitive procedures will be used after a parcel has been unsuccessfully offered for sale by competitive or modified competitive procedures.

Unsold parcels will be offered competitively on a continuous basis until sold. Under competitive procedures for unsold parcels the highest valid bid received during the preceding month will be declared the purchaser. Sealed bids will be accepted and held until the second Wednesday of each month at 2:00 p.m. PST when they will be opened. Openings will take place every month until the parcels are sold or withdrawn from sale.

All sealed bids must be submitted to the Burns District Office, no later than 2:00 p.m. PST on Wednesday, March 10, 1999, the time of the bid opening and oral auction. The outside of bid envelopes must be clearly marked with ''BLM Land Sale,'' the parcel number and the bid opening date. Bids must be for not less than the appraised market value (minimum bid). Separate bids must be submitted for each parcel. Each sealed bid shall be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Department of the Interior—BLM for not less than 20 percent of the amount bid. The bid envelope must also contain a statement showing the total amount bid and the name, mailing address, and phone number of the entity making the bid. A successful bidder for competitive parcels shall make an additional deposit at the close of the auction to bring his total bid deposit up to the required 20 percent of the high bid. Personal checks or case will be acceptable for this additional deposit only.

Federal law requires that public land may be sold only to either (1) citizens of the United States 18 years of age or older; (2) corporations subject to the laws of any state or the United States; (3) other entities such as associations and partnerships capable of holding land or interests therein under the laws of the state within which the lands are located; or (4) states, state instrumentalities or political subdivisions authorized to hold property. Certifications and evidence to this effect will be required of the purchaser prior to issuance of conveyance documents.

Prospective purchasers will be allowed 180 days to submit the balance of the purchase price. Failure to meet this timeframe shall cause the deposit to be forfeited to the BLM. The parcel will then be offered to the next lowest

qualified bidder, or if no other bids were received, the parcel will be declared unsold.

A successful bid on a parcel constitutes an application for conveyance of those mineral interests offered under the authority of Section 209(b) of the Federal Land Policy and Management Act of 1976. In addition to the full purchase price, a nonrefundable fee of $50 will be required from the prospective purchaser for purchase of the mineral interests to be conveyed simultaneously with the sale of the land.

DATES: On or before February 11, 1999, interested persons may submit comments regarding the proposed sale to the Burns District Manager at the address described below. Comments or protests must reference a specific parcel and be identified with the appropriate serial number. In the absence of any objections, this proposal will become the determination of the Department of the Interior.

ADDRESSES: Comments, bids, and inquiries should be submitted to the Burns District Manager, HC 74–12533, Hwy 20 West, Hines; Oregon 97738.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this public land sale is available from Craig M. Hansen, Area Manager or Skip Renchler, Realty Specialist, Three Rivers Resource Area at the above address, phone (541) 573–4400.

Dated: December 17, 1998.

Craig M. Hansen,

Three Rivers Resource Area Manager.

[FR Doc. 98–34179 Filed 12–24–98; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Notice and Agenda for Meeting of the Royalty Policy Committee of the Minerals Management Advisory Board

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Secretary of the Department of the Interior has established a Royalty Policy Committee (Committee), on the Minerals Management Advisory Board, to provide advice on the Department's management of Federal and Indian minerals leases, revenues, and other minerals related policies. Committee membership includes representatives from States, Indian Tribes and allottee organizations, minerals industry associations, the general public, and Federal Departments. At this eighth meeting, the Minerals Management Service will be prepared to discuss the OIG report on Net Receipts Sharing, the Committee's recommendations on Lessee/Designee issue, the Royalty-in-Kind Pilot, Reengineering Operational Models, Joint Ventures Paper, Annual Performance Reviews, and the Marginal Properties Accounting Relief Rule. The Committee will also consider progress reports by the active subcommittees.

DATES: The meeting will be held on: Wednesday, January 20, 1999, 8:30 a.m.-4:00 p.m. Mountain time.

ADDRESSES: The meeting will be held at the Sheraton Denver West, 360 Union Boulevard, Lakewood, Colorado 80228, telephone number (303) 987–2000.

FOR FURTHER INFORMATION CONTACT: Mr. Gary L. Fields, Chief, Program Services Office, Royalty Management Program, Minerals Management Service, P.O. Box 25165, MS 3062, Denver, CO 80225–0165, telephone number (303) 231–3102, fax number (303) 231–3781.

SUPPLEMENTARY INFORMATION: The location and dates of future meetings will be published in the **Federal Register**. The meetings will be open to the public without advanced registration. Public attendance may be limited to the space available. Members of the public may make statements during the meetings, to the extent time permits, and file written statements with the Committee for its consideration. Written statements should be submitted to Mr. Gary L. Fields, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Minutes of Committee meetings will be available 10 days following each meeting for public inspection and copying at the Royalty Management Program, Building No. 85, Denver Federal Center, Denver, Colorado.

These meetings are being held by the authority of the Federal Advisory Committee Act, Pub. L. No. 92–463, 5 U.S.C. Appendix 1, and Office of Management and Budget Circular No. A–63, revised.

Dated: December 21, 1998.

R. Dale Fazio,

Acting Associate Director for Royalty Management.

[FR Doc. 98–34225 Filed 12–24–98; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Supplemental Environmental Impact Statement for Backcountry and Wilderness Management Plan, Joshua Tree National Park, California; Notice of Extension of Public Comment Period

SUMMARY: Pursuant to § 102(2)(C) of the National Environmental Policy Act of 1969 (P.L. 91–190 as amended), the National Park Service, Department of the Interior, has prepared a Supplemental Environmental Impact Statement (SEIS) assessing five alternatives for, and potential impacts of, a proposed Backcountry and Wilderness Management Plan for Joshua Tree National Park, California. In deference to interest expressed by local governmental agencies, organizations, and other interested parties, the public comment period has been extended through January 20, 1999.

SUPPLEMENTARY INFORMATION: The Draft Environmental Impact Study was issued November 14, 1997; the SEIS was issued October 30, 1998. Copies of the documents can be reviewed at local libraries or obtained from the park at the address noted below. The original 60-day public comment period (ending December 31, 1998) has been extended an additional 20 days. All written comments must now be postmarked not later than January 20, 1999 and should be addressed to: Superintendent, Joshua Tree National Park, 74485 National Park Drive, Twentynine Palms, CA 92277.

Dated: December 16, 1998.

John J. Reynolds,

Regional Director, Pacific West.

[FR Doc. 98–34222 Filed 12–24–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of the Record of Decision for the Final Environmental Impact Statement, Southern Terminus of the Natchez Trace Parkway

SUMMARY: The Department of the Interior, National Park Service has prepared a Record of Decision for the Final Environmental Impact Statement for the Natchez Trace Parkway, Section 3X, Southern Terminus in Adams County, Mississippi. This Record of Decision is a statement of the decision made, the background of the project, other alternatives considered, the basis for the decision, the environmentally

preferable alternative, measures to minimize environmental harm, and public involvement in the decision making process.

DATES: This Record of Decision (ROD) will become effective upon signature by the Regional Director of the Southeast Region of the National Park Service.

ADDRESSES: Public reading copies of the Record of Decision for the Natchez Trace Parkway's Southern Terminus (Section 3X) final environmental impact statement will be available for public review at the following locations:

1. *Natchez Trace Parkway Headquarters*, 2680 Natchez Trace Parkway, Tupelo, Mississippi 38801, (601) 680–4005
2. *Natchez National Historical Park*, Post Office Box 1208, Natchez, Mississippi 39121, (601) 442–7047
3. *Judge George W. Armstrong Library*, 220 South Commerce Street, Natchez, Mississippi 39120, (601) 445–8862
4. *Jackson/Hinds Library System*, Eudora Welty Library, 300 North State Street, Jackson, Mississippi 39201, (601) 968–5809 (This is the Headquarters or main library in Jackson)

FOR FURTHER INFORMATION CONTACT: For copies of the ROD or additional information, please contact: Wendell A. Simpson, Superintendent, Natchez Trace Parkway, 2680 Natchez Trace Parkway, Tupelo, Mississippi 38801. Telephone: (601) 680–4004.

SUPPLEMENTARY INFORMATION: The Final Environmental Impact Statement (FEIS) for the Southern Terminus (Section 3X) of the Natchez Trace Parkway is presented in abbreviated form. The abbreviated FEIS includes responses to public comments, errata, and a Statement of Findings for Wetlands. The abbreviated FEIS, when combined with the Draft Environmental Impact Statement, Natchez Trace Parkway, Section 3X, Southern Terminus (May 8, 1998), comprises the complete Final Environmental Impact Statement (FEIS). Only minor revisions to the DEIS were necessary.

The National Park Service will implement the preferred alternative, alternative 2—Liberty Road, as described in the Final Environmental Impact Statement, Natchez Trace Parkway, Section 3X, Southern Terminus issued on October 2, 1998.

The intent of the preferred alternative (hereafter referred to as the selected alternative) is to complete the southern end of the Natchez Trace Parkway by extending the existing motor road to the city of Natchez, Mississippi, thereby completing the parkway, which was begun in 1938 and fulfilling a major goal of the Natchez Trace Parkway General Management Plan adopted in 1987. The Natchez Trace Parkway currently ends eight miles outside of Natchez at U.S. Highway 61. The parkway has been partially constructed from U.S. 61 to U.S. Highway 84/98, but this four-mile segment will not open until a terminus alternative is fully constructed. Under the selected alternative, the parkway will extend four miles past U.S. Highway 84/98 and terminate with an interchange at Liberty Road.

The selected alternative includes the construction of 4.2 miles of roadway; interchange bridge, access ramps, and retaining wall construction at Liberty Road; bridge construction at St. Catherine Creek, Melvin Bayou, County Road A, Palestine Road, Perkins Creek, and County Road B; and earth embankments and excavations and related drainage systems and structures. In addition, road crossings will require the relocation of approximately 2,030 feet of County Road A, 760 feet of County Road B, 6,200 feet of County Road P, and 5,410 feet of Palestine Road.

The selected alternative alignment will stay within existing NPS owned lands for all but the final 0.5 mile of its total length. This alternative requires the acquisition of 76.8 acres of additional land between St. Catherine Creek and Liberty Road. The enabling legislation for the Natchez Trace Parkway (16 U.S.C., Section 460) prohibits the National Park Service from purchasing land for parkway construction, therefore, the additional land acquisition must be accomplished by other entities, such as the city, county, or state, and donated to the National Park Service. The required land acquisition will include a portion of the southeast edge of the fairgrounds (including portions of a baseball diamond and a horse exercise area) and will displace or relocate 17 residential properties, five commercial properties, and four industrial properties. Of the 76.8 acres to be acquired, 13.5 acres is state land and 63.4 acres is privately owned land.

Dated: December 11, 1998.

Daniel W. Brown,

Regional Director, Southeast Region.

[FR Doc. 98–34224 Filed 12–24–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Manzanar National Historic Site Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Manzanar National Historic Site Advisory Commission will be held at 1:00 p.m. on Saturday, January 9, 1999, at the Western Archeological and Conservation Center, 1415 North 6th Avenue, Tucson, Arizona, to hear presentations on issues related to the planning, development, and management of Manzanar National Historic Site.

The Advisory Commission was established by Public Law 102–248, to meet and consult with the Secretary of the Interior or his designee, with respect to the development, management, and interpretation of the site, including preparation of a general management plan for the Manzanar National Historic Site.

Members of the Commission are as follows:

Sue Kunitomi Embrey, Chairperson
William Michael, Vice Chairperson
Keith Bright
Martha Davis
Gann Matsuda
Vernon Miller
Mas Okui
Glenn Singley
Richard Stewart

The main agenda items at this meeting of the Commission will include the following:

(1) Status report on the development of Manzanar National Historic Site by Superintendent Ross R. Hopkins.

(2) General discussion of miscellaneous matters pertaining to future Commission activities and Manzanar National Historic Site development issues.

(3) Public comment period.

This meeting is open to the public. It will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Commission. A transcript will be available after March 1, 1999. For a copy of the minutes, contact the Superintendent, Manzanar National Historic Site, PO Box 426, Independence, CA 93526.

Dated: December 15, 1998.

Marian O'Dea,

Superintendent, Manzanar National Historic Site.

[FR Doc. 98–34223 Filed 12–24–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Long-term Contract Renewal, Central Valley Project, California

AGENCY: Bureau of Reclamation, Department of the Interior.

ACTION: Notice of intent to prepare an environmental impact statement and notice of meetings; time extension to submit comments on the project scope.

SUMMARY: The Bureau of Reclamation (Reclamation) has extended the time period for providing written comments on the project scope for the environmental document(s) to be prepared on renewing existing long-term and interim contracts for the Central Valley Project, California. Written comments may now be submitted by January 8, 1999, in accordance with the notice published in the **Federal Register** on October 15, 1998, (63 FR 55406).

DATE: Scoping comments are due January 8, 1999.

ADDRESSES: Send written comments on the project scope for the environmental document(s) to Mr. Alan R. Candlish, Bureau of Reclamation, 2800 Cottage Way Attention: MP–120, Sacramento CA 95825.

FOR FURTHER INFORMATION CONTACT: Mr. Candlish at the above address, telephone: 916–978–5190 or Ms. Donna Tegelman, Bureau of Reclamation, 2800 Cottage Way, Attention: MP–440, Sacramento CA 95825, telephone: 916/978–5250 (TDD 978–5608).

Dated: December 16, 1998.

Kirk C. Rodgers,

Deputy Regional Director.

[FR Doc. 98–33949 Filed 12–24–98; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB review; comment request

December 21, 1998.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd R. Owen ((202) 219–5096 ext. 143) or by E-Mail to Owen-Todd@dol.gov.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for MSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Mine Safety and Health Administration.

Title: Records of All Certified and Qualified Persons; and Man Hoist Operators Physical Fitness.

OMB Number: 1219–0NEW (new/extension).

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 5,526.

Estimated Time Per Respondent: 4.16 hours.

Total Burden Hours: 23,021.

Total Annualized Capital/startup Costs: 0.

Total Annual (operating/maintaining): 0.

Description: Requires mine operators to have an approved training plan to train and retrain qualified and certified persons. In addition, operators are required to maintain a list of persons certified or qualified to perform duties which required specialized expertise at underground and surface mines.

Agency: Mine Safety and Health Administration.

Title: Hoisting Operators' Physical Fitness & Physical.

Requirements for Mine Rescue Teams and Man Hoist Operators.

OMB Number: 1219–0049 (Extension).

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 90.

Estimated Time Per Respondent: 50 minutes.

Record keeping: At least one year from the time that certification is obtained.

Total Responses: 360.

Total Burden Hours: 37.

Total Annualized Capital/startup Costs: 0.

Total Annual (operating/maintaining): $110,880.

Description: Requires mine operators to furnish annual physicals and certification of hoist operator's fitness for duty.

Agency: Mine Safety and Health Administration.

Title: Record of Examination and Tests of Electrical Equipment.

OMB Number: 1219–0067 (Extension).

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 55,698.

Estimated Time Per Respondent: 18 hours.

Total Burden Hours: 994,704.

Total Annualized Capital/startup Costs: $30,000.

Total Annual (operating/maintaining): $390.

Description: Requires mine operators to adopt and follow an effective maintenance program to ensure that electric equipment is maintained in a safe operating condition. The subject regulations require the mine operator to establish an electrical maintenance program by specifying minimum requirements for the examination, testing and maintenance of electric equipment. The regulations also contain recordkeeping requirements which may in some instances help operators in implementing an effective maintenance program.

Agency: Mine Safety and Health Administration.

Title: Applications for Approval of Sanitary Toilet Facilities.

OMB Number: 1219–0101 (Extension).

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 2.

Estimated Time Per Respondent: 8 hours.

Total Responses: 2.

Total Burden Hours: 16.

Total Annualized Capital/startup Costs: 0.

Total Annual: (operating/maintaining): $0.

Description: Contains procedures by which manufacturers of sanitary toilet

facilities may apply for, and have their product approved as permissible for use in coal mines. To gain approval, the manufacturer must submit sufficient information needed to make an effective evaluation of the sanitary features of the facilities.

Agency: Mine Safety and Health Administration.

Title: Permissible Equipment Testing.

OMB Number: 1219–0066 (Extension).

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 876.

Estimated Time Per Respondent: 11 hours.

Total Responses: 876.

Total Burden Hours: 9,613.

Total Annualized Capital/startup Costs: 0.

Total Annual (operating/maintaining): $1,849,376.

Description: Contains procedures by which manufacturers of mining equipment and components, material, instruments, and explosives may apply for, and have their products approved as permissible for use in the mines.

Todd R. Owen,

Departmental Clearance Officer.

[FR Doc. 98–34244 Filed 12–24–98; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Office of the Secretary

Delegation of Authority To Perform Duties Under the Child Support Performance and Incentive Act; Pension and Welfare Benefits Administration

On December 16, 1998, I issued a memorandum delegating to the Assistant Secretary for Pension and Welfare Benefits the authority to carry out the programs and activities to be performed by the Secretary of Labor under section 401 of the Child Support Performance and Incentive Act of 1998. The Secretarial duty to jointly submit a report to each House of the Congress under section 401(a)(5)(B) is reserved to the Secretary. A copy of that memorandum is annexed hereto as an Appendix.

FOR FURTHER INFORMATION CONTACT: Susan E. Rees, Plan Benefits Security Division, Office of the Solicitor, Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210, telephone (202) 219–4600, ext. 105. This is not a toll-free number.

Signed at Washington, DC this 16th day of December, 1998.

Alexis M. Herman,

Secretary of Labor.

U.S. Department of Labor

Secretary of Labor, Washington, DC.

December 16, 1998.

Memorandum for Meredith Miller, Deputy Assistant Secretary for Pension and Welfare Benefits

From: Alexis M. Herman

Subject: Delegation of Authority to the Assistant Secretary for Pension and Welfare Benefits

Effective immediately, the Assistant Secretary for Pension and Welfare Benefits is hereby delegated authority and assigned responsibility for carrying out programs and activities to be performed by the Secretary of Labor under section 401 of the Child Support Performance and Incentive Act of 1998 (Pub. L. 105–200), including all attendant administrative duties necessary for carrying out such programs and activities. The duty to jointly submit a report to each House of the Congress with the Secretary of Health and Human Services under section 401(a)(5)(B) of the Child Support Performance and Incentive Act is reserved to the Secretary.

[FR Doc. 98–34242 Filed 12–24–98; 8:45 am]

BILLING CODE 4510–29–M

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, N.W., Room S–3014, Washington, D.C. 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 Nos. KY980046 and KY980048 dated February 13, 1998.

Agencies with construction projects pending, to which these Wage Decisions would have been applicable, should utilize Wage Decision KY980039. 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 the 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 contract 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

Maine
ME980006 (Feb. 13, 1998)
ME980010 (Feb. 13, 1998)
ME980022 (Feb. 13, 1998)
ME980026 (Feb. 13, 1998)
ME980037 (Feb. 13, 1998)

Volume II

Virginia
VA980066 (Feb. 13, 1998)

Volume III

Kentucky
KY980003 (Feb. 13, 1998)
KY980004 (Feb. 13, 1998)
KY980027 (Feb. 13, 1998)
KY980028 (Feb. 13, 1998)
KY980029 (Feb. 13, 1998)
KY980035 (Feb. 13, 1998)
KY980039 (Feb. 13, 1998)
INDEX (Feb. 13, 1998)

Volume IV

None

Volume V

Missouri
MO980001 (Feb. 13, 1998)
MO980002 (Feb. 13, 1998)
MO980003 (Feb. 13, 1998)
MO980004 (Feb. 13, 1998)
MO980045 (Feb. 13, 1998)
MO980047 (Feb. 13, 1998)
MO980048 (Feb. 13, 1998)
MO980049 (Feb. 13, 1998)
MO980050 (Feb. 13, 1998)
MO980051 (Feb. 13, 1998)
MO980057 (Feb. 13, 1998)
MO980060 (Feb. 13, 1998)
MO980062 (Feb. 13, 1998)
MO980065 (Feb. 13, 1998)
MO980072 (Feb. 13, 1998)

Volume VI

None

Volume VII

Hawaii
HI980001 (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 18th Day of December, 1998.

Margaret J. Washington,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 98–34006 Filed 12–24–98; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Office of the Federal Register

Agreements In Force as of December 31, 1997 Between the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States

AGENCY: Office of the Federal Register, NARA.

ACTION: Notice of availability of agreements.

SUMMARY: The American Institute in Taiwan has concluded a number of agreements with the Taipei Economic and Cultural Representative Office in the United States (formerly the Coordination Council for North American Affairs) in order to maintain cultural, commercial and other unofficial relations between the American people and the people of Taiwan. The Director of the Federal Register is publishing the list of these agreements on behalf of the American Institute in Taiwan in the public interest.

SUPPLEMENTARY INFORMATION: Cultural, commercial and other unofficial relations between the American people and the people of Taiwan are maintained on a nongovernmental basis through the American Institute in Taiwan (AIT), a private nonprofit corporation created under the Taiwan Relations Act (Pub. L. 96–8; 93 Stat. 14). The Coordination Council for North American Affairs (CCNAA) was established as the nongovernmental Taiwan counterpart to AIT. On October 10, 1995 the CCNAA was renamed the Taipei Economic and Cultural Representative Office in the United States (TECRO).

Under section 12 of the Act, agreements concluded between AIT and TECRO (CCNAA) are transmitted to the Congress, and according to sections 6 and 10(a) of the Act, such agreements have full force and effect under the law of the United States.

The texts of the agreements are available from the American Institute in Taiwan, 1700 North Moore Street, Suite 1700, Arlington, Virginia 22209. For further information, please telephone (703) 525–8474, or fax (703) 841–1385.

Following is a list of agreements between AIT and TECRO (CCNAA) which were in force as of December 31, 1997.

Dated: December 21, 1998.

Barbara J. Schrage,

AIT Deputy Managing Director.

Dated: December 22, 1998.

Raymond A. Mosley,

Director of the Federal Register.

AIT–TECRO Agreements

[In Force as of December 31, 1997]

Status of Tecro

The Exchange of Letters concerning the change in the name of the Coordination Council for North American Affairs (CCNAA) to the Taipei Economic and Cultural Representative

Office in the United States (TECRO). Signed December 27, 1994 and January 3, 1995. Entered into force January 3, 1995.

Agriculture

1. Guidelines for a cooperative program in the agriculture sciences. Signed January 15 and 28, 1986. Entered into force January 28, 1986.

2. Amendment amending the 1986 guidelines for a cooperative program in the agricultural sciences. Effected by exchange of letters September 1 and 11, 1989. Entered into force September 11, 1989.

3. Cooperative service agreement to facilitate fruit and vegetable inspection through their designated representatives, the United States Department of Agriculture Animal and Plant Health Inspection Service (APHIS) and the Taiwan Provincial Fruit Marketing Cooperative (TPFMC) supervised by the Taiwan Council of Agriculture (COA). Signed April 28, 1993. Entered into force April 28, 1993.

4. Memorandum of agreement concerning sanitary/phytosanitary and agricultural standards. Signed November 4, 1993. Entered into force November 4, 1993.

Aviation

1. Memorandum of agreement concerning the arrangement for certain aeronautical equipment and services relating to civil aviation (NAT–I–845), with annexes. Signed September 24 and October 23, 1981. Entered into force October 23, 1981.

2. Amendment amending the memorandum of agreement concerning aeronautical equipment and services of September 24 and October 23, 1981. Signed September 18 and 23, 1985. Entered into force September 3, 1985.

3. Agreement amending the memorandum of agreement of September 24 and October 23, 1981, concerning aeronautical equipment and services. Signed September 23 and October 17, 1991. Entered into force October 17, 1991.

Conservation

1. Memorandum on cooperation in forestry and natural resources conservation. Signed May 23 and July 4, 1991. Entered into force July 4, 1991.

2. Memorandum on cooperation in soil and water conservation under the guidelines for a cooperative program in the agricultural sciences. Signed at Washington on October 5, 1992. Entered into force October 5, 1992.

3. Agreement on technical cooperation in conservation of flora and fauna. Signed February 24 and March 6, 1995. Entered into force March 6, 1995.

Customs

1. Agreement for technical assistance in customs operations and management, with attachment. Signed May 14 and June 1991. Entered into force June 4, 1991.

2. Agreement on TECRO/AIT carnet for the temporary admission of goods. Signed June 25, 1996. Entered into force June 7, 1996.

Education and Culture

1. Agreement amending the agreement for financing certain educational and cultural exchange programs of April 23, 1964. Effected by exchange of letters at Taipei on April 14 and June 4, 1979. Entered into force June 4, 1979.

2. Agreement concerning the Taipei American School, with annex. Signed at Taipei February 3, 1983. Entered into force February 3, 1983.

Energy

1. Agreement relating to the establishment of a joint standing committee on civil nuclear cooperation. Signed at Taipei October 3, 1984. Entered into force October 3, 1984.

2. Agreement amending and extending the agreement of October 3, 1984, relating to the establishment of a joint standing committee on civil nuclear cooperation. Signed October 19, 1989. Entered into force October 19, 1989.

3. Agreement Amending and Extending the Agreement between the American Institute in Taiwan and the Coordination Council for North American Affairs Relating to the Establishment of a Joint Standing Committee on Civil Nuclear Cooperation. Signed October 3, 1994. Entered into force October 3, 1994

4. Agreement abandoning in place in Taiwan the Argonaut Research Reactor loaned to National Tsing Hua University. Signed November 28, 1990.

5. Agreement concerning safeguards arrangements for nuclear materials transferred from France to Taiwan. Effected by exchange of letters of February 12 and May 13, 1993. Entered into force May 13, 1993.

6. Agreement relating to participation in the USNRC program of severe accident research, with appendix. Signed February 18 and June 24, 1993. Entered into force June 24, 1993; effective January 1, 1993.

7. Agreement regarding participation in the Second USNRC International Piping Integrity Research Group Program, with addendum. Signed at Arlington and Washington February 7 and June 30, 1994. Entered into force June 30, 1994.

8. Agreement relating to participation in the USNRC program of Thermal-Hydraulic Code applications and maintenance, with addendum. Signed at Arlington and Washington February 7 and June 30, 1994. Entered into force June 30, 1994.

9. Memorandum of Agreement for release of an Energy and Power Evaluation Program (ENPEP) computer software package. Signed January 25 and February 27, 1995. Entered into force February 27, 1995.

10. Agreement amending the Agreement of February 7 and June 30, 1994 Relating to Participation in the USNRC Program of Thermal-Hydraulic Code Applications and Maintenance. Signed September 6 and 9, 1996. Entered into force September 7, 1996.

11. Agreement relating to participation in the USNRC program of severe accident research. Signed June 26 and 30, 1997. Entered into force June 30, 1997, effective January 1, 1997.

Environment

1. Agreement for technical cooperation in the field of environmental protection, with implementing arrangement. Signed June 21, 1993. Entered into force June 21, 1993.

Health

1. Guidelines for a cooperative program in the biomedical sciences. Signed May 21, 1984. Entered into force May 21, 1984.

2. Agreement amending the 1984 guidelines for a cooperative program in the biomedical sciences, with attachment. Signed April 20, 1989. Entered into force April 20, 1989.

3. Agreement amending the 1984 guidelines for a cooperative program in the biomedical as sciences amended, with attachment. Signed August 24, 1989. Entered into force August 24, 1989.

4 Guidelines for a cooperative program in food hygiene. Signed January 15 and 28, 1985. Entered into force January 28, 1985.

5. Guidelines for a cooperative program in public health and preventive medicine. Signed at Arlington and Washington June 30 and July 19, 1994. Entered into force July 19, 1994.

6. Agreement for technical cooperation in vaccine and immunization-related activities, with implementing arrangement. Signed at Washington October 6 and 7, 1994. Entered into force October 7, 1994.

Intellectual Property

1. Agreement concerning the protection and enforcement of rights in audiovisual works. Effected by exchange of letters at Arlington and Washington June 6 and June 27, 1989. Entered into force June 27, 1989.

2. Understanding concerning the protection of intellectual property rights. Signed at Washington June 5, 1992. Entered into force June 5, 1992.

3. Agreement for the protection of copyright, with appendix. Signed July 16, 1993. Entered into force July 16, 1993.

4. Memorandum of understanding regarding the extension of priority filing rights for patent and trademark applications. Signed April 10, 1996. Entered into force April 10, 1996.

Judicial Procedure

1. Memorandum of understanding on cooperation in the field of criminal investigations prosecutions. Signed at Taipei October 5, 1992. Entered into force October 5, 1992.

Labor

1. Guidelines for a cooperative program in labor affairs. December 6, 1991. Entered into force December 6, 1991.

2. Guidelines for a cooperative program in labor mediation and alternative dispute resolution. Signed April 7, 1995. Entered into force April 7. 1995.

Mapping

1. Agreement concerning mapping, charting, and geodesy cooperation. Signed November 28, 1995. Entered into force November 28, 1995.

Maritime

1. Agreement concerning mutual implementation of the 1974 Convention for the safety of life at sea. Effected by exchange of letters at Arlington and Washington August 17 and September 7, 1982. Entered into force September 7, 1982.

2. Agreement concerning mutual implementation of the 1969 international convention on tonnage measurement. Effected by exchange of letters at Arlington and Washington May 13 and 26, 1983. Entered into force May 26, 1983.

3. Agreement concerning mutual implementation of the protocol of 1978 relating to the 1974 international convention for the safety of life at sea. Effected by exchange of letters at Arlington and Washington January 22 and 31, 1985. Entered into force January 31, 1985.

4. Agreement concerning mutual implementation of the protocol of 1978 relating to the international convention for the prevention of pollution from ships, 1973. Effected by exchange of letters at Arlington and Washington January 22 and 31, 1985. Entered into force January 31, 1985.

4. Agreement concerning mutual implementation of the 1966 international convention on load lines. Effected by exchange of letters at Arlington and Washington March 26 and April 10, 1985. Entered into force April 10, 1985.

5. Agreement concerning the operating environment for ocean carriers. Effected by exchange of letters at Washington and Arlington October 25 and 27, 1989. Entered into force October 27, 1989.

Postal

1. Agreement concerning establishment of INTELPOST service. Effected by exchange of letters at Arlington and Washington April 19 and November 26, 1990. Entered into force November 26, 1990.

2. International business reply service agreement, with detailed regulations. Signed at Washington February 1992. Entered into force February 7, 1992.

Privileges and Immunities

1. Agreement on privileges, exemptions and immunities, with addendum. Signed at Washington October 2, 1980. Entered into force October 2, 1980.

2. Agreement governing the use and disposal of vehicles imported by the the American Institute in Taiwan and its personnel. Signed at Taipei April 21, 1986. Entered into force April 21, 1986.

Scientific & Technical Cooperation

1. Agreement on scientific cooperation. Effected by exchange of letters at Arlington and Washington on September 4, 1980. Entered into force September 4, 1980.

2. Agreement concerning renewal & extension of the 1980 agreement on scientific cooperation. Signed and accepted March 10, 1987. Entered into force March 10, 1987.

3. Agreement for technical assistance in dam design and construction, with appendices. Signed August 24, 1987. Entered into force August 24, 1987.

4. Agreement for a cooperative program in the sale and exchange of technical, scientific, and engineering information. Signed November 17, 1987. Entered into force November 17, 1987.

5. Agreement renewing and extending the agreement of November 17, 1987, for a cooperative program in the sale and exchange of technical, scientific and engineering information. Signed and accepted August 8, 1990. Entered into force August 8, 1990.

6. Cooperative program on Hualien soil-structure interaction experiment. Signed and accepted September 28, 1990.

7. Guidelines for a cooperative program in atmospheric research. Signed May 4, 1987. Entered into force May 4, 1987.

8. Agreement for technical cooperation in meteorology and forecast systems development, with Implementing arrangements. Signed June 5 and 28, 1990. Entered into force June 28, 1990.

9. Agreement for technical cooperation in geodetic research and use of advanced geodetic technology, with Implementing arrangement. Signed January 11 and February 21, 1991. Entered into force February 21, 1991.

10. Cooperative program in highway-related sciences. Signed October 30, 1990 and January 7, 1992. Entered into force January 7, 1992.

11. Agreement amending and extending the agreement of August 24, 1987, for technical assistance in dam design and construction.

*Name changed to Agreement for Technical Assistance in Areas of Water Resource Development. Signed May 11 and June 9, 1992. Entered into force June 9, 1992.

12. Agreement for technical cooperation in seismology and earthquake monitoring systems development, with implementing arrangement. Signed July 22 and 24, 1992. Entered into force July 24, 1992.

13. Agreement amending the Agreement of August 24, 1987 for technical assistance in areas of water resource development. Signed August 30 and September 3, 1996. Entered into force September 3, 1996.

14. Agreement concerning joint studies on reservoir sedimentation and sluicing, including computer modeling. Signed February 14 and March 8, 1996. Entered into force March 8, 1996.

15. Guidelines for a cooperative program in physical sciences. Signed January 2 and 10, 1997. Entered into force January 10, 1997.

16. Agreement for scientific and technical cooperation in ocean climate research. Signed February 18, 1997. Entered into force February 18, 1997.

17. Agreement amending the agreement of August 24, 1987 for technical assistance in areas of water resource development. Signed October 14, 1997. Entered into force October 14, 1997.

18. Agreement for technical cooperation in scientific and weather technology systems support. Signed October 22 and November 5, 1997. Entered into force November 5, 1997.

Security of Information

1. Protection of information agreement. Signed September 15, 1981. Entered into force September 15, 1981.

Taxation

1. Agreement concerning the reciprocal exemption from income tax of income derived from the international operation of ships and aircraft. Effected by exchange of letters at Taipei May 31, 1988. Entered into force May 31, 1988.

2. Agreement for technical assistance in tax administration, with appendices. Signed August 1, 1989. Entered into force August 1, 1989.

Trade

1. Agreement concerning trade matters, with annexes. Effected by exchange of letters at Arlington and Washington October 24, 1979. Entered into force October 24, 1979; effective January 1, 1980.

2. Agreement concerning trade matters. Effected by exchange of letters at Arlington and Washington December 31, 1981. Entered into force December 31, 1981.

3. Agreement concerning measures that the CCNAA will undertake in connection with implementation of the GATT Customs Valuation Code. Effected by exchange of letters at Bethesda and Arlington August 22, 1986. Entered into force August 22, 1986.

4. Agreement concerning the export performance requirement affecting investment in the automotive sector. Effected by exchange of letters at Washington and Arlington of October 9, 1986. Entered into force October 9, 1986.

5. Agreement concerning beer, wine and cigarettes. Signed at Washington December 12, 1986. Entered into force December 12, 1986; effective January 1, 1987.

6. Agreement implementing the 1986 beer, wine and cigarettes agreement. Effected by exchange of letters at Taipei April 29, 1987. Entered into force April 29, 1987; effective January 1, 1987.

7. Agreement regarding new requirements for health warning legends on cigarettes sold in the territory represented by CCNAA. Effected by exchange of letters at Washington and Arlington October 7 and 16, 1991. Entered into force October 16, 1991.

8. Agreement concerning trade in whole turkeys, turkey parts, processed turkey products and whole ducks, with memorandum of understanding. Effected by exchange of letters at Arlington and Washington of March 16, 1989. Entered into force March 16, 1989.

9. Agreement concerning the protection of trade in strategic commodities and technical data, with memorandum of understanding. Effected by exchange of letters at Arlington and Washington December 4, 1990 and April 8, 1991. Entered into force April 8, 1991.

10. Administrative arrangement concerning the textile visa system. Effected by exchange of letters at Arlington and Washington April 18 and May 1, 1991. Entered into force May 1, 1991.

11. Memorandum of understanding concerning a new quota arrangement for cotton and man-made fiber trousers. Signed at Washington December 18, 1992. Entered into force December 18, 1992.

12. Memorandum of understanding on the exchange of information concerning commodity futures and options matters, with appendix. Signed January 11, 1993. Entered into force January 11, 1993.

13. Agreement concerning a framework of principles and procedures for consultations regarding trade and investment, with annex. Signed at Washington September 19, 1994. Entered into force September 19, 1994.

14. Visa arrangement concerning textiles and textile products. Effected by exchange of letters of April 30 and September 3, and September 23, 1997. Entered into force September 24, 1997.

15. Agreement concerning trade in cotton, wool, man-made fiber, silk blend and other non-cotton vegetable fiber textile products, with attachment. Effected by exchange of letters December 10, 1997. Entered into force December 10, 1997; effective January 1, 1998.

16. Agreed minutes on government procurement issues. Signed December 17, 1997.

[FR Doc. 98–34297 Filed 12–24–98; 8:45 am]

BILLING CODE 0000–00–U

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Advanced Networking Infrastructure Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Advanced Networking Infrastructure Research (#1207).

Date & Time: January 14 and 15, 1999; 8:30 AM–5:00 PM.

Place: Room 390, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact person: Tatsuya Suda, Division of Advanced Networking Infrastructure Research, Room 1175, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1950.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Special Projects Program as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: December 21, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–34266 Filed 12–24–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Astronomical Sciences (1186); Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces that the Special Emphasis Panel in Astronomical Sciences (1186) will be holding panel meetings for the purpose of reviewing proposals submitted to the Extragalactic Astronomy and Cosmology Program in the area of Astronomical Sciences. In order to review the large volume of proposals, panel meetings will be held on January 21 and 22, 1999 (2), January 26, and 27, 1999 (2) and February 3 and 4, 1999 (2). All meetings will be closed to the public and will be held at the National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia, from 8:30 AM to 5:00 PM each day.

Contact Person: Dr. Sethanne Howard, Program Director, Extragalactic Astronomy and Cosmology, Division of Astronomical Sciences, National Science Foundation, Room 1045, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1827.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including

technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: December 21, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–34272 Filed 12–24–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biological Infrastructure: Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Advisory Panel for Biological Infrastructure (#1215).

Date and Time: January 11–12, 1999, 8:30 am–5:00 pm.

Place: National Science Foundation at 4201 Wilson Blvd., Arlington, VA 22230, Rm. 320 & 390.

Type of Meeting: Closed.

Contact Person: Lee Makowski and Patricia Moore, Program Directors, Biological Instrumentation and Instrument Development, National Science Foundation, Rm. 615, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1472.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposal for acquisition of Biological Instrumentation and Instrument Development for the Multi-User Biological Equipment Program (MBE) Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b (c), (4) and (6) of the Government in the Sunshine Act.

Dated: December 21, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–34263 Filed 12–24–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Civil and Mechanical Systems (1205).

Date and Time: January 20, 21, 22, and 29, 1999; 8:30 a.m. to 5:00 p.m.

Place: NSF, 4201 Wilson Boulevard, Rooms 530 and 580, Arlington, Virginia 22230.

Contact Person: Drs. Ken P. Chong and Jorn Larsen-Basse, Control, Materials and Mechanics Cluster, Division of Civil and Mechanical Systems, Room 545, NSF, 4201 Wilson Blvd., Arlington, VA 22230. 703/306–1361, x5065 and x5073.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in theSunshine Act.

Dated: December 21, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–34269 Filed 12–24–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Computer—Communications Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting. Special Emphasis Panel in Computer—Communications Research.

Name: Special Emphasis Panel in Computer—Communications Research (1192).

Date: January 26, January 28 and February 2, 1999.

Time: 8:00 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, January 26 and February 2, Rooms 1150 and 1120, January 28, Rooms 330 and 340.

Type of Meeting: Closed.

Contact Person(s): Frank D. Anger, Program director, Software Engineering and Languages Program, CISE/C–CR, Room 1145, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Telephone: (703) 306–1911.

Purpose of Meeting: To provide advice and recommendations for the Software Engineering and Languages Program (SEL) by providing review of a group of approximately 100 proposals with special attention to changing emphases for that program.

Agenda: Review and evaluate SEL proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: December 21, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–34275 Filed 12–24–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Computer—Communications Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Computer—Communciations Research (1192).

Date and Time: January 28 and 29, 1999 from 8:30 a.m. to 5:00 p.m.

Place: January 28 & 29, Rooms: 1150, 1105.17, & 320 NSF, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Yechezkel Zalcstein, Program Director for Theory of Computer Program, C–CR, Room 1145, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, (703) 306–1914.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate Theory of Computing proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary of confidential nature, including technical information; financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: December 21, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–34276 Filed 12–24–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Small Business Industrial Innovation (SBIR)–(61).

Date and Time: January 21–22, 1999, 8:00 a.m.–5:30 p.m.

Place: Rooms 1235 and 630, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Kesh S. Narayanan, Head, Industrial Innovation Program, (703) 306–1390, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Minutes: May be obtained from the contact person listed above.

Purpose of Committee: To provide advice and recommendations concerning research programs pertaining to the small business community.

Agenda: January 21, day one: This day will focus on the Committee of Visitors report and NSF's response to be followed by an update on significant achievements and issues in the last year. January 22, day two: This will be a day for the committee to deliberate and recommend actions on topics like the new solicitation as well as small business/university partnership and other SBIR/STTR related topics.

Dated: December 21, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–34260 Filed 12–24–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Design, Manufacture & Industrial Innovation; Notice of Meetings

This notice is being published in accord with the Federal Advisory Committee Act (Public Law 92–463, as amended). During the period of January 25–27, 1999 and February 3, 1999 Special Emphasis Panels in Design, Manufacture & Industrial Innovation (1194) will be holding panel meetings to review and evaluate Small Business Innovation Research (SBIR) Phase II proposals. All meetings will be held at the National Science Foundation.

Times: 8:30 a.m. to 5:00 p.m. each day.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Room: 580 (for January 25–27 meetings); Rm. 370 (for February 3, 1999 meeting).

Type of Meetings: Closed.

SBIR Program Contact Person: Cheryl Albus, Program Manager, DMII, or Cynthia Ekstein, Program Manager, DMII, Room 550, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Telephone: (703) 306–1390.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Small Business Innovation Research (SBIR) Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 USC 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: December 21, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–34274 Filed 12–24–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Division of Electrical and Communications Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Electrical and Communications Systems (1196).

Date & Time: January 11–12, 1999, 8:00 a.m.–5:00 p.m.

Place: Room 370, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Rajinder Khosla, Room 675, Division of Electrical and Communications Systems, National Science Foundation, 4201 Wilson Boulevard, VA 22230 Telephone: (703) 306–1339.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Electrical and Communications proposals.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: December 21, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–34262 Filed 12–24–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Electrical and Communications Systems; Notice of Meetings

This notice is being published in accord with the Federal Advisory Committee Act (Pub. L. 92–463, as amended). During the period January 1 through January 30, 1999, the Special Emphasis Panel will be holding panel meetings to review and evaluate research proposals. The dates, contact person, and types of proposals are as follows:

Special Emphasis Panel in Electrical and Communications Systems (1196)

1. *Date:* January 11–12, 1999, 8:30 am–5:00 pm, Rooms 630 & 680.

Contact: Dr. Usha Varshney, Program Director, Electronics, Photonics, and Device Technologies (EPDT), Division of Electrical and Communications Systems, National Science Foundation, 4201 Wilson Blvd., Room 675, Arlington, VA 22230. Telephone: (703) 306–1339.

Type of Proposal: Electronics, Photonics, and Device Technologies.

2. *Date:* January 14–15, 1999, 8:30 am–5:00 pm, Rooms 360 & 680.

Contact: Dr. Tien P. Lee, Program Director, Electronics, Photonics, and Device Technologies (EPDT), Division of Electrical and Communications Systems, National Science Foundation, 4201 Wilson Blvd., Room 675, Arlington, VA 22230. Telephone: (703) 306–1339.

Type of Proposal: Electronics, Photonics, and Device Technologies.

3. *Date:* January 14–15, 1999, 8:30 am–5:00 pm, Room 580.

Contact: Dr. Usha Varshney, Program Director, Electronics, Photonics, an Device Technologies (EPDT), Division of Electrical and Communications Systems, National Science Foundation, 4201 Wilson Blvd., Room 675, Arlington, VA 22230. Telephone: (703) 306–1339.

Type of Proposal: Electronics, Photonics, and Device Technologies

Date: January 29–30, 1999, 8:30 a.m.–5:00 p.m., Rooms 630 & 680.

Contact: Dr. Saifur Rahman, Program Director, Control, Networks, and Computational Intelligence (CNCI), Division of Electrical and Communications Systems, National Science Foundation, 4201 Wilson Blvd., Room 675, Arlington, VA 22230. Telephone: (703) 306–1339.

Type of Proposal: Control, Networks, and Computational Intelligence.

5. *Date:* January 11, 1999, 8:00 a.m.–5:00 p.m., Room 330.

Contact: Dr. Magdy Iskander, Program Director, Electronics, Photonics, and Device Technologies (EPDT), Division of Electrical and Communications Systems, National Science Foundation, 4201 Wilson Blvd., Room 675, Arlington, VA 22230. Telephone: (703) 306–1339.

Type of Proposal: Electronics, Photonics, and Device Technologies.

6. *Date:* January 14–15, 1999, 8:00 a.m.–5:00 p.m., Room 1295.

Contact: Dr. Magdy Iskander, Program Director, Electronics, Photonics, and Device Technologies (EPDT), Division of Electrical and Communications Systems, National Science Foundation, 4201 Wilson Blvd., Room 675, Arlington, VA 22230. Telephone: (703) 306–1339.

Type of Proposal: Electronic, Photonics, and Device Technologies.

Times: 8:00–8:30 a.m. to 5:00 p.m. each day.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate EPDT & CNCI proposals submitted to the Division as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: December 21, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–34278 Filed 12–24–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Elementary, Secondary and Informal Education; Notice of Meeting

In accordance with the Federal Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel Elementary, Secondary and Informal Education (#59).

Date and Time: Wednesday, January 13, 1999, 4:00 p.m. to 9:00 p.m. Thursday, January 14. 1999, 8:00 a.m. to 6:00 p.m., Friday, January 15, 1999, 8:00 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 375, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Hyman H. Field, Acting Division Director of Elementary, Secondary and Informal Education, National Science Foundation, Room 885, 4201 Wilson Blvd., Arlington, VA 22230, Tel. (703) 306–1616.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Informal Science Education Program proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(c), the Government in the Sunshine Act.

Dated: December 21, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–34264 Filed 12–24–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Elementary, Secondary and Informal Education; Notice of Meeting.

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel Elementary, Secondary and Informal Education (#59).

Date and Time: January 21, 1999, 8:00 a.m. to 8:00 p.m., January 22, 1999, 8:00 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 375, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. James Oglesby, Program Director of Elementary, Secondary and Informal Education, National Science Foundation, Room 885, 4201 Wilson Boulevard, Arlington, VA 22230, Tel. (703) 306–1616.

Purpsoe of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Informal Science Education Program proposals as part of the selection process for awards.

Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposal. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(c), the Government in the Sunshine Act.

Dated: December 21, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–34271 Filed 12–24–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Graduate Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Graduate Education (57)

Date: 1/14/99–1/15/99 8:00 a.m. to 5:00 p.m.

Place: NSF, Room 375, 4201 Wilson Blvd., Arlington, VA

Type of Meeting: Closed

Contact Person: Dr. Paul W. Jennings, Program Director, IGERT, Division of Graduate Education, Room 907N, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, telephone (703) 306–1696.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate preproposals submitted to the NSF Integrative Graduate Education and Research Training (IGERT) program as part of the selection process for awards.

Reason for Closing: The preproposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: December 21, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–34265 Filed 12–24–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Information and Intelligent Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Information and Intelligent Systems (1200).

Date and Time: January 15, 1999, 8:00–6:00 PM.

Place: Arlington Hilton and Towers, 950 North Stafford Street, Arlington, VA 22203.

Type of Meeting: Closed.

Contact Person: Dr. Gary Strong, Deputy Division Director, Division of Information and Intelligent Systems, Room 1115, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 306–1928.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Knowledge and cognitive Systems proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: December 21, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–34268 Filed 12–24–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Information and Intelligent Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Information and Intelligent Systems (1200).

Date and Time: January 21, 1999, 8:00–5:00 PM, January 22, 1999, 8:00–1:00 PM.

Place: Hyatt Arlington at Washington, Key Bridge, 1325 Wilson Blvd., Arlington, VA 22209–9990.

Type of Meeting: Closed.

Contact Person: Dr. Gary Strong, Deputy Division Director, Division of Information and Intelligent Systems, Room 1115, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 306–1928.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Robotics and Human Augmentation proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: December 21, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–34270 Filed 12–24–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Information and Intelligent Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Information and Intelligent Systems (1200).

Date and Time: January 28, 1999, 8:30–5:00 PM, January 29, 1999, 8:30–2:00 PM.

Place: Room 370, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Gary Strong, Deputy Division Director, Division of Information and Intelligent Systems, Room 1115, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 306–1928.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Robotics and Human Augmentation proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: December 21, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–34277 Filed 12–24–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Materials Research (1203).

Dates & times: January 11, 1999; 4:00 pm–8:00 pm, January 12, 1999; 7:30 am–4:30 pm.

Place: University of Houston, Houston, TX.

Type of meetings: Closed.

Contact person: Dr. Carmen Huber, Program Director, Division of Materials Research, Room 1065.27, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1996.

Purpose of meeting: To provide advice and recommendations concerning progress of Materials Research Science and Engineering Center.

Agenda: To review and evaluate progress of Materials Research Science and Engineering Center.

Reason for closing: The work being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the effort. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: December 21, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–34261 Filed 12–24–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel; Notice Of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Physics (1208).

Date and Time: January 14–15, 1999 from 8:00 AM to 5:00 PM.

Place: Indiana University Cyclotron Facility; Indiana University; Bloomington, IN 47405

Type of Meeting: Closed.

Contact Person: Dr. Bradley D. Keister, Program Director for Nuclear Physics, Room 1015, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1891.

Purpose of Meeting: To provide advice and recommendations concerning the operation of the Indiana University Cyclotron Facility.

Agenda: To hear presentations and write recommendations concerning IUCF operations and its budget levels in FY2000 and FY2001.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; information on personnel and proprietary data for present and future subcontracts. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: December 21, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–34267 Filed 12–24–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis in Research, Evaluation and Communication; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis in Research, Evaluation and Communication (#1210).

Date and Time: January 21, 1999 (8:00 a.m.-5:00 p.m.), January 25, 1999 (8:00 a.m.-5:00 p.m.).

Place: National Science Foundation, 4201 Wilson Boulevard, Room 310 and 360 Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Elizabeth VanderPutten, Program Director, Research, Evaluation and Communication (REC), Room 855, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: 703/306–1650.

Purpose of meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate formal proposals submitted to the Research on Education Policy and Practice (REPP) Program as a part of the selection process for awards.

Reasons for Closing: The proposals being reviewed include information of a propriety or confidential nature, including technical information, financial data, such as salaries, and personal information concerning

individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: December 21, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–34273 Filed 12–24–98; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Indiana Michigan Power Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity For a Hearing

[Docket Nos. 50–315 and 50–316]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–58 and Facility Operating License No. DPR–74 issued to Indiana Michigan Power Company (the licensee) for operation of the Donald C. Cook Nuclear Power Plant, Units 1 and 2 located in Berrien County, Michigan. The proposed license amendment would revise Technical Specification Section 4.6.5.1, ''Ice Condenser, Ice Bed,'' and its associated bases to reflect the maximum ice condenser flow channel blockage assumed in the accident analyses.

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.

Criterion 1

Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The ice condenser system is used to mitigate the consequences of an accident and has no impact on the initiation of any evaluated accidents. Therefore, changing the flow channel surveillance does not increase the probability of an evaluated accident.

The proposed changes to the flow channel surveillance provide additional assurance beyond current requirements to provide reasonable assurance that the maximum analyzed blockage of 15% is not exceeded. Therefore, the change does not represent an increase in the consequences of an accident previously evaluated.

Criterion 2

Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated. The ice condenser has no function during normal operation. It is a passive system that functions after an accident has already occurred. The proposed change to the ice condenser flow channel surveillance does not alter physical characteristics of the ice condenser, nor does it change the function of the ice condenser. No new failure mechanisms are introduced by this change.

Therefore, it was concluded that the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3

Does the change involve a significant reduction in a margin of safety?

The proposed change to the ice condenser flow channel surveillance provides additional assurance that the ice condenser should contain the minimum analyzed flow area. By ensuring the minimum analyzed area is always available, inherent margins due to conservative assumptions in the calculation are maintained. These conservative assumptions include, for example, taking no credit for ice or frost blockage being blown clear during the accident and assuming only one dimensional flow through the ice bed with no credit taken for cross flow.

Therefore, these changes do not involve a significant reduction in a margin of safety.

Conclusion

In summary, based upon the above evaluation, the Licensee has concluded that these changes involve no significant hazards consideration.

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 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 January 27, 1999, 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 Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, MI 49085. 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 Jeremy J. Euto, Esquire, 500 Circle Drive, Buchanan, MI 49107, 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 December 3, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, MI 49085.

Dated at Rockville, Maryland, this 18th day of December 1998.

For the Nuclear Regulatory Commission.

John F. Stang, Jr.,

Sr. Project Manager, Project Directorate III–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–34245 Filed 12–24–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Inspection and Enforcement for U.S. Nuclear Regulatory Commission's Medical Use Licensees—Public Meeting

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of public meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is developing new initiatives to streamline both inspection and enforcement, for certain medical use licensees. NRC will hold a public meeting on January 8, 1999, to obtain early public input in the development of this guidance.

DATES: The meeting will be held on January 8, 1999, from 9:00 a.m. to 5 p.m.

ADDRESSES: Two White Flint North, Room 2–B–3, 11545 Rockville Pike, Rockville, MD 20852–2738.

FOR FURTHER INFORMATION CONTACT: Ronald E. Zelac, U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, telephone, 301–415–6316, e-mail *rez@nrc.gov*.

NRC plans to streamline both inspection and enforcement, for all materials licensees. NRC will begin this new approach with a 1-year pilot program for certain medical use licenses, specifically for nuclear medicine programs (use under 10 CFR 35.100, 35.200, and 35.300), beginning in calendar year 1999. These licenses represent approximately 30 percent of current NRC material licenses.

NRC is developing inspection and enforcement guidance for certain medical use licensees (10 CFR 35.100, 200, 300). The guidance will focus attention on elements of the licensee's program performance having potential for significant health and safety outcomes. The central element of this new approach will be the use of performance indicators for program review. These indicators will consist of a limited number of key factors, each related to an important health and safety outcome. Collectively, they will be used to provide an overall assessment of the adequacy and acceptability of the licensee's radiation protection and materials control program performance. Lessons learned in this area will be applied to inspection and enforcement guidance for other areas.

This initiative is expected to improve the inspection and enforcement process for both the licensees and NRC, by reducing the impact of inspections and the regulatory burden on licensees, and more effectively using NRC resources. The objective of this meeting is to make the public aware of these initiatives and to provide it with an opportunity for public input and comment.

Copies of the inspection guidance that is proposed for the pilot program can be obtained from Ronald Zelac at the above address after December 23, 1998. An electronic copy of the document will be posted to NRC's Homepage *(http://www.nrc.gov)*.

The meeting will be open to the public, on a space available basis. Members of the public who are unable to attend the meeting can send comments to Ronald E. Zelac, Rulemaking and Guidance Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards, by January 15, 1999. Comments received after this date will be considered if it is practical to do so.

Dated at Rockville, Maryland, this 21st day of December 1998.

For the Nuclear Regulatory Commission.

Frederick C. Combs,

Acting Director, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–34246 Filed 12–24–98; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Statement Regarding Contributions and Support of Children.

(2) *Form(s) submitted:* G–139.

(3) *OMB Number:* N/A.

(4) *Expiration date of current OMB clearance:* N/A.

(5) *Type of request:* New collection.

(6) *Respondents:* Individuals or households.

(7) *Estiamted annual number of respondents:* 500.

(8) *Total annual responses:* 500.

(9) *Total annual reporting hours:* 125.

(10) *Collection description:* Dependence on the employee for at least one-half support is a condition affecting eligibility for increasing an employee or spouse annuity under the social security overall minimum provisions on the basis of the presence of a dependent child, the employee's natural child in limited situations, adopted children, stepchildren, grandchildren, and step-grandchildren. The information collected will be used to solicit financial information needed to determine entitlement to a child's annuity based on actual dependency.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laurie Schack (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 98–34195 Filed 12–24–98; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23615; 812–11426]

Calvert Social Investment Fund, et al.; Notice of Application

December 21, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act.

SUMMARY OF THE APPLICATION: The requested order would permit a subadviser to a registered investment company to serve under a subadvisory agreement without prior shareholder approval for a period beginning on the date the requested order is issued (''Order Date'') and continuing through the date the subadvisory agreement is approved or disapproved by the shareholders of the investment company, but in no event longer than 90 days from the Order Date (''Interim Period'').

APPLICANTS: Calvert Social Investment Fund (''Fund''), Calvert Asset Management Company, Inc. (''CAM''), and Atlanta Capital Management Company, LLC (''Atlanta Capital'').

FILING DATES: The application was filed on December 7, 1998. Applicants have agreed to file an amendment, the substance of which is included in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 14, 1999, and should be accompanied by proof of service on Applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o Kirkpatrick & Lockhart, Attn: Robert J. Zutz, Esq. or Richard H. Kirk, Esq., 1800 Massachusetts Avenue, NW, Suite 200, Washington, D.C. 20036.

FOR FURTHER INFORMATION, CONTACT: Rachel H. Graham, Senior Counsel, at (202) 942–0583, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (telephone (202) 942–8090).

Applicants' Representations

1. The Fund is a Massachusetts business trust that is registered under the Act as an open-end management investment company. Equity Portfolio (''Portfolio'') is a series of the Fund.

2. Each of CAM and Atlanta Capital is an investment adviser registered under the Investment Advisers Act of 1940. CAM serves as investment adviser to the Portfolio pursuant to an investment advisory agreement (''Adviser Agreement''). Atlanta Capital serves as investment subadviser to the Portfolio pursuant to an investment subadvisory agreement with CAM (''New Agreement''). Atlanta Capital's subadvisory fee is paid by CAM out of the fee that CAM receives from the Portfolio.

3. On September 16, 1998, the Fund's Board of Trustees (''Board''), including a majority of the trustees who are not ''interested persons'' as the term is defined in section 2(a)(19) of the Act (''Independent Trustees''), terminated the Portfolio's investment subadvisory agreement with Loomis, Sayles & Company, LP (''Loomis'') (such agreement to be referred to as the ''Loomis Agreement''), effective as of September 21, 1998. The Board, including a majority of the Independent Trustees, approved the New Agreement with Atlanta Capital pending its approval as successor subadviser to the Portfolio and voted to recommend that the New Agreement be submitted to the Portfolio's shareholders for approval. Applicants anticipate that the Portfolio will distribute proxy materials to its shareholders on or about December 31, 1998 and will hold the shareholder meeting on or about February 24, 1999.

4. Applicants request an exemption to permit Atlanta Capital to serve under the New Agreement without prior shareholder approval for the Interim Period, which begins on the Order Date and continues through the date that the New Agreement is approved or disapproved by the Portfolio's shareholders, but in no event longer than 90 days from the Order Date. Applicants state that the New Agreement has substantially the same terms and conditions as the Loomis Agreement, which had been approved by shareholders, except for the name of the subadviser and the commencement and termination dates. Applicants also state that the Portfolio will receive during the Interim Period advisory and subadvisory services that are at least equivalent in scope and quality to the services provided by the Adviser and Loomis under the Adviser Agreement and the Loomis Agreement.

5. Applicants state that, because the Loomis Agreement contained a performance fee adjustment and the New Agreement does not provide for such an adjustment, Atlanta Capital may receive a different dollar amount in fees during the Interim Period than Loomis would have received under the Loomis Agreement for the same period. Applicants represent, however, that since CAM pays Atlanta Capital out of the fees that CAM receives from the Portfolio, the aggregate amount of advisory fees to be paid by the Portfolio during the Interim Period will not exceed the aggregate amount of such fees that would have been payable had Loomis continued to serve as investment subadviser during the Interim Period.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to serve as an investment adviser to a registered investment company, except pursuant to a written contract that has been approved by the vote of a majority of the outstanding voting securities of the investment company.

2. Rule 15a–4 under the Act provides, in relevant part, that if an investment company's board of directors terminates the investment advisory contract of its subadviser, a new subadviser may provide services to the investment company for up to 120 days under a written contract that has not been approved by the company's shareholders, provided that: (i) the new contract has been approved by the board of directors (including a majority of the non-interested directors); and (ii) the compensation to be paid does not exceed the compensation that would have been paid under the contract most recently approved by the company's shareholders. Applicants state that they are currently relying on rule 15a–4 but that the 120-day period provided for in the rule will expire on January 19, 1999. Applicants state that they therefore will require an exemptive order for the Interim Period.

3. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction from any provision of the Act or any rule thereunder to the extent that such exemption is necessary or appropriate in the public interest and consistent with both the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the requested relief meets this standard.

4. Applicants state that a meeting of all shareholders in the Calvert Group Family of Funds, which includes the Fund, (''Calvert Group Meeting'') will take place on or about February 24, 1999 in connection with the pending merger of the CAM's parent organizations with other organizations.[1] Applicants assert that the requested order would permit the Portfolio's shareholders to vote on the New Agreement at the Calvert Group Meeting and thereby save the Portfolio the expense of holding a separate special shareholder meeting to approve the New Agreement.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. The New Agreement in effect during the Interim Period will have substantially the same terms and conditions as the Loomis Agreement, except that the New Agreement names a new subadviser, has different commencement and termination dates, and does not provide for a performance fee adjustment with respect to the investment subadvisory fee.

2. The Fund will hold a meeting of its shareholders to vote on approval of the New Agreement on or before the 90th day following the Order Date.

3. CAM and Atlanta Capital will take all appropriate steps to assure that the scope and quality of advisory and order services provided to the Portfolio during the Interim Period will be at least equivalent, in the judgment of the Board, including a majority of the Independent Trustees, to the scope and quality of services that were provided under the Loomis Agreement. If personnel providing material services during the Interim Period change materially, CAM will apprise and consult with the Board to assure that the Board, including a majority of the Independent Trustees, is satisfied that the services provided will not be diminished in scope or quality.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–34255 Filed 12–24–98; 8:45 am]

BILLING CODE 8010–01–M

[1] Applicants state that they have determined that the merger will not result in an ''assignment'' of the Adviser Agreement or any investment subadvisory agreements, within the meaning of the Act. Accordingly, applicants are not seeking any relief with respect to the merger.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23612; 812–11148]

IEI Capital Corp; Notice of Application

December 18, 1998.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') granting an exemption from all provisions of the Act.

SUMMARY OF APPLICATION: Applicant requests an order exempting it from all provisions of the Act.

FILING DATES: The application was filed on September 24, 1998, and amended on December 18, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 12, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretaries and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 1630 North Meridian Street, Indianapolis, IN 46202–1496.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Knisely, Staff Attorney, at (202) 942–0517, or George J. Zornada, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549. (tel. 202–942–8090).

Applicant's Representations

1. Applicant is an Indiana corporation and a wholly-owned finance subsidiary for Indiana Energy, Inc. (''IEI''). IEI, incorporated in Indiana, is a public utility holding company exempt from the Public Utility Holding Company Act of 1940. In addition to applicant, IEI's wholly-owned subsidiaries are IEI Investments, Inc. (''Investments''), Indiana Gas Company (''Indian Gas''), Indiana Energy Foundation (''Energy''), and IEI Services, LLC (''IEI Services''). Investments has three wholly-owned subsidiaries, IGC Energy, Inc. (''IGC Energy''), Energy Realty, Inc. (''Energy Realty''), and Energy Financial Group, Inc. (''EFGI''). IGC Energy has four subsidiaries, ProLiance Energy LLC (''ProLiance''), CIGMA, LLC (''CIGMA''), Energy Systems Group, LLC (''ESG''), and Reliant Services LLC (''Reliant''). EFGI has two subsidiaries, IEI Synfuels, Inc. and IEI Financial Services, LLC (together with Investments, Energy, IEI Services, IGC Energy, Energy Realty, EFGI, Proliance, CIGMA, ESG, and Reliant, the ''Subsidiaries''). Indiana Gas has two wholly-owned subsidiaries, Terre Haute Gas Corporation and Richmond Gas Corporation (collectively, the ''Indiana Gas Subsidiaries'').

2. Indiana Gas is a natural gas public utility operating company, subject to regulation by the Indiana Utility Regulatory Commission (''IURC'') in respect to, among other things, rates, charges, services accounts, and the issuance of securities. Indiana Gas is also subject to limited regulation by the Federal Energy Regulatory Commission (''FERC''). Neither IEI nor any of the Subsidiaries is subject to regulation by the IURC or the FERC.

3. Applicant was formed as a financing conduit for IEI and the Subsidiaries. Applicant's primary function will be to raise funds through the offer and sale of debt securities, and to lend at least 85% of the proceeds of such offering to IEI or its Subsidiaries. Applicant will comply with all of the provisions of rule 3a–5 under the Act except that, due to the regulated nature of Indiana Gas, IEI cannot directly guarantee the debt securities. Instead of an unconditional guarantee, IEI will use a support agreement (''Support Agreement'') which will be the functional equivalent of an unconditional guarantee except that it will provide that the holders of debt will have no recourse against the stock or assets of Indiana Gas, the Indiana Gas Subsidiaries, or any interest of applicant or IEI therein.

4. Because applicant's securities are not beneficially owned by more than 100 persons and applicant is not making and does not propose to make a public offering of its securities, applicant is not an ''investment company'' by virtue of the exemption contained in section 3(c)(1) of the Act. Applicant is applying for an exemption because it may in the future engage in a public offering or an offering exempt from the registration requirements of the Securities Act of 1933 (''Securities Act'') which may result in applicant's securities being beneficiary held by more than 100 persons. Applicant, therefore, requests an order under section 6(c) of the Act exempting it from all provisions of the Act.

Applicant's Legal Analysis

1. Section 6(c) of the Act permits the Commission to grant an exemption from the provisions of the Act if, and to the extent that, such exemption is necessary and appropriate in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act.

2. Rule 3a-5 under the Act provides an exemption from the definition of an investment company for certain companies organized primarily to finance the business operations of their parent companies or companies controlled by their parent companies. Applicant states that it meets all of the requirements of rule 3a-5 except that IEI cannot directly guarantee the debt securities.

3. Applicant believes that the Support Agreement provides a functional equivalent of an unconditional guarantee of applicant's securities because it grants holders of applicant's securities the right to proceed directly against IEI in the event applicant fails to pay when due principal, interest, and premium, if any, owed by it on such securities. IEI states that it determined to enter into the Support Agreement in lieu of an unconditional guarantee because it wished to separate entirely the financing of its unregulated activities from the regulated business of Indiana Gas. Applicant states that for business and regulatory reasons the right to proceed directly against IEI is limited only so as to exclude the stock and assets of Indiana Gas, the Indiana Gas subsidiaries, and any interest of IEI and applicant therein. Applicant also states that funds available to IEI to satisfy any obligation under the Support Agreement will include dividends paid by Indiana Gas to IEI, as well as revenues and other assets of IEI, which include its interest in subsidiaries other than Indiana Gas.

Applicant's Condition

Applicant agrees that the order granting the requested relief will be subject to the following conditions:

1. Applicant will meet all of the requirements of rule 3a-5 except for the

unconditional guarantee requirement. In lieu of the unconditional guarantee requirement, applicant has entered into, and will keep in force (except as contemplated below), the Support Agreement, which is and shall be the functional equivalent of an unconditional guarantee. The Support Agreement provides, and will continue to provide, as follows:

a. IEI owns and shall continue to own all of the outstanding voting stock of applicant.

b. IEI will provide to applicant funds (as capital, or if IEI and applicant agree, as a subordinated loan) as required if applicant is unable to make timely payment of interest, principal or premium, if any, on any debt issued by applicant.

c. IEI will cause applicant to have at all times a positive net worth (net assets less intangible assets, if any), as determined in accordance with generally accepted accounting principles.

d. If applicant fails or refuses to take timely action to enforce its rights under the Support Agreement or if applicant defaults in the timely payment of interest, principal or premium, any lender may proceed directly against IEI to enforce applicant's rights under the Support Agreement or to obtain payment of such defaulted interest, principal or premium.

2. The Support Agreement may be modified or amended in a manner that adversely affects the rights of creditors of applicant only if such modification or amendment occurs after all debt securities theretofore issued by the applicant are paid in full, unless all affected creditors consent in advance and in writing to such modification or amendment. No modification of or amendment to the Support Agreement relating to the four provisions set forth in paragraph 1, above, shall be made unless (1) all creditors consent in advance and in writing to such modification or amendment and (2) applicant applies to the Commission for an amended order relating to such modification or amendment, and the Commission grants such amended order. The Support Agreement may be terminated only after (1) all debt securities issued by applicant are paid in full and (2) applicant applies to the Commission for an amended order relating to such termination, and the Commission grants such amended order.

3. Although applicant does not presently intend to initiate a non-public offering of its securities which may result in its securities (other than short-term paper, as that term is defined in section 2(a)(38) of the Act) being beneficially held by more than 100 persons, or to make a public offering of its securities, if such offerings are made, they will consist of short-term, intermediate-term, and long-term debt securities to be offered and sold either in transactions exempt from the registration requirements of the Securities Act or in public offerings of securities registered under the Securities Act. No future public offerings will involve voting securities of applicant.

4. If applicant offers or sells securities not requiring registration under the Securities Act, applicant will provide each offeree with disclosure materials which will include a description of the business of IEI and its subsidiaries and other data of the character customarily supplied in such offerings, or will otherwise comply with the disclosure requirements of Regulation D under the Securities Act. In the event of a subsequent offering, these materials will be appropriately updated at the time thereof (by supplementing the disclosure materials or by incorporating by reference filings under the Securities Exchange Act of 1934) to reflect material changes in the financial condition of IEI and its subsidiaries, taken as a whole.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland

Deputy Secretary.

[FR Doc. 98–34204 Filed 12–24–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23614; 812–11246]

Mitchell Hutchins Institutional Series, et al.; Notice of Application

December 21, 1998

AGENCY: Secururities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act.

SUMMARY OF APPLICATION: The order would permit applicants to enter into and materially amend subadvisory agreements without obtaining shareholder approval.

APPLICANTS: Mitchell Hutchins Institutional Series; Mitchell Hutchins Portfolios; Mitchell Hutchins Series Trust; PaineWebber America Fund; PaineWebber Financial Services Growth Fund Inc.; PaineWebber Index Trust; PaineWebber Investment Series; PaineWebber Investment Trust; PaineWebber Investment Trust II; PaineWebber Managed Assets Trust; PaineWebber Managed Investments Trust; PaineWebber Master Series, Inc.; PaineWebber Municipal Series; PaineWebber Mutual Fund Trust; PaineWebber Olympus Fund; PaineWebber Securities Trust (the ''Companies'')[1] and Mitchell Hutchins Asset Management Inc. (''Adviser'').

FILING DATES: The application was filed August 5, 1998, and amended October 27, 1998. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 15, 1999, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 fifth Street, N.W., Washington, D.C. 20549; Applicants, 1285 Avenue of the Americas, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: Timothy R. Kane, Staff Attorney, at (202) 942–0615, or Edward P. MacDonald, Branch Chief, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth

[1] Applicants also request relief with respect to any other open-end management investment company, or series of such company, organized in the future and advised by the Adviser, or a person controlling, controlled by or under common control with the Adviser (a ''Future Fund''), provided that such Future Fund operates in substantially the same manner as the Companies with respect to the Adviser's responsibility to select, evaluate, and supervise subadvisers and complies with the terms and conditions of the application. Each existing registered open-end management investment company that currently intends to rely on the order is named as an applicant.

Street, N.W., Washington, D.C. 20549 (telephone 202–942–8090).

Applicants' Representations

1. Each Company is registered under the Act as an open-end management investment company offering shares of one or more series (''Funds''), each with its own distinct investment objectives, policies, and restrictions. The Companies are organized as Delaware business trusts, Massachusetts business trusts, or Maryland corporations.

2. The Adviser, registered under the Investment Advisers Act of 1940 (''Advisers Act''), and wholly-owned by PaineWebber Incorporated, serves as investment adviser to all Companies pursuant to investment advisory agreements (''Advisory Agreements''). Certain Funds currently have one subadviser (''Subadviser''), each of which is registered under the Advisers Act.

3. Under the Advisory Agreements, the Adviser, subject to the supervision of the boards of directors of the Companies (the ''Boards''), provides each Fund with investment research, advice, and supervision, furnishes and investment program for each Fund consistent with the investment objectives and policies of the Fund, and oversees the Subadvisers. The adviser also administers each Fund's business affairs and maintains the financial and accounting records of each Fund. The Adviser comprehensively reviews the qualifications of possible Subadvisers and thoroughly analyzes whether to hire a Subadviser. Each Subadviser is ultimately approved by the Boards. The Adviser regularly evaluates existing Subadvisers under the same standards. For these services, each Fund pays the Adviser a fee based on the Fund's average net assets.

4. Under subadvisory agreements between the Adviser and Subadvisers (''Subadvisory Agreements''), each Subadviser provides day-to-day portfolio management to the Fund. The Adviser pays the Subadvisers' fees out of the fees the Adviser receives from the Fund.

5. Applicants request an order to permit the Adviser to enter into and materially amend Subadvisory Agreements without obtaining shareholder approval. The requested relief will not extend to a Subadviser that is an ''affiliated person'' (as defined in section 2(a)(3) of the Act) of the Company, the Adviser, or the Funds, other than by reason of serving as a Subadviser to one or more of the Funds (''Affiliated Subadviser'').

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except under a written contract approved by a majority of the investment company's outstanding voting shares. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve the matter if the Act requires shareholder capital.

2. Section 6(c) of the Act authorizes the Commission to exempt persons or transactions from the provisions of the Act to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants believe that their requested relief meets this standard for the reasons discussed below.

3. Applicants assert that a Fund's investors rely on the Adviser to select and monitor Subadvisers best suited to achieve the Fund's investment objective. Applicants represent that the Adviser has substantial experience in performing these functions for the Companies. Applicants submit that, from the perspective of an investor, the role of the Subadvisers is comparable to that of individual portfolio managers employed by other investment company advisory firms. Applicants thus contend that, without the requested relief, the Company may be precluded from promptly and effectively employing Subadvisers best suited to the needs of the Funds. Applicants also note that the Advisory Agreements will remain fully subject to the shareholder approval requirements of the Act and rules under the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Fund may rely on the requested order, the operation of the Fund as described in the application will be approved by the vote of a majority of the Fund's outstanding voting securities, as defined in the Act, or, in the case of a Future Fund whose public shareholders purchased shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholders before offering shares of that Fund to the public.

2. Each fund will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to the application. In addition, each Fund will hold itself out to the public as employing the management structure described in the application. The Fund's prospectus will prominently disclose that the Adviser has the ultimate responsibility to oversee Subadvisers and recommend their hiring, termination, and replacement.

3. At all times, a majority of each Company's Board will be persons each of whom is not an ''interested person'' of the Company or the Adviser as defined in section 2(a)(19) of the Act (''Independent Directors''), and the nomination of new or additional Independent Directors will be at the discretion of the then-existing Independent Directors.

4. The Adviser will not enter into a Subadvisory Agreement with any Affiliated Subadviser without the Subadvisory Agreement, including the compensation to be paid under that Agreement, being approved by the shareholders of the applicable Fund.

5. When a Subadviser change is proposed for a Fund with an Affiliated Subadviser, the Board, including a majority of the Independent Directors, will make a separate finding, reflected in the Board's minutes, that the change is in the best interests of the Fund and its shareholders and does not involve a conflict of interest from which the Adviser or the Affiliated Subadviser derives an inappropriate advantage.

6. Within 90 days of the hiring of any new Subadviser, shareholders will be furnished relevant information about the new Subadviser that would be contained in a proxy statement, including any change in such disclosure caused by the addition of the new Subadviser. Each Fund will meet this condition by providing shareholders with an Information Statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A of the Securities Exchange Act of 1934 within 90 days of the hiring of the Subadviser.

7. The Adviser will provide general management services to each Fund, including overall supervisory responsibility for the general management and investment of each Fund's portfolio, and, subject to review and approval by the Board, will: (i) set the Fund's overall investment strategies; (ii) select Subadvisers; (iii) monitor and evaluate the performances of Subadvisers; (iv) ensure that the Subadvisers comply with the Fund's investment objectives, policies, and restrictions by, among other things, implementing procedures reasonably designed to ensure compliance; and (v) allocate and, when appropriate,

reallocate a Fund's assets among Subadvisers when a Fund has more than one Subadviser.

8. No trustee, director, or officer of a Company or director or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by the trustee, director, officer) any interest in a Subadviser, except for (i) ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser; or (ii) ownership of less than one percent of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Subadviser or an entity that controls, is controlled by, or is under common control with a Subadviser.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–34257 Filed 12–24–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23613; 812–10962]

Principal Management Corporation, et al.; Notice of Application

December 21, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 15(a) of the Act and rule 18f-2 under the Act.

SUMMARY OF APPLICATION: The order would permit applicants to enter into and materially amend investment subadvisory agreements without obtaining shareholder approval.

APPLICANTS: Principal Management Corporation (the ''Adviser''), Principal Variable Contracts Fund, Inc., Principal Balanced Fund, Inc., Principal Blue Chip Fund, Inc., Principal Capital Value Fund, Inc., Principal Midcap Fund, Inc., Principal Growth Fund, Inc., Principal Utilities Fund, Inc., Principal International Fund, Inc., Principal Bond Fund, Inc., Principal Government Securities Income Fund, Inc., Principal High Yield Fund, Inc., Principal Limited Term Bond Fund, Inc., Principal Tax-Exempt Bond Fund, Inc., Principal Cash Management Fund, Inc., Principal Tax-Exempt Cash Management Fund, Inc., Principal International Emerging Markets Fund, Inc., Principal International SmallCap Fund, Inc., Principal Real Estate Fund, Inc., Principal SmallCap Fund, Inc., and Principal Special Markets Fund, Inc. (each a ''Fund'' and collectively, the ''Funds'').

FILING DATES: The application was filed on January 9, 1998. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 15, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, The Principal Financial Group, Des Moines, Iowa 50392–0200.

FOR FURTHER INFORMATION CONTACT: J. Amanda Machen, Senior Counsel, at (202) 942–7120, or Christine Y. Greenlees, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicants' Representations

1. The Funds, each a Maryland corporation, are registered under the Act as open-end management investment companies. Shares of certain Funds are sold exclusively to Principal Life Insurance Company (''Principal Life''), its affiliated insurance companies and their separate accounts established in connection with variable insurance products. Currently, all but two of the Funds have one portfolio (''Portfolio''); the remaining two Funds, Principal Variable Contracts Fund, Inc. (''Principal Variable'') and Principal Special Markets Fund, Inc., are series funds, with nineteen and four Portfolios, respectively. On May 1, 1998, Principal Variable began offering shares of eight of its Portfolios (''New Portfolios'') to the public.[1]

2. The Adviser, registered under the Investment Advisers Act of 1940 (''Advisers Act'') and an indirect wholly-owned subsidiary of Principal Life, serves as the investment adviser for each of the Funds. The Adviser provides investment advisory services and corporate and administrative services to the Funds under a management agreement with each Fund (collectively, the ''Management Agreements''). Under the Management Agreements, the Adviser recommends the hiring or firing of sub-advisers (''Managers'') to the respective Fund's board of directors (''Board''). In addition, the Adviser monitors the performance of each Manager and may reallocate a Portfolio's assets among Managers. Each Manager recommended by the Adviser is approved by the applicable Fund's Board, including a majority of the directors who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of the Fund (''Independent Directors''). Each Fund pays the Adviser a fee for its services based on the Fund's average daily net assets.

3. The Adviser has entered into subadvisory agreements (''Subadvisory Agreements'') with six Managers, each of which is registered as an investment adviser under the Advisers Act. One of the Managers, Invista, is an affiliate of the Adviser. Currently, six Funds and four Portfolios of Principal Variable are advised by the Adviser and fourteen Funds and fifteen Portfolios of Principal Variable each are advised by one Manager. Subject to general supervision by the Adviser and the Board of each Fund, each Manager makes the investment decisions for the Portfolio it advises. The Managers are concerned only with selection of portfolio investments in accordance with the Portfolio's investment objectives and policies. The Managers have no broader supervisory, management, or administrative responsibilities with respect to the Portfolio. The Adviser pays the Mangers' fees out of the fees the Adviser receives from each Fund.

4. Applicants request an order to permit the Adviser to enter into and materially amend Subadvisory Agreements without obtaining

[1] The New Portfolios are the MicroCap Account, MidCap Growth Account, SmallCap Growth Account, SmallCap Value Account, International SmallCap Account, Real Estate Account, SmallCap Account, and Utilities Account. Applicants state that since the effective date of Principal Variable's post-effective amendment to its registration statement adding the New Portfolios, the New Portfolios have described in their prospectuses the substance and effect of the requested order.

shareholder approval.[2] The requested relief will not extend to a Subadvisory Agreement with a Manager that is an ''affiliated person'' (as defined in section 2(a)(3) of the Act) of either the Fund or the Adviser other than by reason of serving as a Manager to one or more of the Funds or Portfolios (''Affiliated Manager'').[3]

Applicants' Legal Analysis

1. Section 15(a) of the Act makes it unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by a majority of the investment company's outstanding voting securities. Rule 18f-2 under the Act provides that each series or class of stock in a series company affected by a matter must approve the matter if the Act requires shareholder approval.

2. Section 6(c) of the Act authorizes the SEC to exempt persons or transactions from the provisions of the Act to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request relief under section 6(c) from section 15(a) of the Act and rule 18f-2 under the Act. For the reasons discussed below, applicants state that the requested relief meets the standard of section 6(c).

3. Applicants assert that the Funds' investors rely on the Adviser to select and monitor Managers best suited to achieve a Portfolio's investment objective. Part of that investor's investment decision, applicants argue, is a decision to have the selection of Managers made by a professional management organization, such as the Adviser. Applicants submit that, from the perspective of the investor, the role of the Manager is comparable to that of the individual portfolio managers employed by other investment advisory firms. Applicants thus contend that, without the requested relief, each Fund may be precluded from promptly employing Managers best suited to the needs of the Funds. Applicants also note that the Management Agreements will remain fully subject to the requirements of section 15 of the Act and rule 18f–2 under the Act, including the requirements for shareholder approval.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. The Adviser will not enter into a Subadvisory Agreement with any Affiliated Manager without that agreement, including the compensation to be paid under it, being approved by the shareholders of the applicable Portfolio or, in the case of the insurance-related Funds, by the contract owners with assets allocated to any registered separate account for which that Portfolio serves as a funding medium.

2. At all times, a majority of the Board of each Fund will continue to be Independent Directors, and the nomination of new or additional Independent Directors will be at the discretion of the then-existing Independent Directors.

3. When a Manager change is proposed for a Portfolio with an Affiliated Manager, the Fund's Board, including a majority of the Independent Directors, will make a separate finding, reflected in the Fund's Board minutes, that the change is in the best interests of the Portfolio and its shareholders or, in the case of an insurance-related Fund, by the contract owners with assets allocated to any registered separate account for which that Portfolio serves as a funding medium, and does not involve a conflict of interest from which the Adviser or the Affiliated Manager derives an inappropriate advantage.

4. Before a Fund may rely on the requested order as to any Portfolio, the operation of that Portfolio in the manner described in the application will be approved by a majority of its outstanding voting securities, as defined in the Act (or, in the case of the insurance-related Funds, pursuant to voting instructions provided by contract owners with assets allocated to any registered separate account for which such Portfolio serves as a funding medium). Before a Future Fund that does not presently have an effective registration statement may rely on the order requested in the application, the operation of the Future Fund in the manner described in the application will be approved by its initial shareholder before shares of such Future Fund are made available to the public.

5. The Adviser will provide general management services to the Funds and their Portfolios, including overall supervisory responsibility for the general management and investment of each Portfolio's securities portfolio and, subject to review and approval by the applicable Fund's Board, will (i) set the Portfolio's overall investment strategies; (ii) recommend and select Managers; (iii) when appropriate, allocate and reallocate the Portfolio's assets among multiple Managers; (iv) monitor and evaluate the performance of Managers; and (v) implement procedures reasonably designed to ensure that the Managers comply with the Portfolio's investment objectives, policies, and restrictions.

6. Within 90 days of the hiring of any new Manager, shareholders will be furnished with all information about the new Manager that would be included in a proxy statement. The Adviser will meet this condition by providing to shareholders an information statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the Securities Exchange Act of 1934. The applicable Fund will ensure that the information statement is furnished to contract owners with assets allocated to any registered separate account for which the Fund serves as a funding medium.

7. A Fund will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to the application. In addition, the Fund will hold itself out to the public as employing the ''Manager of Managers Strategy'' described in the application. The prospectus relating to the Fund will prominently disclose that the Adviser has ultimate responsibility for the investment performance of each Portfolio employing subadvisers due to the Adviser's responsibility to oversee the Managers and recommend their hiring, termination, and replacement.

8. No director or officer of a Fund or director or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by that director or officer) any interest in a Manager except for (i) ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser; or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Manager or an entity that controls, is controlled by or

[2] The term ''shareholder'' includes variable life and annuity contract owners having the voting interest in a separate account for which the portfolio serves as a funding medium.

[3] Applicants also request relief for (a) any series of the Funds organized in the future; and (b) all registered open-end management investment companies, including those that serve as funding vehicles for variable insurance products offered by Principal Life and its affiliates, that in the future are (i) advised by the Adviser or any entity controlling, controlled by, or under common control (as defined in section 2(a)(9) of the Act) with the Adviser, (ii) use the manager of managers' strategy as described in the application, and (iii) comply with the terms and conditions contained in the application (''Future Funds''). All existing investment companies that currently intend to rely on the order have been named as applicants.

is under common control with a Manager.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–34256 Filed 12–24–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26955]

Filings Under the Public Utility Holding Company Act of 1935, as amended (''Act'')

December 18, 1998.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the applications(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by *January 13, 1999,* to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarants(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After *January 13, 1999,* the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Interstate Energy Corporation

[70–9401]

Interstate Energy Corporation (''Interstate''), 222 West Washington Avenue, Madison, Wisconsin 53703–0192, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(c) of the Act, and rules 42, 46 and 54 under the Act.

Interstate proposes to adopt a stockholder rights plan (''Plan'') and to enter into a rights agreement (''Agreement''). Under the Plan, Interstate's board of directors (''Board'') proposes to declare a dividend of one right (''Right'') for each outstanding share of Interstate common stock, $.01 par value (''Common Stock''). The dividend will be payable to stockholders of record on a record date yet to be determined. Each Right would entitle the holder to purchase one-half of a share of Common Stock at a price of $47.50 per one-half share of Common Stock, subject to adjustment (''Purchase Price'').

The Rights may not be exercised until the ''Distribution Date,'' which is defined in the Agreement as the earlier of two dates. The first is ten days after the first public announcement that any person, group or other entity (''Person'') has acquired, or obtained the right to acquire or to vote, beneficial ownership of 15% or more of Common Stock (such Person, an ''Acquiring Person'' and such event, an ''Acquisition Event''). The second is ten business days (unless extended by the Board) after any Person has commenced, or announced an intention to commence a tender or exchange offer which would, upon its consummation, result in the Person becoming an Acquiring Person.

After the Distribution Date, each Right holder may exercise a Right, upon payment of the Purchase Price, to receive Common Stock (or, in certain circumstances, cash, property, other Interstate securities or a reduction in the Purchase Price) having a value equal to two times the Purchase Price. Under certain circumstances where Interstate is acquired in a business combination transaction with, or fifty percent or more of its assets or earning power is sold or transferred to, another company (''Acquiring Company''), exercise of a Right at the Purchase Price will entitle its holder to receive common stock of the Acquiring Company also having a value equal to twice the Purchase Price. Rights beneficially owned by any Acquiring Person will be null and void.

The Purchase Price, the number of shares of Common Stock covered by each Right and the number of Rights outstanding are subject to adjustment from time to time to prevent dilution. With certain exceptions, no adjustment in the Purchase Price will be required until cumulative adjustments require an adjustment of at least one percent in the Purchase Price.

The Agreement may be amended prior to the Distribution Date by Interstate without the consent of the holders of Common Stock. After the Distribution Date, Interstate generally may amend the Agreement to correct ambiguities or defective provisions consistent with the interests of holders, to shorten or lengthen any time period in the Agreement or to otherwise change or add to the provisions of the Agreement, so long as the change or addition does not adversely affect the Rights holders (other than an Acquiring Person).

At any time after any Person becomes an Acquiring Person and before any Person (not including, among others, Interstate or any of its subsidiaries) acquired, or obtained the right to acquire or to vote, beneficial ownership of fifty percent or more of the outstanding shares of Common Stock, the Board may exchange the Rights (other than Rights owned by an Acquiring Person), in whole or in part, at an exchange ratio of one Common Share per Right, subject to adjustment.

Interstate may redeem all of the Rights at a redemption price of $.001 per Right, subject to adjustment (''Redemption Price''), at any time prior to the date that any Person has become an Acquiring Person. Immediately following Interstate's public notice of an action by the Board Interstate ordering the redemption of the Rights or the exchange of any of the Rights, the right to exercise the Rights will terminate and a Rights holder will be entitled only to receive the Redemption Price or exchanged shares of Common Stock, as the case may be.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–34205 Filed 12–24–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40809; File No. SR–Amex–98–34]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to Listing and Trading of Shares of the Nasdaq-100 Trust

December 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 September 21, 1998, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

which Items have been prepared by the self-regulatory organization. On December 16, 1998, the Exchange submitted to the Commission Amendments No. 1 and 2 to the proposed rule change.[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 Amex proposes to list and trade under Amex Rules 1000 *et seq.*, Nasdaq-100® Shares, units of beneficial interest in the Nasdaq-100® Trust. The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 11, 1992,[4] the Commission approved Amex Rules 1000 *et seq.* to accommodate trading on the Exchange of Portfolio Depositary Receipts (''PDRs''[SM]), securities which represent interests in a unit investment trust (''Trust'') operating on an open-end basis and that hold a portfolio of securities.[5] Each Trust is intended to provide investors with an instrument that closely tracks the underlying securities portfolio, that trades like a share of common stock, and that pays to PDR holders periodic dividends proportionate to those paid with respect to the underlying portfolio of securities, less certain expenses, as described in the applicable Trust prospectus. The first Trust to be formed in connection with the issuance of PDRs was based on the Standard & Poor's 500 Index (''S&P 500 Index''), known as Standard & Poor's Depositary Receipts® (''SPDRs''), which have been trading on the Exchange since January 29, 1993.[6] In 1995, the Commission approved Amex's listing and trading of PDRs based on the Standard & Poor's MidCap 400 Index™ (''MidCap SPDRs'').[7] In January 1998, the Commission approved the listing and trading of PDRs based on the Dow Jones Industrial Average[SM] (''DIAMONDS'').[8]

The Exchange now proposes to list and trade under Rules 1000 *et seq.* Nasdaq-100 Shares (referred to herein as ''Trust shares''), units of beneficial interest in the Nasdaq-100 Trust, Series 1, a unit investment trust based on the Nasdaq-100 Index® (''Nasdaq-100 Trust'' or ''Trust'').[9] The Trust Sponsor, Investment Product Services, Inc., which is wholly-owned by The Nasdaq Stock Market, Inc. (''Nasdaq''), will enter into a trust agreement with The Bank of New York as trustee (the ''Trustee'') in accordance with Section 26 of the Investment Company Act of 1940.[10] A distributor will act as underwriter of the Nasdaq-100 Trust on an agency basis. All orders to create Trust shares in Creation Unit size aggregations must be placed with the distributor, and it will be the responsibility of the distributor to transmit such orders to the Trustee. The distributor is a registered broker-dealer and a member of the National Association of Securities Dealers, Inc.

The Nasdaq-100 Index®[11]. The Nasdaq-100® (''Index'') constitutes a broadly diversified segment of the largest and most actively traded securities listed on the Nasdaq Stock Market. Additionally, the Index has achieved wide acceptance by both investors and market professionals. Specifically, the Index is composed of 100 of the largest and most actively traded non-financial companies listed on the Nasdaq National Market tier of the Nasdaq Stock Market.

The Index was first published in January 1985, and includes companies across a variety of major industry groups. The major industry groups covered in the Index are: computer and office equipment, computer and software/services, telecommunications, retail-wholesale trade, biotechnology, services, health care, manufacturing, and transportation. The five largest companies represented in the Index as of December 14, 1998 are as follows: Microsoft Corporation, Intel Corporation, Cisco Systems Inc., Dell

[3] The Exchange filed Amendment No. 1 to the original proposal to clarify the nature and operation of the Nasdaq-100 Trust shares (''Amendment No. 1''). *See* Letter from Geraldine M. Brindisi, Vice President and Corporate Secretary, Amex, to Michael Walinskas, Market Regulation, Commission, dated December 16, 1998. In Amendment No. 2, the Exchange discusses the basis for the mandatory termination date of the Trust. (''Amendment No. 2''). *See* Letter from Mike Cavalier, Associate General Counsel, Legal and Regulatory Policy, Amex, to Hong-anh Tran, Staff Attorney, Market Regulation, Commission, dated December 16, 1998.

[4] *See* Securities Exchange Act Release No. 31591 (December 11, 1992), 57 FR 60253 (December 18, 1992) (''SPDRs Order'').

[5] ''PDRs'' is a service mark of PDR Services LLC, a wholly-owned subsidiary of the Exchange.

[6] *See* SPDRs, Order, *supra* note 4.

[7] *See* Securities Exchange Act Release No. 35534 (March 24, 1995), 60 FR 16686 (March 31, 1995) (''MidCap SPDRs Order''). ''Standard & Poor's 500,'' ''Standard & Poor's MidCap 400 Index,'' ''Standard & Poor's Depositary Receipts,''® ''SPDRs,''® ''Standard & Poor's MidCap 400 Depositary Receipts'' and ''MidCap SPDRs'' are trademarks of The McGraw-Hill Companies, Inc. and are being used by the Exchange and the Sponsor under license among Standard & Poor's, a division of The McGraw-Hill Companies, Inc., the Exchange and the Sponsor. ''SPDRs'' and ''MidCap SPDRs'' are not sponsored, endorsed, sold, or promoted by S&P, and S&P makes no representation regarding the advisability of investing in SPDRs or MidCap SPDRs.

[8] *See* Securities Exchange Act Release No. 39525 (January 8, 1998) 63 FR 2438 (January 15, 1998) (''DIAMONDS Order''). ''Dow Jones Industrial Average,''[SM] ''DJIA,''[SM] ''Dow Jones''[SM] and ''DIAMONDS'' are each trademarks and service marks of Dow Jones & Company, Inc. (''Dow Jones'') and have been licensed for use for certain purposes by the Exchange and the Sponsor. DIAMONDS are not sponsored, endorsed, sold or promoted by Dow Jones, and Dow Jones makes no representation regarding the advisability of investing in such product. The Sponsor for the SPDR, MidCap SPDR, and DIAMONDS Trust is PDR Services LLC.

[9] The ''Nasdaq-100 Index,''® ''Nasdaq-100,''® ''Nasdaq,''® and ''The Nasdaq Stock Market''® are trademarks of Nasdaq and have been licensed for use for certain purposes by Investment Product Services, Inc. pursuant to a License Agreement with Nasdaq. The specific name of the Trust and units of beneficial interest based on the Nasdaq-100 Index is subject to change and any such change will be filed with the Commission as an amendment hereto.

[10] An Application for Orders pursuant to Section 6(c) of the Investment Company Act of 1940 (''1940 Act'') has been filed with respect to the Trust (the ''Application''). In the interest of facilitating secondary market transactions in Trust shares, the Application seeks, among other things, an order (1) permitting secondary market transactions in Trust shares at negotiated prices rather than at a current public offering price described in the prospectus and based on current net asset value as required by Section 22(d) of the 1940 Act and Rule 22c–1 thereunder; and (2) permitting the sale of Trust shares to purchasers in the secondary market unaccompanied by a prospectus, when prospectus delivery is not required by Section 4(3) of the Securities Act of 1933 but may be required according to Section 24(d) of the 1940 Act for redeemable securities issued by a unit investment trust. In addition a registration statement on Form S–6, including a preliminary prospectus for the Trust (No. 333–61001), has been filed with the Commission. These exemptions, if granted, will permit individual Trust shares to be traded in secondary market transactions similar to a closed end investment company. Both the Application and the registration statement provide additional detail relating to a number of the procedures referenced in SR–Amex–98–34.

[11] The description of the Nasdaq-100 Index herein as well as discussion of eligibility criteria, annual ranking review, ongoing index administration, and Index rebalancing are based on materials prepared by The Nasdaq Stock Market.

Computer Corporation and MCI WORLDCOM, Inc. Current information regarding the market value of the Index is available from Nasdaq as well as numerous market information services. The index is determined, composed, and calculated by Nasdaq without regard to the Trust.

At any moment in time, the value of the Index equals the aggregate value of the then-current Index share weights (described below) of each of the component 100 securities in the Index (the ''Index Securities'') multiplied by each such security's respective last sale price on the Nasdaq Stock Market, and divided by a scaling factor (the ''divisor'') which becomes the basis for the reported Index value. The divisor serves the purpose of scaling such aggregate value (otherwise in the hundreds of billions) to a lower order of magnitude which is more desirable for index reporting purposes.[12]

The Index share weights of the component securities of the Index at any time are based upon the total shares outstanding in each of the 100 Index Securities and will be additionally subject (prior to the issuance of Trust shares) to rebalancing to ensure that the relative weighting of the Index Securities continues to meet minimum pre-established requirements for a diversified portfolio (*see* ''Rebalancing of the Index''). Accordingly, each Index Security's influence on the value of the Index is directly proportional to the value of its Index share weight. At any time at which the composition and/or Index share weights are adjusted as described herein, a new divisor will be determined and become effective so as to offset the change in aggregate value of the Index Securities in order to ensure the continuity of the value of the Index in connection with such adjustment.

Index security eligibility criteria and annual ranking review. To be eligible for inclusion in the Index, a security must be traded on the Nasdaq National Market tier of the Nasdaq Stock Market and meet the following criteria:

- The security must be of a non-financial company;
- Only one class of security per issuer is allowed;
- The security may not be issued by an issuer currently in bankruptcy proceedings;
- The security must have average daily trading volume of at least 100,000 shares per day;
- The security must have ''seasoned'' on the Nasdaq Stock Market or another recognized market (generally, a company is considered to be seasoned by Nasdaq if it has been listed on a market for at last two years; in the case of spin-offs, the operating history of the spin-off will be considered);
- If a security would otherwise qualify to be in the top 25% of the issuers included in the Index by market capitalization, the ''seasoning'' criteria would not apply; and
- If the security is of a foreign issuer, the company must have a worldwide market value of at least $10 billion, a U.S. market value of at least $4 billion, and average trading volume on the Nasdaq Stock Market of at least 200,000 shares per day; in addition, foreign securities must be eligible for listed options trading.

The Index Securities are evaluated annually based on market data as of the end of October as follows (such evaluation is referred to herein as the ''Annual Ranking Review''). Securities listed on the Nasdaq Stock Market which meet the above eligibility criteria are ranked by market value as of the end of October. Index-eligible securities which are already in the Index and which are in the top 150 eligible securities (based on market value) are retained in the Index provided that such security was ranked in the top 100 eligible securities as of the previous year's annual review. Securities not meeting such criteria are replaced. The replacement securities chosen are those Index-eligible securities not currently in the Index which have the largest market capitalization. The list of annual additions and deletions is publicly announced via a press release in the early part of December. Replacements are made effective after the close of trading on the third Friday in December. Moreover, if at any time during the year an Index Security is no longer traded on the Nasdaq Stock Market, or is otherwise determined by Nasdaq to become ineligible for continued inclusion in the Index, the security will be replaced with the largest market capitalization security not currently in the Index and meeting the Index eligibility criteria listed above.

Ongoing index administration. In addition to the Annual Ranking Review, the securities in the Index are monitored every day by Nasdaq with respect to changes in total shares outstanding arising from secondary offerings, stock repurchases, conversions, or other corporate actions. Periodically (typically, several times per quarter), Nasdaq may determine that total shares outstanding have changed in one or more Index Securities as a result of such events and Nasdaq has adopted the following quarterly scheduled weight adjustment procedures with respect to such changes. If the change in total shares outstanding arising from such corporate action is greater than or equal to 5.0%, such change is ordinarily made to the Index on the evening prior to the effective date of such corporate action. Otherwise, if the change in total shares outstanding is less than 5.0%, then all such changes are accumulated and made effective at one time on a quarterly basis after the close of trading on the third Friday in each of March, June, September, and December. In either case, the Index Share weights for such Index Securities are adjusted by the same percentage amount by which the total shares outstanding have changed in such Index Securities. Ordinarily, whenever there is a change in Index share weights or a change in a component security included in the Index, Nasdaq adjusts the divisor to assure that there is no discontinuity in the value of the Index which might otherwise be caused by any such change.

As noted above, Nasdaq may also during each quarter (ordinarily, several times per quarter) replace one or more component securities in the Index due to mergers, acquisitions, bankruptcies, or due to delistings if an issuer chooses to list its securities on another marketplace, or if the issuers of such component securities fail to meet the eligibility criteria for continued inclusion in the Index.

Rebalancing of the Index. Effective on December 18, 1998, the Index will be calculated under a ''modified capitalization weighted'' methodology, which is a hybrid between equal weighting and conventional capitalization weighting. This methodology is expected to: (1) Retain in general the economic attributes of capitalization weighting; (2) promote portfolio weight diversification (thereby limiting domination of the Index by a few large stocks); (3) reduce Index performance distortion by preserving the capitalization ranking of companies; and (4) reduce market impact on the smallest component securities from necessary weight rebalancings.

Specifically, on a quarterly basis coinciding with Nasdaq's quarterly scheduled weight adjustment procedures (*see* ''Ongoing Index Administration''), the Index Securities are categorized as either ''Large Stocks'' or ''Small Stocks'' depending on

[12] For example, on November 12, 1998, the aggregate value of the then-current Index share weights of each of the Index Securities multiplied by their respective last sale price on the Nasdaq Stock Market was $1,218,098,456,568, the divisor was 830,593,408, and the reported Index value was 1,466.54.

whether their current percentage weights (after taking into account such scheduled weight adjustments due to stock repurchases, secondary offerings, or other corporate actions) are greater than, or less than or equal to, the average percentage weight in the Index (*i.e.*, as a 100-stock index, the average percentage weight in the Index is 1.0%).

Such quarterly examination will result in an index rebalancing if either one or both of the following two weight distribution requirements are not met: (1) The current weight of the single largest market capitalization stock in the Index must be less than or equal to 24.0% and (2) the ''collective weight'' of those stocks whose individual current weights are in excess of 4.5%, when added together, must be less than or equal to 48.0%.

If either one or both of these weight distribution requirements are not met upon quarterly review, a weight rebalancing will be performed in accordance with the following plan. First, relating to weight distribution requirement (1) above, if the current weight of the single largest stock in the Index exceeds 24.0%, then the weights of all Large Stocks will be scaled down proportionately towards 1.0% by enough for the adjusted weight of the single largest stock to be set to 20.0%. Second, relating to weight distribution requirement (2) above, for those stocks where individual current weights or adjusted weights in accordance with the preceding step are in excess of 4.5%, if their ''collective weight'' exceeds 48.0%, then the weights of all Large Stocks will be scaled down proportionately towards 1.0% by just enough for the ''collective weight,'' so adjusted, to be set to 40.0%.[13]

The aggregate weight reduction among the Large Stocks resulting from either or both of the above rescalings will then be redistributed to the Small Stocks in the following iterative manner. In the first iteration, the weight of the largest Small Stock will be scaled upwards by a factor which sets it equal to the average index weight of 1.0%. The weights of each of the smaller remaining Small Stocks will be scaled up by the same factor reduced in relation to each stock's relative ranking among the Small Stocks such that the smaller the stock in the ranking, the less the scale-up of its weight. This is intended to reduce the market impact of the weight rebalancing on the smallest component securities in the Index.

In the second iteration, the weight of the second largest Small Stock, already adjusted in the first iteration, will be scaled upwards by a factor which sets it equal to the average index weights of 1.0%. The weights of each of the smaller remaining Small Stocks will be scaled up by this same factor reduced in relation to each stock's relative ranking among the Small Stocks such that, once again, the smaller the stock in the ranking, the less the scale-up of its weight.

Additional iterations will be performed until the accumulated increase in weight among the Small Stocks exactly equals the aggregate weight reduction among the Large Stocks from rebalancing in accordance with weight distribution requirement (1) and/or weight distribution requirement (2) above.

To complete the rebalancing procedure, once the final percent weights of each stock in the Index are set, the Index share weights will be determined anew based upon the last sale prices and aggregate capitalization of the Index at the close of trading on the Thursday in the week immediately preceding the week of the third Friday in March, June, September, and December. Changes to the Index share weights will be made effective after the close of trading on the third Friday in March, June, September, and December and a corresponding adjustment to the Index divisor will be made to ensure continuity of the Index. Such changes to the Index share weights would result either from (1) adjustments to reflect changes in total shares outstanding in one or more Index Securities made during Nasdaq's quarterly scheduled weight adjustment procedures (*see* ''Ongoing Index Administration''), (2) changes effective in the quarter ending in December in connection with the Annual Ranking Review (*see* ''Index Security Eligibility Criteria and Annual Ranking Review''); or (3) changes based on the rebalancing of the Index in accordance with procedures described above.[14]

The Nasdaq-100 Trust. To be eligible to place orders to create Trust shares, as described below, an entity or person must either be a participant in the Continuous Net Settlement (''CNS'') system of the National Securities Clearing Corporation (''NSCC'') or a Depository Trust Company (''DTC'') participant. Upon acceptance of an order to create Trust shares, the distributor will instruct the Trustee to initiate the book-entry movement of the appropriate number of Trust shares to the account of the entity placing the order. Trust shares will be registered in book entry only, which records will be kept by DTC.

Payment with respect to creation orders placed through the distributor will be made by (1) the ''in-kind'' deposit with the Trustee of a specified portfolio of securities that is substantially similar in composition to the component shares of the underlying index or portfolio; and, in addition, (2) an amount equal to the ''Income Net of Expense Amount,'' plus or minus, as the case may be, the ''Balancing Amount.'' The ''Income Net of Expense Amount'' is an amount equal, on a per Creation Unit basis, to the dividends accumulated in respect of the securities held in the Trust from the most recent ex-dividend date for Trust shares through and including the day on which the creation order is placed, net of accrued expenses and liabilities of the Trust for such period. The ''Balancing Amount'' serves the function of compensating for any differences between (1) the value of the portfolio of securities deposited with the Trustee in connection with a creation of Trust shares, together with the Income Net of Expense Amount, and (2) the net asset value of the Trust on a per Creation Unit basis. The ''Income Net of Expense Amount'' and the ''Balancing Amount'' are collectively referred to as the ''Cash Component'' in the Trust Application and registration statement, and the deposit of a specified portfolio of securities (as referenced above) and the Cash Component are collectively referred to as a ''Portfolio Deposit.'' On any given day, the Cash Component of the Portfolio Deposit may be payable either by the Trustee on behalf of the Trust to the creator of Trust shares, or by the creator of Trust shares to the Trustee on behalf of the Trust, depending on the respective amounts of

[13] By applying the weight rebalancing methodology, the Trust is able to meet, among other things, certain diversification tests which enable the trust to maintain its tax treatment as a ''regulated investment company'' under Subchapter M of the Internal Revenue Code of 1986, as amended.

[14] Effective on December 21, 1998, Nasdaq will be maintaining two versions of the Nasdaq-100 Index, calculated based on (1) conventional capitalization weighting and (2) modified capitalization weighting. Nasdaq-100 Index options listed for trading on the Chicago Board Options Exchange (''CBOE'') prior to December 21, 1998, (whose expiration dates extend as far out as March 1999) will continue to be based on the conventional capitalization weighted version. Nasdaq-100 Index options listed for trading on the CBOE on or after December 21, 1998, will be based on the modified capitalization weighted version. After expiration of March index option contracts on March 20, 1999, the Index version based on the conventional weighting method will no longer be calculated. At all times, the Trust intends to replicate the composition and weighting of the Nasdaq-100 Index based on the modified capitalization weighting method.

the ''Income Net of Expense Amount'' and the ''Balancing Amount.''

In connection with redemptions of Creation Unit size aggregations of Trust shares, the redeeming party receives a portfolio of securities typically identical in composition and weighting to the securities portion of a Portfolio Deposit as in effect on the date a request for redemption is deemed received by the Trustee, in addition, in certain cases, to a ''Cash Redemption Amount'' (as defined in the Trust prospectus) which is typically identical to the amount of the ''Cash Component,'' as in effect on such date. The ''Cash Redemption Amount'' will either be paid to the Trustee on behalf of the Trust by the redeemer or paid to the redeemer by the Trustee on behalf of the Trust, again depending upon the respective amounts of the ''Income Net of Expense Amount'' and the ''Balancing Amount,'' as described in the Trust prospectus.

The mandatory termination date of the Trust will be the first to occur of (i) a date in 2123 or (ii) the date 20 years after the death of the last survivor of fifteen (15) specified persons named in the Trust Agreement between the Trust Sponsor and the Trustee, the oldest of whom was born in 1986 and the youngest of whom was born in 1996.[15]

Issuance. Upon receipt of a Portfolio Deposit in payment for a creation order placed through the distributor as described above, the Trustee will issue a specified number of Trust shares which aggregate number is referred to as a ''Creation Unit.'' The Exchange anticipates that, with respect to the Nasdaq-100 Trust, a Creation Unit will be made up of 50,000 Trust shares.

Individual Trust shares can then be traded in the secondary market like other equity securities. It is expected that Portfolio Deposits will be made primarily by institutional investors, arbitrageurs and the Exchange specialist. The Trust has been structured to provide for the initial issuance of Trust shares at a per share price which would approximate 1/20th of the prevailing value of the Nasdaq-100 Index. As of November 12, 1998, it is estimated that the value of an individual Trust share would be approximately $74 (1/20th of the prevailing value of the Index on such date).

The Trust sponsor, Investment Product Services, Inc., intends to make available itself, or by other persons designated to do so by the Sponsor, a list of the names and the required number of shares for each of the securities in the current Portfolio Deposit. The Trust Sponsor also intends to make available through the facilities of the Amex on each Business Day the Income Net of Expense Amount effective through and including the previous business day per outstanding Trust share. The Sponsor may also choose within its discretion to make available, frequently throughout each business day, a number representing, on a per Trust share basis, the sum of the Income Net of Expense Amount effective through and including the previous business day plus the current value of the securities portion of a Portfolio Deposit as in effect on such day (which value will occasionally include a cash-in-lieu amount to compensate for the omission of a particular Index Security from such Portfolio Deposit). If the Sponsor elects to make such information available, it would be calculated based upon the best information available to the Sponsor and may be calculated by other persons designated to do so by the Sponsor (*e.g.*, the Amex). In addition, the Trust will make available to NSCC prior to commencement of trading on each business day a list of the names and required number of shares of each of the Index Securities in the current Portfolio Deposit as well as the Income Net of Expense Amount for the previous business day.

Transactions in Trust shares may be effected on the Exchange until 4:15 p.m. New York time each business day. The minimum fractional change for Trust shares shall be 1/64 of $1.00.

Redemption. Trust shares in Creation Unit size aggregations generally will be redeemable in kind by tendering them to the Trustee. While holders may sell Trust shares in the secondary market at any time, they must accumulate at least 50,000 (or multiples thereof) to redeem through the Trust. Trust shares will remain outstanding until redeemed or until the termination of the Trust. Creation Unit size aggregations of Trust shares generally will be redeemable on any business day in exchange for a portfolio of the securities held by the Trust typically identical in composition and weighting to the securities portion of a Portfolio Deposit in effect on the date request is made for redemption, together, in certain cases, with a ''Cash Redemption Amount'' (as referred to above), including accumulated dividends, less accrued expenses and liabilities of the Trust, through the date of redemption, which will either be paid to the Trustee by the redeemer or paid to the redeemer by the Trustee on behalf of the Trust depending upon the respective amounts of the ''Income Net of Expense Amount,'' and the ''Balancing Amount,'' as described previously. The number of shares of each of the securities transferred to the redeeming holder generally will be the number of shares of each of the component stocks in a Portfolio Deposit on the day a redemption notice is received by the Trustee, multiplied by the number of Creation Units being redeemed. Nominal service fees may be charged in connection with the creation and redemption of Creation Units. The Trustee will cancel all Trust shares delivered upon redemption.

The Trustee, in its discretion, upon the request of the redeeming investor, may redeem Creation Units in whole or in part by providing such redeemer with a portfolio of securities differing in exact composition and weighting from the Index Securities but not differing in net asset value from the then current net asset value of Trust shares. Such a redemption is likely to be made only if it were to be determined that this composition would be appropriate in order to maintain the portfolio of the Trust in correlation to the composition and weighting of the Index, for instance, in connection with a replacement of one of the Index Securities (*e.g.*, due to a merger, acquisition, or bankruptcy, or in connection with the rebalancing of the Index).

Distributions. Distributions by the Trust will be made quarterly in the event that dividends accumulated in respect of the Trust securities and other income, if any, received by the Trust, exceed Trust fees and expenses accrued during the quarter. Based on historical dividend payment rates of the portfolio of stocks comprising the index and estimated ordinary operating expenses of the Trust, little or no such distributions are currently anticipated. The regular quarterly Ex-Dividend Date with respect to net dividends, if any, for the Trust will be the third Friday in each of March, June, September, and December, unless such day is not a business day, in which case the Ex-Dividend Date will be the immediately preceding business day. However, there shall be no net dividend distribution in any given quarter, and any net dividend amounts will be rolled into the next quarterly accumulation period, if the aggregate net dividend distribution would be in an amount less than 5/100 of one percent (0.05%) of the net asset value of the Trust as of the Friday in the

[15] The SEC staff notes that Amex has stated that the basis of the mandatory termination date of the Trust is to comply with the common law rule against perpetuities which provides, in brief, that no estate is valid unless it must vest not later than twenty-one years after lives in being at the creation of the estate, and that any future or present estate is void in its creation if it suspends the absolute power of alienation longer than this period. *See* Amendment No. 2, *supra* note 3.

week immediately preceding the Ex-Dividend Date, unless the Trustee determines that such net dividend distribution is required to be made in order to maintain the Trust's status as a regulated investment company or to avoid the imposition of income or excise taxes on undistributed income.

Beneficial owners as reflected on the records of the Depository and the DTC Participants on the second business day following the ex-dividend date (the ''record date'') are entitled to receive an amount, if any, representing dividends accumulated through the quarter, net of the fees and expenses of the Trust, accrued daily for such period. For the purposes of such distributions, dividends per Trust share are calculated at least to the nearest 1/100th of $0.01. When net dividend payments are to be made by the Trust, payment will be made on the last business day in the calendar month following each Ex-Dividend Date (the ''Dividend Payment Date). Dividend payments will be made through the Depository and the DTC Participants to Beneficial Owners then of record with funds received from the trustee. The Sponsor reserves the right to make the DTC Dividend Reinvestment Service (the ''Service'') available in the future for use by Trust shareholders through DTC Participants for reinvestment of their periodic cash distributions, if any. In the event the Service is made available, not all DTC Participants may choose to utilize this Service and an interested investor would have to consult his or her broker to ascertain the availability of dividend reinvestment through such broker, as well as applicable procedures.

Criteria for initial and continued listing. Because of the open-end nature of the Trust upon which a series of PDRs is based, the Exchange believes it is necessary to maintain appropriate flexibility in connection with listing a specific Trust. In connection with initial listing, the Exchange will establish a minimum number of PDRs required to be outstanding at the time of commencement of Exchange trading. For Trust shares, it is anticipated that a minimum of 150,000 Trust shares (*i.e.*, three Creation Units of 50,000 Trust shares each), will be required to be outstanding when trading begins.

The Trust will be subject to the initial and continued listing criteria of Rule 1002(b). Rule 1002(b) provides that, following twelve months from the formation of a trust and commencement of Exchange trading, the Exchange will consider suspension of trading in, or removal from listing of a trust when, in its opinion, further dealing in such securities appears unwarranted under the following circumstances:

(a) if the trust has more than 60 days remaining until termination and there have been fewer than 50 record and/or beneficial holders of the PDRs for 30 or more consecutive trading days; or

(b) if the index on which the trust is based is no longer calculated; or

(c) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

A trust shall terminate upon removal from Exchange listing and its PDRs shall be redeemed in accordance with provisions of the trust prospectus. A trust may also terminate under such other conditions as may be set forth in the trust prospectus. For example, the Sponsor, following notice to Trust shareholders, shall have discretion to direct that the Trust be terminated if the value of securities in such Trust is below a specified amount. The Trust may also terminate if the license agreement with Nasdaq terminates.[16]

Trading halts. Prior to commencement of trading in Trust shares, the Exchange will issue a circular to members informing them of Exchange policies regarding trading halts in such securities. The circular will make clear that, in addition to other factors that may be relevant, the Exchange may consider factors such as those set forth in Rule 918C(b) in exercising its discretion to halt or suspend trading in PDRs, including Trust shares. These factors include, but are not limited to (1) the extent to which trading is not occurring in stocks underlying the Index; and (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[17]

In addition, trading in Trust shares will be halted if the circuit breaker parameters under Amex Rule 117 have been reached. The triggering of futures price limits for index futures contracts such as Nasdaq 100 Index futures, will not, in itself, require a halt in Trust shares trading or a delayed opening. However, such an event could be considered by the Exchange along with other factors, such as a halt in Nasdaq-100 or other broad-based index options trading, in deciding to halt trading in Trust shares or other index-based derivative securities.

Terms and characteristics. Under Amex Rule 1000, Commentary .01, Amex members and member organizations are required to provide to all purchasers of Trust shares a written description of the terms and characteristics of such securities, in a form prepared by the Exchange, not later than the time a confirmation of the first transaction in each series is delivered to such purchaser. The Exchange also requires that such description be included with any sales material on the Trust that is provided to customers or the public. In addition, the Exchange requires that members and member organizations provide customers the prospectus for the Trust upon request.

A member or member organization carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase Trust shares for such omnibus account will be deemed to constitute agreement by the non-member to make such written description available to its customers on the same terms as are directly applicable to members and member organizations.

Prior to commencement of trading of Trust shares, the Exchange will distribute to Exchange members and member organizations an Information Circular calling attention to characteristics of the Trust and to applicable Exchange rules.

Stop and stop limit orders. Amex Rule 154, Commentary .04(c) provides that stop and stop limit orders to buy or sell a security (other than an option, which is covered by Rule 950(f) and Commentary thereto) the price of which is derivatively priced based upon another security or index of securities, may with the prior approval of a Floor Official, be elected by a quotation, as set forth in Commentary .04(c) (i-v). The Exchange has designated PDRs (of which Trust shares are PDRs), as eligible for this treatment.[18]

Other applicable rules. Like SPDRs, MidCap SPDRs, and DIAMONDS, trading in Trust shares on the Amex will be subject to the provisions of Amex Rules 1000 et seq. and regular Exchange

[16] With respect to the Trust, the Sponsor has the discretionary right to direct the Trustee to terminate the Trust if at any time after six months following and prior to three years following the inception of the Trust the net asset value falls below $150,000,000, or if at any time on or after three years following inception of the Trust the net asset value of the Trust is below $350,000,000 in value, adjusted annually for inflation.

[17] *See* Amex Rule 918C.

[18] *See* Securities Exchange Act Release No. 39607 (February 2, 1998), 63 FR 6587 (February 9, 1998) (File No. SR–Amex-98–04), regarding the designation of PDRs as eligible for stop and stop limit order election under Amex Rule 154(c). *See also* Securities Exchange Act Release No. 29063 (April 10, 1991), 56 FR 15652 (April 17, 1991) (File No. SR–Amex-90–31) regarding election of stop and stop limit orders by quotation for certain derivative equity securities designated by the Exchange as eligible for such election.

equity trading rules will apply, including Exchange rules relating to priority, parity and precedence and the obligations of specialists. The provisions of Amex Rule 411 (Duty to Know and Approve Customers) apply to customer transactions in Portfolio Depository Receipts, and would therefore apply to Trust units transactions; no enhanced suitability standards are applicable to such securities.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, to protect investors and the public interest. The Exchange believes that PDRs, generally, and Trust shares specifically, have the potential to benefit the markets by providing an alternate trading instrument, such as those encouraged by the Division of Market Regulation in its report, ''The October 1987 Market Break,'' that may help temper market volatility and reduce stress on individual index component stocks during unusual market conditions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the 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, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the File No. SR–Amex–98–34 and should be submitted by January 19, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–34251 Filed 12–24–98; 8:45 am]

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[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40808; File No. SR–CBOE–98–52]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the Chicago Board Options Exchange, Inc. Relating to a Change in the Frequency of the Rebalancing of the Dow Jones High Yield Select 10 Index

December 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 December 18, 1998 the Chicago Board Options Exchange, Inc. (''CBOE'' 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 CBOE.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to change the frequency of its rebalancing of the Dow Jones High Yield Select 10 Index (''Index''), a narrow-based index on which the Exchange has received approval to trade options.[4] In addition, the CBOE proposes to amend Rule 24.9(c) to provide for additional quarterly index expiration dates for the options (''QIX'').[5]

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

I. Purpose

The CBOE proposes to change the frequency of its rebalancing of the Dow Jones High Yield Select 10 Index, a narrow-based index on which the Exchange received approval to trade

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The CBOE originally submitted the proposal on November 19, 1998. On December 18, 1998, the CBOE submitted a letter from Stephanie C. Mullins, Attorney, CBOE, to Katherine England, Assistant Director, Division of Market Regulation, Commission (December 18, 1998) (''Amendment No. 1''). In Amendment No. 1, the CBOE proposes to amend Rule 24.9(c) to provide for additional quarterly index expiration dates for the options. Because this filing was filed pursuant to Section 19(b)(3)(A) of the Act, it must be complete at the time it is filed. Therefore, the date of the amendment is deemed the date of the filing of the proposal.

[4] *See* Securities Exchange Act Release No. 39453 (December 16, 1997) 62 FR 67101 (December 23, 1997) (notice of filing and immediate effectiveness of SR–CBOE–97–63).

[5] *See* note 3, *supra.*

options last year.[6] In the filing seeking initial approval of the Index, the Exchange represented that it would rebalance the Index quarterly on expiration Fridays in March, June, September, and on the last business day in December. Although the Exchange has not yet begun to trade options on the Index, it intends to do so in the near future. In preparing to trade options on the Index, the Exchange has determined to rebalance the Index only on the last business day in December. According to the CBOE, this change in the frequency of rebalancing would make the Index correspond more closely with the methodology used by firms that currently employ similar strategies with respect to the Dow Jones Industrial Average. The Exchange believes that this change might help to attract order flow in the options.

In addition, the CBOE proposes to establish quarterly expiration dates for the Index on the last business day of each quarter. These expiration dates would be in addition to the monthly expiration dates that the CBOE established in the original filing. The reason for this amendment is due to firm and customer demand. The CBOE represents that customers have requested the additional quarterly expiration days because the portfolio underlying the Index is reconstituted on the last business day each year. By allowing quarterly expiration, the CBOE believes that option holders would be able to better track the performance of the Index because the waiting period between standard expiration and rebalancing of the Index portfolio would be eliminated.

[6] The Commission notes that the listing and trading of options on the Index was immediately effective upon filing under Rule 19b–4 and was submitted pursuant to the CBOE's generic narrow-based index option listing standards. *See* CBOE Rule 24.2. Under these listing standards, the CBOE can list and trade narrow-based index options provided that the index complies with certain requirements. If the index is capitalization-weighted, the standards require that the index be rebalanced quarterly. The CBOE represented that the proposed Index would comply with this requirement when it initially sought approval of the listing and trading of the options. The CBOE now proposes to rebalance the Index annually, rather than quarterly. The Commission notes that before modifying the frequency of rebalancing of the Index, the Exchange sought the Commission's approval pursuant to Rule 19(b). Telephone conversation between Eileen Smith, Director, Research Department, CBOE, and Michael Walinskas, Deputy Associate Director, Division of Market Regulation, Commission, on November 6, 1998.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[7] in general and furthers the objectives of Section 6(b)(5)[8] in particular in that it will permit trading in options based on the Index pursuant to rules designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE 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

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from November 19, 1998, the date on which it was filed, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and subparagraph (e)(6) of Rule 19b-4 thereunder.[10] Although Rule 19b-4(e)(6) requires that an Exchange submit a notice of its intent to file at least five days prior to the filing date, the Commission notes that in this case, this requirement was waived at the CBOE's request for the proposed rule change and Amendment No. 1 thereto.

The Commission notes that under Rule 19b-4(e)(6)(iii), Amendment No. 1 does not become operative for 30 days after date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The CBOE requests a waiver of this 30 day period. In Amendment No. 1, the CBOE states that it seeks to have the entire product launched together, with the QIXs available on the Index at the same time the rest of the product is launched on January 4, 1999. The CBOE also represents in Amendment No. 1 that it has an exclusive license to trade options on the Index, and is proposing to permit four additional opportunities for expiration. The Exchange believes the additional expiration dates would give investors a more widely traded strategy. For the reasons discussed above, the Commission finds the waiver of the 30 day period for Amendment No. 1 is consistent with the protection of investors and the public interest.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b-4(e)(6).

At any time within 60 days of the filing of the proposed rule change, as amended, 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, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–98–52 and should be submitted by January 20, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–34259 Filed 12–24–98; 8:45 am]

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[11] 17 CFR 200.30–3(a)(12)

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40810; International Series Release No. 1174; File No. SR–EMCC–98–10]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of a Proposed Rule Change Relating to Netting Services

December 18, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on November 2, 1998, Emerging Markets Clearing Corporation (''EMCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by EMCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Under the proposed rule change, EMCC will offer netting services to its members.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, EMCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. EMCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Currently, EMCC processes its members' transactions on a trade for basis. Under the proposed rule change, EMCC will offer its members the ability to have their transactions processed on a netted basis through EMCC's netting services.

Under the proposal, transactions that are between two netting members[4] and that have been reported on EMCC's ''accepted trade report'' made available to members no later than two days prior to settlement date (''SD–2'') will be eligible for settlement netting. The accepted trade report will indicate those trades that are to be processed on a netted basis.

Both trade for trade transactions and netted transactions will be novated and guaranteed at the same time. As with trade for trade transactions, receive and deliver obligations with respect to netting trades would be established at the time the ''accepted trade report'' is made available to members. On the scheduled settlement date, these receive and deliver obligations will be extinguished and replaced with new receive obligations or deliver obligations relating to the net position. In order to meet the delivery parameters of the applicable qualified securities depository (''QSD''), EMCC may establish one or more receive and deliver obligations with respect to any one net position.

The value at which receive and deliver obligations will be settled at a QSD will be fixed by EMCC based on an average of the prices of all transactions in the ISIN[5] underlying such receive and deliver obligations. In order to compensate netting members for the difference between the value at which the netted receive and deliver obligations will be settled and the actual consideration for the transactions underlying the receive and deliver obligations, EMCC will debit or credit members with the difference between the value at which such obligations settle and the actual consideration. These credits and debits will be referred to as the ''transaction adjustment payment.''

The following paragraphs describe the particular changes that EMCC will make to its rules to accommodate netting services.

Rule 1—Definitions

EMCC will add definitions of ''netting member,'' ''netting services,'' and ''netting trade'' to Rule 1. The definition of ''netting trade'' will set forth the requirements that must be met in order for a trade to be eligible as a netting trade. The requirements are that the trade must (a) be a compared trade between two netting members and (b) have been reported on an accepted trade report made available to members no later than SD–2. The definition also will state that EMCC may treat any trade or trades, whether by netting member or by ISIN, as ineligible to be a netting trade(s). EMCC will also modify the definition of ''final net settlement obligation'' to include any unpaid transaction adjustment payment.

EMCC will make technical corrections to the definitions of ''fail long position,'' ''fail short position,'' and ''net settlement obligation,'' all of which incorrectly refer to the ''settlement day'' rather than the ''scheduled settlement date.'' In addition, EMCC will modify the definition of ''contract value'' to clarify that this value is calculated by EMCC.

Rule 4—Clearing Fund, Margin, and Loss Allocation

EMCC's risk system currently calculates members' margin requirements on a netted basis. Therefore, EMCC will not amend Rule 4 other than with respect to the expiration date of the paragraph in Rule 4 Section 10 that permits EMCC to use clearing fund deposits for intraday financing. The proposed change will postpone the automatic expiration of this ability to the earlier of (i) the first anniversary of the date on which EMCC commenced operation as a registered clearing agency[6] or (ii) the date on which all members are netting members (as opposed to the date on which netting services are available).

In addition, EMCC proposes to make a correction with respect to the use of the term ''value of position'' in Section 5 of Rule 4. Although the term ''value of position'' is currently employed with respect to the calculations of both the mark to market amount and volatility amount, its meaning is not the same for both calculations. The current definition applies only to the mark to market calculation. To clarify this, EMCC will move that definition from the text of Section 5 to a footnote to the mark to market formula. In addition, EMCC will insert a different definition of ''value of position'' as a footnote to the volatility amount formula.

Rule 6—Receipt of Data

With the introduction of netting services, the ''accepted trade report'' will indicate whether a transaction is a

[1] 15 U.S.C. 78s(b)(1).

[2] The complete text of the proposed amendments to EMCC's Rules is attached as an exhibit to EMCC's filing, which is available for inspection and copying at the Commission's public reference room and through EMCC.

[3] The Commission has modified the text of the summaries prepared by EMCC.

[4] The term ''netting member'' will be defined in EMCC Rule 1 as a member that is a participant in the netting services.

[5] EMCC's Rules define ISIN to mean the International Securities Identification Number as defined by International Number as defined by International Organization for Standardization 6166.

[6] The Commission granted EMCC temporary registration as a clearing agency on February 13, 1998. Securities Exchange Act Release No. 39661, International Series Release No. 1117 (February 13, 1998), 63 FR 8711.

netting trade or whether it will be settled on a trade for trade basis. EMCC will modify Rule 6 to reflect this. EMCC members will receive a ''netting detail report'' from EMCC with respect to netting trades scheduled to settle on the following business day. The ''netting detail report'' will indicate with respect to each ISIN in which a netting member has a netting trade a net settlement position for a given settlement date. The net settlement position will equal the net amount of EMCC eligible instruments in a particular ISIN that a netting member has purchased from or sold to all other netting members. In addition, EMCC will add language to Rule 6 to clearly indicate that cutoff times for submission of data to EMCC may be different for netting trades and trades to be settled on a trade for trade basis.

Rule 7—Novation and Guaranty of Obligations and Receive, Deliver and Settlement Obligations and Rule 8—Settlement Instructions Only Report

EMCC will amend Section 1 of Rule 7 so that it pertains to the guaranty and novation of all trades submitted to EMCC. No change is proposed with respect to the timing of the guaranty and novation.

EMCC will amend Section 2(a) of Rule 7 so that it pertains to the creation of a member's receive and deliver obligations. EMCC proposes no change with respect to the point in time at which receive and deliver obligations are created by EMCC. However, with respect only to netting trades on the scheduled settlement date, the receive and deliver obligations that are established in accordance with Section 2(a) will be extinguished and replaced with one or more new receive and deliver obligations with respect to each net position. In addition, subsection (c) of Section 2 will state that deliver and receive obligations are to be settled at the settlement value set forth on the ''accepted trade report'' for trades to be settled on a trade for trade basis and as set forth on the ''netting detail report'' with respect to netting trades.

EMCC will amend Section 3 of Rule 7 so that it pertains to the transaction adjustment payment. Because EMCC will calculate a settlement value for netted trades, EMCC will be required to credit or debit netting members with an amount equal to the difference between the net consideration of the transactions underlying each net settlement position and the net settlement value of such netting member's receive and deliver obligations for each net settlement position. This payment will be referred to as the transaction adjustment payment.

In addition, EMCC will make the following technical changes so that (i) all rules pertaining to receive, deliver, and settlement obligations appear under one rule and (ii) Rule 8 pertains solely to EMCC's settlement instructions only report:

''Fail settlement positions''—moved from Section 2 of Rule 8 to Section 12 of Rule 7.

''Partial deliveries''—moved from Section 3 of Rule 8 to Section 13 of Rule 7.

''Financing costs/obligation to receive securities''—moved from Section 4 of Rule 8 to Section 14 of Rule 7. A paragraph will be added to this section which will enable EMCC to charge interest to and/or fine a member for failure to make a transaction adjustment payment.

''Obligation to facilitate financing''—moved from Section 5 of Rule 8 to Section 15 of Rule 7.

''Relationship with qualified securities depository''—moved from Section 6 of Rule 8 to Rule 25.

Rule 25—Qualified Securities Depositories

In addition to moving Section 6 of Rule 8 to Section 2 of Rule 25, EMCC will add a section to Rule 25 prohibiting a member from canceling or otherwise modifying instructions previously transmitted by EMCC to a QSD.

Addendum C—Statements of Policy with Respect to Additional Clearing Fund Deposits

Addendum C will be corrected to refer to contract values rather than settlement values.

Addendum F—Fee Schedule

In order to be consistent with the timetables contained elsewhere in its Rules which key off of settlement day (''SD'') and because members may submit trades that were done on a forward basis so long as such trades are submitted to EMCC no earlier than SD–3, EMCC proposes to change the references to Trade Date (T) in its fee schedule to SD.

EMCC believes that the ability to offer the netting services would facilitate the prompt and accurate clearance and settlement of emerging market securities transactions and is therefore consistent with the requirements of Section 17A of the Act[7] and the rules and regulations thereunder.

[7] 15 U.S.C. 78q–1.

(B) Self-Regulatory Organization's Statement on Burden on Competition.

EMCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments relating to the proposed rule change have been solicited or received. EMCC will notify the Commission of any written comments received by EMCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which EMCC consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of EMCC. All submissions should refer to File No. SR–EMCC–98–10 and should be submitted by January 20, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–34258 Filed 12–24–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40814; File No. SR–NASD–98–78]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Equity Option Hedge Exemption

December 21, 1998.

I. Introduction

On October 15, 1998, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly owned subsidiary NASD Regulation (''NASD Regulation''), filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act''),[1] and Rule 19b–4 thereunder.[2] In its proposal, NASD Regulation seeks to make permanent the Equity Option Hedge Exemption, which has been operating as a pilot program since 1990. Notice of the proposal was published in the **Federal Register** on November 16, 1998 (''Notice'').[3] No comments were received. This order approves the proposal.

II. Description of the Proposal

The purpose of the proposed rule change is to make permanent the NASD's Equity Option Hedge Exemption program (''Hedge Exemption''), which has been operating on a pilot basis since 1990. NASD Rule 2860(b)(3) provides that the position limits for equity options are determined according to a five-tiered system in which more actively traded stocks with larger public floats are subject to higher position limits. Under the NASD rules, the current basic position limits are as follows. For standardized equity options,[4] the current basic position limits are: 4,500, 7,500, 10,500, 20,000 and 25,000 contracts. For conventional equity options,[5] the current basic position limits are three times the standardized equity options position limits, *i.e.*, 13,500, 22,500, 31,500, 60,000 and 75,000 contracts. NASD rules do not specifically govern how a particular equity option falls within one of the five position limit tiers. Rather, the NASD's position limit rule provides that the position limit established by an options exchange for a particular equity option is the applicable position limit for purposes of the NASD's rule.[6]

The Hedge Exemption provides for an automatic, limited exemption from position limits[7] and exercise limits[8] for equity options that are hedged using one of the four most commonly used hedge positions: (1) Long stock and short call; (2) long stock and long put; (3) short stock and long call; and (4) short stock and short put. The NASD rules also specify how an options contract must be hedged. To be properly hedged, the options contract must be: (i) hedged by 100 shares of stock, (ii) hedged by securities that are readily convertible into, or economically equivalent to, such stock,[9] or (iii) in the case of an adjusted options contract, hedged by the number of shares represented by the adjusted contract. Under the Hedge Exemption, the maximum standardized equity option position (combining hedged and unhedged positions) is three times the basic position limit level for standardized options, *i.e.*, 13,500, 22,500, 31,500, 60,000 or 75,000 contracts. Additionally, the maximum conventional equity option position (combining hedged and unhedged positions) is three times the basic position level for conventional equity options, *i.e.*, 40,500, 67,500, 94,500, 180,000 or 225,000 contracts.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association, and, in particular, the requirements of Section 15A.[10] Specifically, the Commission believes that the NASD's equity options position limit hedge exemption will accommodate the needs of investors and market participants while at the same time furthering investor protection and the public interest.[11]

The Commission believes that the Hedge Exemption is an important component of the options position limit rules and should be continued on a permanent basis. The Hedge Exemption is a necessary tool for market participants to manage their market exposure by allowing them the flexibility to hold larger options positions in cases where such positions are hedged. The Commission further believes that the Hedge Exemption provides depth and liquidity to the market and will allow investors to hedge their stock portfolios more effectively, without significantly increasing concerns regarding intermarket manipulations or disruptions of either the options market or the underlying stock market.

The Commission notes that the Hedge Exemption has been operating on a pilot basis since 1990. NASD Regulation has had eight years of experience administering and monitoring the program. The Commission believes that NASD Regulation has adequate rules in place to surveil the proposed hedge exemption. Specifically, NASD rules require each member to report options positions of any account which has established an aggregate position of 200

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 40652 (Nov. 9, 1998), 63 FR 63764 (Nov. 16, 1998) (File No. SR–NASD–98–78).

[4] Standardized equity options are exchange-traded options issued by the Options Clearing Corporation (''OCC'') that have standard terms with respect to strike prices, expiration dates and the amount of the underlying security.

[5] A conventional option is any option contract not issued, or subject to issuance by, the OCC.

[6] For equity options that do not trade on an options exchange, the NASD's position limit rule provides that the limit for conventional equity options shall be three times the basic limit of 4,500 contracts, such as 13,500 contracts, unless the member can demonstrate to the Association that the underlying security meets the standards for higher limits and the initial listing standards for standardized options trading.

[7] Position limits impose a ceiling on the number of options contracts of each options class on the same side of the market that can be held or written by an investor or group of investors acting in concert.

[8] Exercise limits restrict the number of options contracts that an investor or group of investors acting in concert can exercise within five consecutive business days. Under NASD Rules, exercise limits correspond to position limits, such that investors in options classes on the same side of the market are allowed to exercise, during any five consecutive business days, only the number of options contracts set forth as the applicable position limits for those options classes.

[9] The Commission notes that the NASD determines on a case-by-case basis whether an instrument that is being used as the basis for an underlying hedged position is readily and immediately convertible into the security underlying the corresponding option position. In this regard, the NASD generally finds that an instrument which will become convertible into a security at a future date, but which is not presently convertible, is not a ''convertible'' security for purpose of the equity option position limit hedge exemption until the date it becomes convertible. In addition, if the convertible security used to hedge an options position is called for redemption by the issuer, the security would have to be converted into the underlying security immediately or the corresponding options position reduced accordingly.

[10] 15 U.S.C. 78*o*–3(b)(6).

[11] In approving the proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

or more option contracts of the put class and the call class on the same side of the market covering the same underlying security.[12] Finally, the Commission believes that approval of the NASD's Hedge Exemption on a permanent basis is appropriate in order to achieve parity with the exchange-trade options markets.[13]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–NASD–98–78) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–34253 Filed 12–24–98; 8:45 am]

BILLING CODE 8010–01–M

[12] *See* Rule 2860(b)(5).

[13] *See, e.g.,* American Stock Exchange Rule 904; Chicago Board Options Exchange Rule 4.11.

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40816; File No. SR–NASD–98–81]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to Proposed Rule Change Relating to Application of the Corporate Financing Rule to Certain Offerings by Charitable Organizations

December 21, 1998.

I. Introduction

On October 29, 1998, the National Association of Securities Dealers, Inc. (''NASA''), through its wholly-owned subsidiary NASD Regulation, Inc. (''NASD Regulation''), submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] proposed rule change to amend NASD Rule 2710 (''Corporate Financing Rule'') to exempt certain offerings by charitable organizations from the pre-offering filing requirements. The Commission published the proposed rule change for comment in the **Federal Register** on November 19, 1998.[3] No comments were received. This order approves the proposal.

II. Description of the Proposal

Rule 2710 currently subjects ''church bond'' offerings to a filing requirement with the Corporate Financing Department of NASD Regulation (''Department'') so that the Department has an opportunity to determine whether compensation terms and arrangements are fair and reasonable for purposes of the rule. According to NASD Regulation, the aggregate underwriting compensation received by church bond broker/dealers has been significantly below the maximum amount of underwriting compensation that is permitted under Rule 2710.

Under the proposal, offerings of securities by a church or other charitable institution that are exempt from SEC registration pursuant to Section 3(a)(4) of the Securities Act of 1933 (''Securities Act'')[4] would be exempt from the filing requirements, but not the substantive requirements, of the Corporate Financing Rule. NASD Regulation proposes to implement the proposed rule change on the date of SEC approval.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 15A(b) of the Act and the rules and regulations thereunder applicable to a national securities association in general and, in particular, the requirements of Section 15A(b)(6) of the Act.[5] Section 15A(b)(6) requires, among other things, that the Association's rules 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.[6]

The Commission believes that it is resonable to eliminate the filing requirement in Rule 2710 for certain church bond offerings to allow NASD Regulation to better allocate its staff resources. The Commission notes that NASD Regulation has not recently identified any problems with these offerings and that the proposed exemption relates only to the filing requirements, but not the substantive requirements, of Rule 2710. The Commission also notes that only the offerings that are exempt under Section 3(a)(4) of the Securities Act would be covered under the proposed exemption.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–NASD–98–81) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–34254 Filed 12–24–98; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 40676 (November 12, 1998), 63 FR 64303.

[4] 15 U.S.C. 77c(a)(4). The Commission emphasizes that in order for the proposed exemption to apply the offering must qualify under Section 3(a)(4) of the Securities Act, which requires that the offering not be for pecuniary profit, and no part of the net earnings can inure to the benefit of any person, private stockholder, or individual.

[5] 15 U.S.C. 78*o*–3(b)(6).

[6] In approving this proposed rule change, the Commission notes that it has also considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40813; File No. SR–OCC–98–06]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to Market Coordination in the Application of Circuit Breakers

December 21, 1998.

On June 9, 1998, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') and on July 23, 1998 and October 27, 1998, amended the proposed rule change (File No. SR–OCC–98–06) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] Notice of the proposal was published in the **Federal Register** on November 5, 1998.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

On April 9, 1998, the Commission approved amendments to the ''circuit breaker'' provisions of Rule 80B of the New York Stock Exchange (''NYSE'').[3] Under the amended Rule 80B, the securities markets could reopen after a trading halt and continue to trade in the range of 20 to 30 percent down while the rules of the Chicago Mercantile Exchange would not permit index

[1] 15 U.S.C. 78s (b) (1).

[2] Securities Exchange Act Release No. 40624 (October 30, 1998) 63 FR 59834.

[3] Securities Exchange Act Release No. 39846 (April 9, 1998) 63 FR 18477. OCC submitted a comment letter in response to the notice of the proposed rule change. Letter from Wayne P. Luthringshausen, Chairman, OCC (March 23, 1998).

futures contracts to trade below twenty percent down. As a result, it is possible that the closing prices used by the future markets to determine variation margin on index futures and the closing prices of future options could lose their theoretical relationship to the closing prices of related index option contracts. In such circumstances, OCC margin calculations for cross-margined accounts might incorrectly estimate the actual risk of the cross-margined positions.

The rule change permits OCC to adjust margin requirements for cross-margined accounts in the event of an asynchronized application of circuit breakers by the securities and futures exchanges. Specifically, the rule change gives OCC plenary authority to take whatever actions that it deems appropriate to adjust margins with respect to cross-margined accounts when futures and options market have become delinked.

II. Discussion

Section 17A(b)(3)(F) of the Act [4] requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody and control of the clearing agency or for which it is responsible. Section 17A(a)(2)(A)(ii) of the Act [5] directs the Commission to use its authority under the Act to facilitate the establishment of linked or coordinated facilities for the clearance and settlement of transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options. The Commission believes that the proposed rule change is consistent with these requirements under the Act.

The Commission views the use of cross-margining arrangements as a significant risk reduction method because it provides a means whereby individual clearing organizations do not have to independently manage the risk associated with some components (*i.e.*, the futures or options component) of a clearing member's total portfolio. Therefore, cross-margining programs serve to help OCC assure the safeguarding of securities and funds and to facilitate the establishment of linked or coordinated facilities for the clearance and settlement of futures and options, transactions in securities. However, if the securities and futures markets became delinked because of an asynchronized application of circuit breakers it is possible that OCC's margin system might not accurately estimate the risk associated with positions in a cross-margined account. The Commission believes that the rule change should ensure the continuous accuracy of OCC's margin calcualtions for cross-margined accounts.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. OCC–98–06) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority. [6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–34252 Filed 12–24–98; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78q–1(b)(3)(F).

[5] 15 U.S.C. 78q–1(a)(2)(A)(ii).

[6] 17 CFR 200.30–3 (a) (12).

SMALL BUSINESS ADMINISTRATION

Small Business Administration; Interest Rates

The Small Business Administration publishes an interest rate called the optional ''peg'' rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 5 percent for the October–December quarter of FY 99.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for a commercial loan which funds any portion of the cost of a project (see 13 CFR 120.801) shall be the greater of 6% over the New York prime rate or the limitation established by the constitution or laws of a given State. The initial rate for a fixed rate loan shall be the legal rate for the term of the loan.

Jane Palsgrove Butler,

Associate Administrator for Financial Assistance.

[FR Doc. 98–34189 Filed 12–24–98; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 1998–4919]

Chemical Transportation Advisory Committee, Subcommittee on Proper Cargo Names

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Chemical Transportation Advisory Committee's (CTAC) Subcommittee on Proper Cargo Names (PCN) will meet to discuss various issues relating to use of proper cargo names for the marine transportation of hazardous materials in bulk. The meeting will be open to the public.

DATES: The PCN Subcommittee will meet on Tuesday, January 12, 1999, from 9 a.m. to 4 p.m. The meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the U.S. Coast Guard on or before January 4, 1999. Requests to have a copy of your material distributed to each member of the CTAC Subcommittee should reach the U.S. Coast Guard on or before January 4, 1999.

ADDRESSES: The Subcommittee will meet at the Ameican Bureau of Shipping (ABS), ABS Plaza, 16855 Northchase Drive, Houston, TX 77060–6008. Point of contact: Mr. Philip G. Rynn; tel.: 281–877–6415; fax.: 281–877–6795. Send written material and requests to make oral presentations to Mr. Curtis Payne, Commandant (G–MSO–3), U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC 20593–0001. This notice is available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, contact Mr. Curtis Payne, telephone 202–267–1577, fax 202–267–4570. For questions on viewing, or submitting material to, the docket, contact Ms. Dorothy Walker, Chief, Dockets, Department of Trnasportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Meeting Agenda

The agenda for this meeting will be to develop recommendations which address deficiencies previously identified by the Subcommittee with respect to the following issues:

1. Differences in regulatory requirements for the classification, shipping and transportation of bulk

liquid hazardous materials by marine vessel compared to other modes of transportation,

2. Inadequate regulations, and

3. Training and Procedures.

The meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify Mr. Payne no later than January 4, 1999. Written material for distribution at the meeting should reach the U.S. Coast Guard no later than January 4, 1999. If you would like a copy of your material distributed to each member of the Subcommittee in advance of the meeting, please submit 25 copies to Mr. Payne no later than January 4, 1999 or make other arrangements with Mr. Payne.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Mr. Payne as soon as possible.

Dated: December 17, 1998.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 98–34341 Filed 12–24–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33692]

Adrian & Blissfield Rail Road Company—Acquisition Exemption—Grand Trunk Western Railroad Incorporated

Adrian & Blissfield Rail Road Company (ADBF), a Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire (by purchase) approximately 2.27 miles of rail line owned by Grand Trunk Western Railroad Incorporated (GTW) (known as the Dequindre Line) between (1) milepost 1.77 and milepost 4.04 in Wayne County, MI (the Holly subdivision).[1] ADBF will operate the property.

The transaction was scheduled to be consummated on or shortly after December 15, 1998.

If this notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33692, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Kenneth J. Bisdorf, 2301 West Big Beaver Road, Suite 600, Troy, MI 48084–3329.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: December 17, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–34280 Filed 12–24–98; 8:45 am]

BILLING CODE 4915–00–P

[1] ADBF certifies that its annual revenue will not exceed those that would qualify it as a Class III rail carrier and that its annual revenues are not projected to exceed $5 million.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–437 (Sub–No. 2X)]

Kansas Southwestern Railway, L.L.C.—Abandonment Exemption—in Reno, Pratt and Stafford Counties, KS

Kansas Southwestern Railway, L.L.C. (KSW) has filed a notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon an approximately 64.27-mile line of railroad on the Iuka Branch between milepost 609.97, at Olcott and milepost 630.13 at Iuka, and the portion of its Stafford Branch between milepost 610.0, at Olcott and milepost 654.11 at Radium, in Reno, Pratt and Stafford Counties, KS. The line traverses United States Postal Service Zip Codes 67121, 67583, 67578, 67545, 67577, 67571, 67569 and 67066.

KSW has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there has been no overhead traffic handled on the line during that period; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 27, 1999, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 7, 1999. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 19, 1999, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Karl Morell, Ball Janik LLP, 1455 F St., NW., Suite 225, Washington, DC 20005. If the verified notice contains false or misleading information, the exemption is void *ab initio.*

KSW has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by December 31, 1998. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), KSW shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by KSW's filing of a notice of consummation by December 28, 1999, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: December 14, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–33571 Filed 12–24–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 17, 1998.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before January 27, 1999 to be assured of consideration.

U.S. Customs Service (CUS)

OMB Number: 1515–0120.

Form Number: None.

Type of Review: Extension.

Title: Commercial Invoices.

Description: The collection of Commercial Invoices is necessary for the proper assessment of Customs duties. The invoice(s) is attached to the CF 7501. The information which is supplied by the foreign shipper is used to ensure compliance with statutes and regulations.

Respondents: Business or other for-profit, Individuals or households. Not-for-profit institutions.

Estimated Number of Respondents: 8,000,000.

Estimated Burden Hours Per Respondent: 10 seconds.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 45,000 hours.

Clearance Officer: J. Edgar Nichols (202) 927–1426, U.S. Customs Service, Printing and Records Management Branch, Ronald Reagan Building, 1300 Pennsylvania Avenue, N.W., Room 3.2.C, Washington, DC 20229.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–34202 Filed 12–24–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 17, 1998.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before January 27, 1999 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1481.

Regulation Project Number: PS–6–95 NPRM.

Type of Review: Extension.

Title: Gasoline and Diesel Fuel Excise Tax; Dye Injection Systems and Markers; Measurement.

Description: Terminal operators must keep certain information to show that diesel fuel has been dyed correctly.

Respondents: Business and other for-profit, Individuals or households, Not-for-profit institutions, Federal Government, State, Local or Tribal Government.

Estimated Number of Recordkeepers: 200.

Estimated Burden Hours Per Recordkeeper: 1 hour.

Estimated Total Recordkeeping Burden: 200 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–34203 Filed 12–24–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE–34–95]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, EE–34–95 (TD 8795), Notice of Significant Reduction in the Rate of Future Benefit Accrual. (§ 1.411(d)–6).

DATES: Written comments should be received on or before February 26, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Notice of Significant Reduction in the Rate of Future Benefit Accrual.

OMB Number: 1545–1477.

Regulation Project Number: EE–34–95.

Abstract: This regulation provides guidance on the requirements of section 204(h) of the Employee Retirement Income Security Act of 1974, as amended. The regulation requires that a plan administrator provide a written notice to participants and certain other parties if certain pension plans are amended to provide for a significant reduction in the rate of future benefit accrual. The purpose of the notice is to assure that the rights of plan participants are protected.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,000.

Estimated Time Per Respondent: 5 hours.

Estimated Total Annual Burden Hours: 1,500.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 21, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–34211 Filed 12–24–98; 8:45 am]

BILLING CODE 4830–01–U

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Harry S. Truman Scholarship 1999 Competition

AGENCY: Harry S. Truman Scholarship Foundation.

ACTION: Notice of Closing for Nominations from Eligible Institutions of Higher Education.

SUMMARY: Notice is hereby given that, pursuant to the authority contained in the Harry S. Truman Memorial Scholarship Act, Public Law 93–642 (20 U.S.C. 2001), nominations are being accepted from eligible institutions of higher education for 1999 Truman Scholarships. Procedures are prescribed in 45 CFR 1801 (August 22, 1994; vol. 59, No. 161 sec. 13).

In order to be assured consideration, all documentation in support of nominations for the competition must be received by the Truman Scholarship Review Committee, 2201 North Dodge, P.O. Box 168, Iowa City, IA 52243 no later than January 26, 1999, from participating four year institutions.

Dated: December 17, 1998.

Louis H. Blair,

Executive Secretary.

[FR Doc. 98–34199 Filed 12–24–98; 8:45 am]

BILLING CODE 6820–AD–M

UNITED STATES INFORMATION AGENCY

Matisse and Picasso; Culturally Significant Objects Imported for Exhibition

AGENCY: United States Information Agency.

SUBJECT: Culturally Significant Objects Imported For Exhibition Determinations.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985).

ACTION: I hereby determine that the objects to be included in the exhibit ''Matisse and Picasso: A Gentle Rivalry,'' imported from abroad for temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with a foreign lender. I also determine that the temporary exhibition or display of the listed exhibit objects at the Kimbell Art Museum, Fort Worth, Texas, from on or about January 31, 1999, to on or about May 2, 1999, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Carol Epstein, Assistant General Counsel, Office of the General Counsel, 202/619–6981, and the address is Room 700, U.S. Information Agency, 301 4th St., S.W., Washington, D.C. 20547–0001.

Dated: December 22, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–34327 Filed 12–24–98; 8:45 am]

BILLING CODE 8230–01–M

federal register

Monday
December 28, 1998

Part II

Environmental Protection Agency

Endocrine Disruptor Screening Program: Statement of Policy; Notice

Endocrine Disruptor Screening Program: Priority-Setting Workshop; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–42208; FRL–6052–9]

Endocrine Disruptor Screening Program; Proposed Statement of Policy

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In this notice, EPA is providing additional details and an opportunity for public comment on its Endocrine Disruptor Screening Program (EDSP). The Agency first set forth the basic components of the EDSP in the August 11, 1998, **Federal Register**. The EDSP is required by the Federal Food, Drug, and Cosmetics Act (FFDCA), as amended by the Food Quality Protection Act (FQPA). In developing the EDSP, EPA considered recommendations of the Endocrine Disruptor Screening and Testing Advisory Committee (EDSTAC), a panel chartered pursuant to the Federal Advisory Committee Act. EDSTAC recommended expansion of the screening program beyond the statutory minimum to include not only pesticides but commercial chemicals regulated under the Toxic Substances Control Act (TSCA), certain natural products, non-pesticide food additives, and cosmetics. EDSTAC also recommended that EPA screen for effects on the androgen and thyroid systems and for effects on fish and wildlife. This notice describes the major elements of EPA's EDSP, as well as its implementation. EPA is seeking public comment on the EDSP in this notice.

DATES: Written comments on this proposed policy must be received by EPA on or before February 26, 1999.

The joint meeting of the EPA Science Advisory Board (SAB) and Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) to review EPA's proposal for the EDSP will be held March 30 through April 1, 1999. A document announcing the meeting sites and times will be published in the **Federal Register**.

ADDRESSES: Each comment must bear the docket control number OPPTS–42208. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Room G–099, East Tower, Washington, DC 20460.

Comments and data may also be submitted electronically to: oppt.ncic@epa.gov. Follow the instructions under Unit IX. of this notice. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this rulemaking. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: For general information or copies of the EDSTAC Final Report: TSCA Hotline, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone (202) 554–1404, TDD (202) 554–0551; e-mail address: TSCA-Hotline@epa.gov. For technical information, please contact Anthony Maciorowski, Office of Pesticide Programs, telephone: (202) 260–3048, e-mail address: maciorowski.anthony@epa.gov or Gary Timm, Chemical Control Division, Office of Pollution Prevention and Toxics, telephone: (202) 260–1859, e-mail address: timm.gary@epa.gov.

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I. General Information

A. Does this notice apply to me?

This notice describes the major elements of EPA's EDSP, and also requests public comments on technical and policy aspects of the program. You may be interested in the program set forth in this notice if you produce, manufacture or import pesticide chemicals, chemical substances or mixtures subject to TSCA, substances that may have an effect cumulative to an effect of a pesticide, or substances found in sources of drinking water. The general public may also have an interest in the potential health and environmental consequences associated with the results of any testing that is conducted in conformity with this policy. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under ''FOR FURTHER INFORMATION CONTACT.''

B. How can I get additional information or copies of this notice or other support documents?

1. *Electronically*. You may obtain electronic copies of this notice and various support documents from the EPA Home Page at http://www.epa.gov/. On the EPA Home Page select ''Laws

and Regulations'' and then look up the entry for this notice under ''**Federal Register**—Environmental Documents.'' You can also go directly to the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/.

The complete EDSTAC Final Report is available on the worldwide web at: www.epa.gov/opptintr/opptendo/whatsnew.htm. Paper copies of the EDSTAC Final Report can be obtained upon request from the TSCA Hotline at the address listed under ''FOR FURTHER INFORMATION CONTACT'' section of this notice.

2. *In person or by phone.* If you have any questions or need additional information about this action, please contact the technical person identified under ''FOR FURTHER INFORMATION CONTACT.'' A public version of this record, including printed, paper versions which does not include any information claimed as CBI, is available for inspection in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC, 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the TSCA Docket is (202) 260–7099.

II. Background

A. Concern Regarding Endocrine Disruptors

The endocrine system consists of glands and hormones which are found in all mammals, birds, fish, and invertebrates. Hormones are biochemical substances produced in glands and released into the blood stream to act on an organ in another part of the body. Over 50 hormones have been identified in humans and other vertebrates. Hormones control or regulate many biological processes and are often produced in exceptionally low amounts within the body. Examples of such processes include blood sugar control (insulin); differentiation, growth, and function of reproductive organs (testosterone (T) and estradiol); and body growth and energy production (growth hormone and thyroid hormone). Much like a lock and key, many hormones act by binding to receptors that are produced within cells. The hormone-receptor complex switches on or switches off specific biological processes in cells, tissues, and organs.

Scientific evidence has been accumulating that humans, domestic animals, and fish and wildlife species have exhibited adverse health consequences from exposure to environmental chemicals that interact with the endocrine system. To date, such problems have been detected in domestic or wildlife species with relatively high exposure to organochlorine compounds (e.g., 1,1,1-trichloro-2,2-bis(p-chlorophenyl) ethane (DDT) and its metabolite dichorodiphenyldichloroethylene (DDE), polychlorinated biphenyls (PCBs), and dioxins) or to some naturally occurring plant estrogens. But effects from exposure to low levels of endocrine disruptors has been observed as well (e.g., parts per trillion levels of tributyl tin have caused masculinization of female marine molluscs such as the dog whelk and ivory shell). Adverse effects have been reported for humans exposed to relatively high concentrations of certain contaminants. However, whether such effects are occurring in the human population at-large at concentrations present in the ambient environment, drinking water, and food remains unclear. Several conflicting reports have been published concerning declines in the quality and quantity of sperm production in humans over the last 4 decades, and there are reported increases in certain cancers (e.g., breast, prostate, testicular). Such effects may have an endocrine-related basis, which has led to speculation about the possibility that these endocrine effects may have environmental causes. However, considerable scientific uncertainty remains regarding the actual causes of such effects. Nevertheless, there is little doubt that small disturbances in endocrine function, particularly during certain highly sensitive stages of the life cycle (e.g., development, pregnancy, lactation) can lead to profound and lasting effects (Kavlock et al., 1996. EPA, 1997).

Taken collectively, the body of scientific research on human epidemiology, laboratory animals, and fish and wildlife provides a plausible scientific hypothesis that environmental contaminants can disrupt the endocrine system leading to adverse-health consequences. A critical issue is whether ambient environmental levels are sufficiently high to exert adverse effects on the general population. Various types of scientific studies (epidemiology, mammalian toxicology, and ecological toxicology) are necessary to resolve many of the scientific questions and uncertainty surrounding the endocrine disruptor issue. Many such studies are currently underway by government agencies, industry, and academia.

B. The Food Quality Protection Act, Safe Drinking Water Act, and Other Environmental Legislation

In 1996, Congress amended the FFDCA with the FQPA. FFDCA section 408(p) requires EPA to develop a program ''to determine whether certain substances may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effects as [EPA] may designate'' (FFDCA section 408(p) (21 U.S.C. 346a(p))).

When carrying out the program, EPA ''shall provide for the testing of all pesticide chemicals'' and ''may provide for the testing of any other substance that may have an effect that is cumulative to an effect of a pesticide chemical if the Administrator determines that a substantial population may be exposed to such a substance'' (21 U.S.C. 346a(p)(3)).

In addition, Congress amended the Safe Drinking Water Act (SDWA) and gave EPA authority to provide for the testing, under the FQPA Screening Program, ''of any other substance that may be found in sources of drinking water if the Administrator determines that a substantial population may be exposed to such substance'' (SDWA Amendments of 1996, section 136 (42 U.S.C. 300j–17)).

This notice describes the major elements of the program EPA has developed to comply with the requirements of FFDCA section 408 (p) as amended by FQPA. EPA initially set forth the Program in an August 11, 1998, **Federal Register** notice (63 FR 42852) (FRL–6021–3). The screening program described in this notice is ambitious. EPA is considering 87,000 substances as potential candidates for testing. EPA believes that the FFDCA and SDWA provide authority to require the testing of many of these substances. EPA will use other testing authorities under the FIFRA and TSCA to require the testing of those chemical substances that the FFDCA and SDWA do not cover. EPA also plans to work with other Federal agencies and departments to ensure that substances not covered under any of EPA's authorities are tested.

As described in detail in this unit, the EDSP is divided into several stages, including a priority-setting stage, a stage involving screening tests (Tier 1 screening), and a stage involving confirmatory testing (Tier 2 testing). EPA believes that the results from the entire battery of tests required in the Tier 1 screening and Tier 2 testing stages (or their equivalents) are necessary to make the statutory determination of whether a particular

substance ''may have an effect in humans that is similar to an effect produced by a naturally occurring [hormone]''(21 U.S.C. 346a(p)). In other words, a positive result in the Tier 1 screening assays would not be adequate to make the determination ''whether a substance may have an effect in humans that is similar to an effect produced by a naturally occurring [hormone].'' Id. Conversely, a negative result in all Tier 1 screening tests will be adequate to determine that a particular substance is not likely to have an effect on the estrogen, androgen, and thyroid hormone systems (EAT) and, therefore, is not a priority for testing in Tier 2. The confirmatory tests in the Tier 2 testing stage are necessary to determine whether a substance may have an effect similar to that of a naturally occurring hormone.

C. The EDSTAC

Recognizing the expertise available outside the Agency on endocrine disruptor issues, as well as the evolving nature of the science surrounding endocrine disruption, EPA chartered an advisory committee under the Federal Advisory Committee Act to advise it on developing a program to comply with FFDCA section 408(p) requirements. The Advisory Committee, known as the EDSTAC, was comprised of members representing the commercial chemical and pesticides industries, Federal and State agencies, worker protection and labor organizations, environmental and public health groups, and research scientists. EPA charged the EDSTAC with providing advice and recommendations to the Agency regarding a strategy for testing chemical substances to determine whether they may have an effect in humans similar to an effect produced by naturally occurring hormones. Specifically, EPA charged EDSTAC with developing the following:

Methods for chemical selection and priorities for screening.

1. A set of available, validated screening tests for early application.

2. Ways to identify new and existing screening tests and mechanisms for their validation.

3. Processes and criteria for deciding when additional tests beyond screening would be needed and how to validate such tests.

4. Processes for communicating to the public about the EDSTAC's agreements, recommendations, and information developed during priority setting, screening, and testing.

In response to this charge, EDSTAC reached consensus on a set of recommendations for the Agency. These recommendations are contained in the EDSTAC Final Report (EDSTAC, 1998). Considering EDSTAC's diverse membership—including individuals from industry, labor, environmental justice groups, public health and environmental groups, academia, and Federal and State agencies—EPA found its consensus compelling. More importantly, EPA found the advice contained in the EDSTAC Final Report scientifically rigorous. As such, EPA relied heavily on EDSTAC's advice and recommendations in developing its EDSP. EPA has not further developed recommendations in areas where EDSTAC recommended further stakeholder involvement. However, in other areas, EPA has added additional refinements which are highlighted under ''Issues for Comment'' in Unit VII. of this notice.

D. Key Terms and Definitions

For the purposes of this notice, EPA will use the following definitions.

Chemical or chemical substance as used in this notice includes naturally occurring and synthetic chemicals and elements.

Commercial chemical is defined as chemical substances subject to the provisions of TSCA (15 U.S.C. 2602 *et seq.*).

Exempted chemicals are pesticide chemicals that have been given an exemption under FFDCA section 408(p) or commercial chemicals that the Agency determines to exempt from the requirements of screening and are therefore not subject to the EDSP.

Functional equivalency—an assay, test, or endpoint may be defined as being ''functionally equivalent'' to another assay, test, or endpoint when it provides equivalent information for each endpoint being studied. For purposes of the EDSP, assays, tests, and endpoints must be standardized and validated prior to use. The standardization and validation process will provide data and information that will allow EPA to develop guidance on the use of functionally equivalent assays, tests, and endpoints prior to the implementation of the screening program.

Hazard assessment is defined to include identification of the chemical substances and mixtures that have endocrine-disruption effects (which is often referred to as hazard identification) and establishment of the relationship between dose and effect (which is often referred to as dose-response assessment).

Mixtures refers to combinations of two or more chemical substances, including those found in the environment. This definition is the ordinary definition applied by chemists and differs from the legal definition under TSCA section 3. The TSCA definition of mixture excludes natural products and chemical reaction products that may be a combination of two or more chemical substances.

Pesticide chemical means any substance that is a pesticide within the meaning of FIFRA, including all active and inert ingredients of such pesticide and all impurities.

Polymer is defined as a chemical substance consisting of one or more types of monomer units and comprising a simple weight majority of molecules containing at least three monomer units which are covalently bound to at least one other monomer unit or other reactant and which consists of less than a simple weight majority of molecules of the same molecular weight. Such molecules must be distributed over a range of molecular weights wherein differences in the molecular weight are primarily attributable to differences in the number of monomer units.

Priority setting is defined as the collection, evaluation, and analysis of relevant information, including the results of HTPS, to determine the general order in which chemical substances or mixtures will be subjected to screening and testing.

Screening is defined as the application of short-term assays to determine whether a chemical substance or mixture may interact with the endocrine system. As these are preliminary assays, a positive result during screening does not mean that a chemical substance may have an effect in humans, fish, or wildlife that is similar to the effect produced by naturally occurring hormones.

Sorting is the separation of chemicals into groups prior to priority setting for the purpose of distinguishing chemicals needing Tier 1 screening from those needing Tier 2 testing, hazard assessment, and those for which endocrine screening, testing, or hazard assessment is not warranted at this time.

Testing is defined as a customized combination of long-term assays and endpoints designed to determine whether a chemical substance or mixture may cause effects in humans, fish, or wildlife that are similar to effects caused by naturally occurring hormones and to identify, characterize, and quantify these effects. Tests are designed to confirm and further define the results obtained in Tier 1 screens.

Weight-of-evidence refers to the process by which trained professionals judge the strengths and weaknesses of a collection of information to render an

overall conclusion that may not be evident from consideration of the individual data.

III. Overview of the Screening Program

A. Scope

Based on the body of available scientific information, EDSTAC recommended that EPA's EDSP address both human and ecological (fish and wildlife) effects; examine effects to EAT-related processes; and include chemical substances and representative mixtures. EPA fully agrees with the EDSTAC that this is the appropriate scope for the initial EDSP.

For the reasons stated in this unit, EPA is proposing that the EDSP include the following:

1. *Human and ecological (fish and wildlife) effects.* Adverse effects on wildlife and fish can serve as an early warning of potential health risks for humans. There is strong evidence for endocrine disruption observed in natural wildlife and fish populations. Moreover, wildlife and fish are inherently valuable components of ecosystems, and they act as sentinels for the relative health of the environment that they share with humans.

2. *Effects on EAT-related processes.* Initially, the EDSP will focus on EAT effects. These three hormone systems are presently among the most studied of the approximately 50 known vertebrate hormones. *In vitro* and *in vivo* test systems to examine EAT effects exist, and are currently the most amenable for regulatory testing. Further, inclusion of EAT effects will cover aspects of reproduction, development, and growth.

EPA recognizes that there is a great deal of ongoing research related to other hormones and test systems. As more scientific information becomes available, EPA will consider expanding the scope of the EDSP to other hormones. For now, however, the EAT effects and test systems represent a scientifically reasonable focus for the Agency's EDSP.

3. *Evaluate endocrine disrupting properties of chemical substances and common mixtures.* The universe of chemicals and mixtures to be prioritized for endocrine-disruptor screening and testing numbers more than 87,000 and includes commercial chemicals, active pesticide ingredients, ingredients in cosmetics, nutritional supplements, and food additives. Commercial chemicals are being included because chemicals like PCBs and other non-pesticidal chemicals have been implicated as endocrine disruptors. Nutritional supplements are known to contain certain naturally occuring phytoestrogens. In addition, EPA plans to screen representative examples of six different types of mixtures (i.e., combinations of two or more chemicals). The inclusion of the representative mixtures was viewed to be a pragmatic, achievable first look at a highly complex problem. Testing mixtures will determine whether mixtures cause different endocrine effects from those of the individual component chemicals. While pharmaceuticals will not be tested per se since they are already tested and highly regulated for human or animal use, they may be tested as pollutants if found to be present in the environment.

B. Program Elements

EPA will use a tiered approach for determining whether a substance may have an effect in humans that is similar to an effect produced by naturally occurring EAT. The core elements of the tiered approach include: Sorting, priority setting, Tier 1 screening, and Tier 2 testing. The purpose of Tier 1 is to identify substances that have the potential to interact with the endocrine system. The purpose of Tier 2 is to determine whether the substance causes adverse effects, identify the adverse effects caused by the substance, and establish a quantitative relationship between the dose and the adverse effect. At this stage of the science, only after completion of Tier 2 tests will EPA be able to determine whether a particular substance may have an effect in humans that is similar to an effect produced by a naturally occurring EAT, that is, that the substance is an endocrine disruptor. Therefore, both Tier 1 and Tier 2 are essential elements of the screening program mandated by the FQPA. Moreover, this tiered approach is the most effective strategy for using available resources to detect endocrine-disrupting chemicals and quantify their effects. The core elements of the program are introduced in this overview section and presented in greater detail in subsequent sections.

Some of the major implementation steps and estimated completion dates are:

Implementation steps	Estimated completion dates
EDSTAC Final Report and Recommendations	Completed
Development of EPA's EDSP	Completed
Public comment on EPA's EDSP	February 22, 1999
SAB/SAP Peer Review Processes	April 1, 1999
HTPS Demonstration	February 1999
HTPS	June 2000
EDPSD	June 2000
Priority Setting for Tier 1 Phase 1	November 2000
Tier 1 Standardization and Validation September	2001
Tier 1, Phase 1 TSCA Test Rule Notice of Proposed Rulemaking (NPRM) and FQPA Orders	December 2001
Tier 1, Phase 1 TSCA Final Test Rule	June 2003

IV. Sorting and Priority Setting

A. The Universe of Chemicals Included in the EDSP

As stated earlier, EPA is concerned about the endocrine disrupting potential of more than 87,000 chemical substances, including pesticide chemicals, commercial chemicals, ingredients in cosmetics, food additives, nutritional supplements, and certain mixtures. Testing of all of these chemicals cannot be supported at the same time because, even if EPA and industry had the resources to do so, there are not enough laboratories or other facilities capable of conducting the testing. Consequently, EPA has included a priority-setting phase as part of its EDSP. During the priority-setting phase, EPA will use existing information, and in some cases, preliminary test results, to prioritize chemicals for testing. While EPA believes that the FFDCA and SDWA provide authority to require the testing of many of these substances, EPA also will use other testing authorities under FIFRA and TSCA to require the testing of those chemical substances that the FFDCA and SDWA do not cover. EPA also plans to work with other Federal agencies and departments to ensure that these substances also are tested. EPA will use appropriate authority to obtain testing of the chemical.

B. Sorting

Chemicals under consideration for EAT screening will undergo sorting based on existing, scientifically relevant information. The sort would identify chemicals for HTPS as well as place chemicals into categories 1–4.

1. *Category 1—Hold—Chemicals with sufficient, scientifically relevant information to determine that they are not likely to interact with the EAT.* If

EPA is able to determine, based on scientifically relevant information, that a specific chemical is not likely to interact with the EAT, it will place that chemical in a hold category. Chemicals in this hold category will have the lowest priority for further analysis and may not undergo further analysis unless new and compelling information suggests that the chemical may interact with the endocrine system. Although EPA will place chemicals in the hold category during the initial sorting phase of the screening program, it may add chemicals to this category if, during a later phase of the EDSP (Tier 1 screening, or Tier 2 testing), the Agency determines that a particular chemical is not likely to interact with the endocrine system.

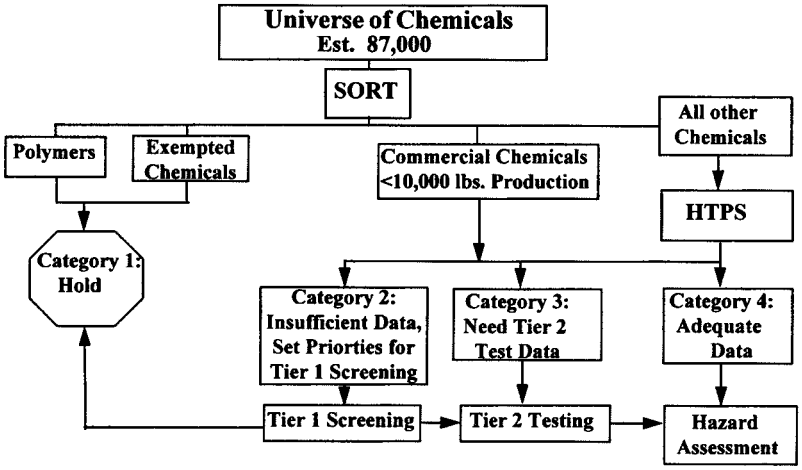
Currently, EPA believes it is appropriate to assign two groups of chemicals to the hold category:

i. Polymers.

ii. Exempted chemicals.

These substances would not be subject to HTPS or to priority setting for screening at this time (See Fig. 1).

FIGURE 1-SCREENING PROGRAM OVERVIEW



i. *Polymers*. EPA anticipates placing most polymers with a number average molecular weight (NAMW) greater than 1,000 daltons in the hold category. These polymers are not likely to cross biological membranes and therefore are not likely to be biologically available to cause endocrine-mediated effects. EPA will not place polymers that are pesticide chemicals, and therefore must be tested under the FFDCA, in this category. In addition, EPA will not place monomer and oligomer components of polymers in this hold category. Instead, it will prioritize them for Tier 1 screening or Tier 2 testing.

ii. *Exempted chemicals*. Exempted chemicals are pesticides given an exemption under FFDCA 408(p) and other chemicals that the Agency determines to exempt from the requirements of screening. These substances would not be included in the HTPS and would be placed in the hold category (see Unit. VI.L. of this notice).

2. *Category 2—Priority Setting/Tier 1 Screening—Chemicals for which there is insufficient, scientifically relevant information to determine whether or not they are likely to interact with the EAT*. If EPA is not able to determine, based on scientifically relevant information, whether or not a chemical is likely to interact with the EAT, it will place that chemical into a category of chemicals needing Tier 1 screening. Category 2 chemicals are those for which there is insufficient scientifically relevant information to be placed on hold (Category 1), or assigned to Tier 2 testing (Category 3) or hazard assessment (Category 4). Category 2 chemicals will be subjected to formal priority setting, and Tier 1 screening, and as appropriate (i.e. positive results in Tier 1 screening), Tier 2 testing.

3. *Category 3—Tier 2 Testing—Chemicals with sufficient, scientifically relevant information comparable to that provided by the Tier 1 screening*. Recognizing the need for flexibility, EPA has included the possibility of bypassing Tier 1 screening. For example, if sufficient, scientifically relevant information already exists regarding a specific chemical, EPA may move that chemical directly into Tier 2 testing. In addition, EPA may allow a chemical to bypass Tier 1 if the chemical's producer or registrant chooses to conduct Tier 2 testing without performing Tier 1 screening.

4. *Category 4—Hazard Assessment—Chemicals with sufficient, scientifically relevant information to bypass Tier 1 screening and Tier 2 testing*. For certain chemicals, there already may be sufficient, scientifically relevant information regarding their interaction with EAT—information comparable to that derived from Tier 1 screening and Tier 2 testing—to move them directly into hazard assessment. These chemicals, thus, will bypass both Tier 1 screening and Tier 2 testing. EPA anticipates that this will be a relatively small number of chemicals.

C. Information Required for Sorting and Priority Setting

Relevant scientific information is essential to sort and prioritize chemicals for endocrine-disruptor testing. EPA plans to use three main categories of information to set priorities: Exposure-related information, effects-related information, and statutory criteria. EPA is in the process of developing a relational data base to manage the information that it will use to set priorities. A relational data base is one that can link with other data bases thus allowing EPA to access and manipulate data from other existing data bases.

1. *Exposure-related information and criteria*. EPA proposes to use several types of existing exposure-related information and criteria for initial sorting and priority setting. These include at least four exposure information categories and one fate and transport information category. The four exposure-related information categories are: Biological sampling data for humans and other biota; environmental monitoring data, and information on occupational , consumer product, and food-related exposures; data on environmental releases; and data on production volume and use. Note that the data categories are listed from most robust (actual presence in biological tissue confirming that exposure has occurred) to least robust (amounts produced which may or may not result in exposure).

This unit describes the nature of the information included in each exposure-related information category, the strengths and limitations of the type of information in each category, and a set of guiding principles that EPA will generally apply to complete the task of setting priorities for endocrine-disruptor screening and testing.

i. *Biological sampling data*. Biological sampling refers to the monitoring of tissues from live or dead organisms for chemicals to document actual human or animal exposure. Biological sampling information falls into two subcategories: Human biomonitoring and monitoring of other biota. Human biomonitoring includes human tissues and media (e.g., blood, breast milk, adipose tissue, and urine). Monitoring of other biota encompasses a wide range of species (invertebrates, vertebrates such as fish and other wildlife) and sample matrices (e.g., carcass, liver, kidney, egg, feathers, etc.) for exposure to environmental contaminants. EPA will be guided by the following principles when using biological sampling data for sorting and priority setting.

a. Greater weight is generally given to data sets that provide relevant information on large populations, disproportionately exposed subpopulations, or particularly susceptible subpopulations.

b. Greater weight is generally given to non-detect data when it is associated with low analytical detection limits for organisms that are likely to be exposed.

ii. *Environmental, occupational, consumer product, and food-related data*. Environmental, occupational, consumer product, and food-related data include: Monitoring data for chemical contaminants found in a variety of environmental media to which humans and animals are exposed, such as water (surface, ground, and drinking), air, soil, sediment, and food; and use information for chemicals, when it is available. EPA will be guided by the following principles when using environmental, occupational, consumer product, and food-related data for initial sorting and priority.

a. Greater weight is generally given to validly measured data than to estimates.

b. Greater weight is generally given to data that demonstrate that a chemical is more likely to be internalized by an organism from its environment.

c. Greater weight is generally given to data sets that provide relevant information on large populations, disproportionately exposed subpopulations, or particularly susceptible subpopulations.

d. Greater weight is generally given to non-detect data when it is associated with low analytical detection limits for organisms that are likely to be exposed.

In the absence of monitoring data, estimates from the National Occupational Environment Survey, Permissible Exposure Limits (PELs) and similar estimates will be used to infer potential exposure levels. These estimates are much less robust than monitoring data but will be used unless actual monitoring data are submitted.

iii. *Environmental releases*. Environmental release information includes data on chemicals released to the environment to which humans and environmental species may be exposed, such as permitted industrial discharges to air or water and accidental release or spill data. EPA may use data from its Toxic Release Inventory (TRI) and the Agency for Toxic Substances Disease Registry's (ATSDR's) Hazardous

Substance Emergency Surveillance System. EPA will be guided by the following principles when using environmental release data for sorting and priority setting.

a. Greater weight is generally given to validly measured data than to estimates.

b. Greater weight is generally given to data demonstrating that an environmental release will more likely lead to organism exposure. (e.g., EPA will give greater weight to TRI releases to air and water than TRI releases to permitted landfills, etc.).

c. Greater weight is generally given during priority setting to data sets that provide relevant information on large populations, disproportionately exposed subpopulations, or particularly susceptible subpopulations.

iv. *Production volume data.* Production volume data are generally available for existing chemicals, but not for polymers, inorganics, or chemicals under 10,000 pounds of annual production. (These latter substances have been exempted from EPA's quadrennial TSCA Inventory Update Rule (40 CFR part 710, subpart B)). For new chemicals, the only production volume information available is estimates and it is not relevant for environmental contaminants. EPA will be guided by the following principles when using production volume data for sorting and priority setting.

a. Production volume provides only a very rough indication of potential human and environmental exposure.

b. Production data generally should be combined with other data (e.g., use and physical properties data) in an effort to minimize some of the inherent weaknesses of using production data as a surrogate for exposure.

c. Production information generally should not be used to compare existing industrial chemicals, pesticides and new chemicals because production volume ranges are too divergent. For example, production volumes for high-volume industrial chemicals are several orders of magnitude higher than those for either new chemicals or pesticides.

v. *Fate and transport data and models.* The fate and transport information category includes chemical and/or physical properties that may be used to predict or estimate the medium or media where a chemical is likely to be found and whether or not a chemical is likely to remain in the environment over time.

Environmental fate and transport information is available from various reference sources, including data bases, textbooks, and monographs. Numerous sources of data and models are listed in Appendix G of the EDSTAC Final Report (EDSTAC, 1998). The sheer volume of environmental fate and transport data makes it necessary to identify those data useful for sorting and prioritization purposes. EPA will focus attention on three subcategories of environmental fate and transport information including: Persistence, mobility, and bioaccumulation.

EPA will consider the following characteristics of fate and transport data: Hydrolysis half-life persistence; biodegradation persistence; photooxidation persistence; volatility (Henry's Law) mobility; adsorption coefficient (K_{oc}) mobility; and octanol: water partition coefficient (K_{ow}/LogP) mobility and bioaccumulation. EPA may use a multimedia fate and partitioning model to combine this information in a meaningful manner. EPA will be guided by the following principles when using fate and transport data and models for initial sorting and priority.

a. Air, water, and soil environmental compartments generally should be considered when using fate and transport data to help set priorities for screening.

b. Greater weight generally should be given to fate and transport characteristics based on laboratory or field tests than on estimates.

2. *Effects-related information and criteria.* EPA generally plans to rely on HTPS data, toxicological laboratory studies, epidemiological studies, and predictive structure activity models to assist the Agency in setting priorities for screening.

i. *Toxicological and epidemiological studies.* Toxicological laboratory studies include information related to the laboratory study of toxic effects of commercial chemicals, pesticides, contaminants, or mixtures on living organisms or cell systems including humans, wildlife, or laboratory animals. Epidemiological and field studies range from hypothesis-generating descriptive studies, such as case reports and ecological field analyses, to prospective cohort studies and rigorously controlled hypothesis-testing clinical trials.

Empirical toxicological and epidemiological data are reported in numerous peer-reviewed scientific journals. Published studies are conducted and described in varying degrees of methodological rigor and data are reported in widely varying detail. To rely on this information, EPA would be required to review it and determine its applicability and adherence to generally acceptable investigatory practices. The search and review of this primary literature would be too resource intensive to be part of the prioritization process. Instead EPA will rely on data bases containing studies addressing the endpoints of interest. In response to EPA's proposed *Priority List*, public commenters can submit studies that EPA will review. If the submitted studies indicate that the priority should be changed or they meet the requirements of portions of Tier 1, EPA will change the priority or screening requirements for that chemical, as appropriate.

EPA will be guided by the following principles when evaluating toxicological and epidemiological data:

a. Negative epidemiological studies generally will not override positive toxicological studies. Positive epidemiological studies generally will override negative toxicological studies for priority-setting purposes.

b. EPA generally will give greater weight to *in vivo* studies with relevant endpoints than to *in vitro* studies.

ii. *Predictive structure-activity models.* Predictive biological activity or effects models attempt to identify the correlation between chemical structure and biological activity, including those that can be identified through *in vitro* and *in vivo* screens. Models can be useful when biological data are unavailable. While EPA believes this approach will be of limited success early in the screening program, it believes that the refinement of models as more screening results become available may increase their utility as a predictive tool for priority setting and may actually replace some of the more mechanistic Tier 1 assays.

3. *Statutory criteria.* The FFDCA, as amended, requires that EPA provide for the testing of all ''pesticide chemicals.'' Under the FFDCA, ''pesticide chemical'' includes ''any substance that is a pesticide within the meaning of FIFRA, including all active and inert ingredients'' (21 U.S.C. 321(q)(1)). It also includes impurities. The statute does not restrict testing to pesticides used on foods. As part of priority setting, EPA will ensure that all substances that must be tested pursuant to the FFDCA—i.e., pesticide chemicals—are tested in a timely manner.

D. Use of a HTPS to Assist Priority Setting

For the majority of chemicals, EPA does not believe that any endocrine-disruptor effects data exists. This lack of data makes it difficult to set priorities for screening and testing. To help solve this problem, EPA plans to conduct two of the Tier 1 screening tests (see Units V.A. and VI.B. and C. of this notice) on approximately 15,000 chemicals in a high-speed, automated fashion. Since these assays are being run before the

Tier 1 screening is conducted, EPA refers to this testing as HTPS. HTPS test results will provide information on the interaction of chemicals with the estrogen and androgen receptor. The automated, low-cost nature of HTPS allows EPA to test a large number of chemicals in a short period of time. HTPS will provide EPA with preliminary information relating to one of several possible mechanisms by which a chemical may affect the endocrine system. Thus, EPA will use HTPS to assist in setting priorities for further screening; the Agency will not use HTPS alone to decide whether a chemical should or should not move to the next phase in the EDSP.

E. Setting Priorities for Tier 1 Screening

EPA plans to use existing, available information, HTPS data, and the EDPSD to establish Tier 1 screening priorities. EPA anticipates, however, that the quantity and quality of exposure and effects information will be uneven for the majority of chemicals. Thus, to ensure the integrity of the priority-setting process and avoid an ''apples'' to ''oranges'' comparison, EPA plans to adopt a ''compartment-based approach'' to priority setting. The term ''compartment'' refers to the particular information category or criterion or combinations of information or criteria that defines a set of chemicals, just as a group of parameters defines a set of numbers in mathematics. All members of the set must possess the properties required for membership in the compartment and thus will have these elements in common as the basis for comparison. Operationally, EPA will establish a limited number of compartments and sort chemicals into those compartments based on the criteria defining each compartment. EPA will then prioritize chemicals within each of the compartments according to criteria related to those for membership in the compartment. Finally, EPA will recombine the highest priority chemicals in each compartment to form the group of chemicals going into phase 1 of the screening program.

EPA has not identified all of the specific compartments. Examples of compartments, however, may include HPVCs, chemicals in consumer products, chemicals found in biological tissue, pesticide-active ingredients, formulation ingredients in pesticides, and chemicals found in sources of drinking water. A chemical could fall into more than one compartment. To help develop the list of priority-setting compartments, EPA plans to convene a priority-setting workshop for multi-stakeholders. The document announcing the priority-setting workshop is published elsewhere in this issue of the **Federal Register**.

Pesticides present a special difficulty in priority setting because data on both inert formulation ingredients and active ingredients need to be available at the time of a pesticide's evaluation. This will present some logistical difficulties in prioritizing the screening of pesticide formulations since pesticides with the same active ingredient may contain significantly different formulation inert ingredients.

Although EPA has not identified all priority-setting compartments, it has decided on some compartments. EPA plans to have a ''mixtures'' compartment, a ''naturally occurring non-steroidal estrogen'' compartment; and a ''nominations'' compartment. Each of these compartments is described in detail in this unit.

1. *Nominations*. The priority-setting process generally will give high priority to chemicals with widespread exposure at the national level. However, there are chemicals that result in disproportionately high exposure to identifiable groups, communities, or ecosystems. For these, EPA plans to establish process by which affected citizens can nominate chemicals with regional or local exposure to receive priority for Tier 1 screening (see Unit VI.E. of this notice).

2. *Mixtures*. Mixtures, defined as a combination of two or more chemicals, will need special attention during the initial stages of sorting and prioritization because they present unique challenges for testing and hazard assessment. Consequently, EDSTAC recommended that EPA determine the technical feasibility and, where feasible, screen and test representative samples of mixtures from six distinct types of mixtures, including: Contaminants in human breast milk; phytoestrogens in soy-based infant formula; mixtures of chemicals commonly found at hazardous waste sites; pesticide/fertilizers mixtures; disinfection byproducts; and gasoline.

EPA will investigate the technical feasibility for screening and testing mixtures as recommended by EDSTAC. This will include an evaluation of whether it is possible to identify a reasonable number of representative samples of mixtures from each of the recommended six types of mixtures, as well as the ability to send the representative samples of mixtures through HTPS, Tier 1 screening, and Tier 2 testing depending on their physical properties, and validation and standardization of the results.

3. *Naturally occurring non-steroidal estrogens (NONEs)*. Another special class of chemicals of interest to EPA are naturally occurring NONEs. These are natural products derived from plants (phytoestrogens) and fungi (mycotoxins). These chemicals occur widely in foods and have the potential to act in an additive, synergistic, or antagonist fashion with other hormonally active chemicals. EPA will work with the Food and Drug Administration (FDA) and the National Toxicology Program to obtain testing of the seven specific NONEs that were identified by EDSTAC.

F. Bypassing Tier 1 Screening

Recognizing the need for flexibility in applying the screening and testing requirements, EPA plans to permit chemicals to bypass Tier 1 screening under certain circumstances. If sufficient, scientifically relevant information exists regarding a specific chemical, EPA may move that chemical directly into Tier 2 testing. In addition, EPA may allow a chemical to bypass Tier 1 screening if the chemical's producer or registrant chooses to conduct Tier 2 testing without performing Tier 1 screening. Each of these two scenarios has different implications for the information requirements associated with completing Tier 2 testing.

1. *Chemicals that have previously been subjected to 2-generation reproductive toxicity tests*. This scenario includes chemicals that have previously been subjected to mammalian and wildlife developmental toxicology and/or reproductive testing, but where the tests did not include endocrine sensitive endpoints included in the most recent Office of Prevention, Pesticides, and Toxic Substances (OPPTS) or Organization for Economic Cooperation and Development (OECD) test guidelines (See Tables 2, 3, and 4 in Unit V.B. of this notice). Food-use pesticides fall into this category, as do a small number of certain other pesticides and industrial chemicals. Chemicals and non-food-use pesticides that meet this criterion also will likely be candidates for alternative approaches to Tier 2 testing.

Chemicals that have data from tests that meet the requirements of the new mammalian guidelines, but not the new wildlife tests, would be subjected to the wildlife testing requirements unless scientifically sound reasons are provided to limit testing.

2. *Chemicals for which there is limited prior toxicology testing*. The second bypass scenario includes chemicals whose manufacturer or

registrant has decided to voluntarily complete Tier 2 testing without having completed the full Tier 1 screening battery or any prior 2-generation reproductive toxicity testing. Chemicals that bypass Tier 1 screening under this scenario must be evaluated using the entire Tier 2 battery (i.e., the mammalian and non-mammalian multi-generation tests with all the recommended test species and endpoints) unless scientifically sound reasons are provided to limit testing.

EPA will generally follow the guidance set forth in this unit when setting Tier 2 testing priorities for chemicals that bypass Tier 1 screening:

i. If a chemical is deemed to be high priority for Tier 1 screening and the manufacturer or registrant of the chemical decides to voluntarily bypass Tier 1, it should also be high priority for Tier 2 testing. Voluntary action on the part of registrants/manufacturers should expedite testing.

ii. To the extent practicable, pesticides should be tested on the schedule EPA has established for tolerance reassessments, pesticide re-registration and registration renewal under the FFDCA and FIFRA, unless HTPS or other data indicate that the pesticide should be tested in a shorter timeframe. EPA does not intend to delay tolerance reassessments, re-registration or registration renewal actions to await implementation the EDSP.

G. Mixtures

For purposes of the EDSP, EPA defines ''mixture'' as a combination of two or more chemicals. EPA will consider most commercial chemicals (class 1 and class 2 substances under TSCA) to be chemicals even though they may contain other substances in them as impurities or exist as complex reaction products. In some cases a commercial product is in reality a complex mixture of unidentified composition in which no single substance predominates. These complex products have Chemical Abstract Service (CAS) numbers and will be regarded as chemicals from a legal and policy perspective but may need to be treated as mixtures from a scientific perspective in the EDSP. This determination will be made case by case.

EPA recognizes that the science of evaluating mixtures remains complex and unclear, but believes that it should begin to confront the issues raised by them. EPA will sponsor some screening of mixtures after the demonstration of the HTPS and validation of the Tier 1 screening battery on single chemicals.

Initially, EPA plans to include a few mixtures in the HTPS. EDSTAC has recommended that one or more representative samples from each of the following high priority mixtures would be tested:

1. Contaminants in human breast milk.
2. Phytoestrogens in infant soy formula.
3. Mixtures of chemicals found at hazardous waste sites.
4. Pesticide and fertilizer mixtures.
5. Disinfection byproducts.
6. Gasoline.

EPA also plans to evaluate some mixtures in the Tier 1 screen. If results of Tier 1 are positive for a mixture, the Agency will face a choice of testing the mixture in Tier 2 or determining what substances, or combination of substances, are responsible for the activity. The Agency likely will choose this latter course of action and test the individual active chemical or active fraction in Tier 2.

H. Categories of Chemicals

In its first TSCA proposed test rule (45 FR 48524, July 18, 1980), EPA outlined three approaches for testing chemicals belonging to a chemical category:

1. Test members of a category as individual chemicals.
2. Select test substances to represent the structural and chemical variation of the category as a whole.
3. Subdivide the category into subgroups and choose a representative from each as a surrogate for the entire subgroup.

For the HTPS, EPA plans to screen all members of a category that are produced in quantities over 10,000 pounds. The Agency will make a case-by-case decision regarding whether all of these chemicals will be required to go through Tier 1. However, it is likely that the HPVCs would be screened in Tier 1 regardless of the strategy used. As Quantitative Structure Activity Relationship (QSAR) modeling becomes more reliable, the two sampling approaches (approaches 2 and 3 as described in this unit) may become more viable alternatives.

V. Screening Program

EPA recognizes that a huge number of chemicals could be evaluated under the EDSP. EPA is adopting EDSTAC's recommendation of a two-tiered system to make the evaluation process more efficient. In Tier 1, a screening battery of assays will identify those chemical substances and mixtures capable of interacting with EAT. Tier 1 covers only screening tests and these alone are not sufficient to determine whether a chemical substance may have an effect in humans that is similar to an effect produced by naturally occurring hormones. The purpose of Tier 2 tests is to determine whether a chemical substance or mixture may cause endocrine-mediated effects for EAT, determine the consequences to the organism of the activities observed in Tier 1, and establish the relationship between the doses of the endocrine-active substance administered in the test and the effects observed.

A. Tier 1 Screening

Chemical substances or mixtures can alter endocrine function by affecting the availability of a hormone to the target tissue, and/or affecting the cellular response to the hormone. Mechanisms regulating hormone availability to a responsive cell are complex and include hormone synthesis, serum binding, metabolism, cellular uptake (e.g., thyroid), and neuroendocrine control of the overall function of an endocrine axis. Mechanisms regulating cellular response to hormones are likewise complex and are tissue specific. Because the role of receptors is often crucial to cellular responsiveness, specific nuclear receptor binding assays are included. In addition, tissue responses that are particularly sensitive and specific to a hormone are included as endpoints for Tier 1 screens. In order for the Tier 1 screening battery to discriminate between substances likely to affect the endocrine system and those not likely to affect it, the screening battery should meet the following criteria:

1. Detect all known modes of action for the endocrine endpoints of concern. All chemicals known to affect the action of EAT should be detected.
2. Maximize sensitivity to minimize false negatives while permitting a level of as yet undetermined, but acceptable, false positives. The screening battery should not miss potential EAT active materials.
3. Include a sufficient range of taxonomic groups among the test organisms. There are known differences in endogenous ligands, receptors, and response elements among taxa that may affect endocrine activity of chemical substances or mixtures. The screening battery should include assays from representative vertebrate classes to reduce the likelihood that important pathways for metabolic activation or detoxification of parent chemical substances or mixtures are not overlooked.
4. Incorporate sufficient diversity among the endpoints and assays to reach conclusions based on ''weight-of-evidence'' considerations. Decisions based on the screening battery results

will require weighing the data from several assays.

EPA's Tier 1 screening battery meets these criteria. The proposed Tier 1 screening battery and alternative assays for possible inclusion are:

Proposed Tier 1 Screening Battery

In Vitro

1. Estrogen Receptor (ER) Binding/Transcriptional Activation Assay.
2. Androgen Receptor (AR) Binding/Transcriptional Activation Assay. [1]
3. Steroidogenesis Assay with Minced Testis.

In Vivo

1. Rodent 3-Day Uterotrophic Assay (Subcutaneous (sc)).
2. Rodent 20-Day Pubertal Female Assay with Thyroid.
3. Rodent 5–7–Day Hershberger Assay.
4. Frog Metamorphosis Assay.
5. Fish Gonadal Recrudescence Assay.

Alternative Assays for Possible Inclusion in Tier 1

In Vitro

1. Placental Aromatase Assay.

In Vivo

1. Modified Rodent 3-Day Uterotrophic Assay (Intraperitoneal).
2. Rodent 14-Day Intact Adult Male Assay With Thyroid.
3. Rodent 20-Day Thyroid/Pubertal Male Assay.

EPA plans to include the alternative assays in the standardization and validation program. Combinations of the alternative assays, if validated and found to be functionally equivalent, could potentially replace three of the component assays in the recommended Tier 1 screening battery (*in vitro* steroidogenesis assay with testis, 20-day pubertal female assay, and 5–7-day Hershberger assay), thereby possibly reducing the overall time, cost, and complexity while maintaining equivalent performance of the overall Tier 1 screening battery.

1. *In vitro assays*. EPA has identified two categories of *in vitro* assays that may be used in Tier 1 screening to assess the binding of test substances to receptors, i.e., cell-free assays for receptor binding and transfected cells designed to detect transcriptional activation. The specific assays chosen, whether done ''at the bench'' or as a HTPS should have the following characteristics:

a. Evaluate binding to estrogen and androgen nuclear receptors.

b. Evaluate binding to the receptor in the presence and absence of metabolic capability (e.g., one or more of the P450 isozymes, e.g., cyp1A1, cyp3A4).

c. Distinguish between agonists and antagonists in functional assays.

d. Yield dose responses for relative potency of chemical substances or mixtures exhibiting endocrine activity.

In vitro evaluations can provide both false positive and false negative results. *In vitro* false positives (i.e., active *in vitro* but not *in vivo*) arise when a chemical is not absorbed or distributed to the target tissue, is rapidly metabolically inactivated and/or excreted, and/or when some other form of toxicity predominates *in vivo*. False negatives are considered to be of greater concern if *in vitro* tests were used to the exclusion of *in vivo* methods. *In vitro* evaluations can result in false negatives due to their inability, or diminished capacity, to metabolically activate toxicants. As a result, EPA's proposed screening battery includes *in vivo* methods in conjunction with *in vitro* techniques. Nevertheless, some *in vitro* assays may offer distinct advantages over *in vivo* assays when investigating the activity of specific metabolites.

The estrogen and androgen receptor binding assays provide an indication of the potential of a substance to disrupt ER or AR function *in vivo*. In the receptor binding assays the test chemical competes for binding at the receptor with the natural ligand or other strongly binding substance. EPA strongly prefers stably transfected transcriptional-activation assays over receptor binding assays. In addition to binding, there is a consequence to the binding with the transcriptional-activation assay, i.e., transcription (synthesis of messenger Ribonucleic Acid (mRNA)) of a reporter gene and translation of the mRNA to an identifiable detectable protein such as firefly luciferase or beta-galactosidase. This assay can distinguish between agonists and antagonists and can be run with and without metabolic activation.

The third *in vitro* assay in the screening battery is the steroidogenesis assay. This assay utilizes minced testes and detects the ability of substances to interfere with the endocrine system by inhibiting the activity of P450 enzymes in the steroid pathway. Inhibition of mammalian-steroid synthesis can potentially result in a broad spectrum of adverse effects *in vivo*, including abnormal serum hormone levels, pregnancy loss, delayed parturition, demasculinization of male offspring, lack of normal male and female mating behavior, altered estrous or menstrual cyclicity, and altered reproductive organ sizes and weights. Interference with other enzymes involved in the synthesis of specific hormones will be detected in the *in vivo* assays.

2. *In vivo assays*. The value of each individual assay cannot be considered in isolation from the other assays in the screening battery, as they have been combined in a manner such that limitations of one assay are complemented by strengths of another. *In vivo* assays complement *in vitro* assays in several important ways. *In vivo* methods in Tier 1 can help reduce false negatives related to absorption, distribution, metabolism, and excretion of a chemical substance in the absence of knowledge of its pharmacokinetics. *In vivo* assays typically cover a broader range of mechanisms of action than *in vitro* assays. It would be impractical to try to include an *in vitro* assay for every mechanism of action and in some cases it would be impossible as the mechanism would be expressed only in whole animal systems. It is clear that a combination of *in vivo* and *in vitro* assays is necessary in order to detect EAT alterations that act via the ER, AR, thyroid receptor (TR), inhibition of steroid hormone synthesis, and/or alterations of the hypothalamic-pituitary-gonadal (HPG) and hypothalamic-pituitary-thyroid (HPT) axes. The screening battery, once validated, should detect all chemicals with the potential to disrupt the EAT systems, including xeno(anti)estrogens (that act via the ER or inhibition of aromatase by oral or parenteral administration), xeno(anti)androgens (via AR or hormone synthesis), altered HPG axis, and antithyroid action (via synthesis, metabolism and transport, and the TR). However, results of even the most specific *in vivo* assays can be affected by endocrine mechanisms other than those directly related to ER, AR, and TR action. The lack of specificity of *in vivo* assays is a limitation if the goal is to only identify ER, AR, and TR alterations. In contrast, this lack of specificity could be considered an advantage if a broader, more apical screening strategy is desired.

i. *Uterotrophic assay*. An increase in uterine weight is generally considered to be one of the best indicators of estrogenicity when measured in the ovariectomized (ovx) or immature female rat or mouse after 1–3 days of treatment. EPA is planning to require as part of the program a 3-day uterotrophic assay using the ovx adult female rat (the duration can be extended if so desired) with 10 animals per group. EPA will require sc treatment because most of the

[1] The ER and AR transcription activitation assays are in the HTPS. Those chemicals which go through the HTPS program, if it is technically feasible and validated, would not be required to separately undergo the first two *in vitro* assays at the bench.

historical data are collected in this manner and there are relatively few data concerning the effects of other routes of administration at this time. EPA is also planning to use this assay to detect antiestrogens. When run to detect antiestrogens, a control and xenobiotic-treated group are co-administered with estradiol. The uterotrophic assay is an *in vivo* check on the ER binding and ER reporter gene assays.

ii. *20-Day pubertal female with thyroid*. The 20-day pubertal female assay is the most comprehensive assay in the screening battery. It can detect thyroid effects, aromatase inhibitors, estrogens, antiestrogens, and agents which interfere with one of the hormone feedback loops that controls maturation and reproduction, the HPG axis. Next to *in utero* development, the pubertal stage is the most sensitive and vulnerable life stage.

Exposure of weanling female rats to environmental estrogens can result in alterations of pubertal development (Ramirez and Sawyer 1964). Exposure to a weakly estrogenic pesticide after weaning and through puberty induces pseudoprecocious puberty (accelerated vaginal opening without an effect on the onset of estrous cyclicity) after only a few days of exposure (Gray et al. 1989). Pubertal alterations are also observed in girls exposed to estrogen-containing creams or drugs, which induce pseudoprecocious puberty and alterations of bone development (Hannon et al. 1987).

In the pubertal female assay, oral dosing is initiated in weanling rats at 21 days of age (10 per group, selected for uniform body weights at weaning to reduce variance). The animals are dosed daily, 7 days a week, and examined daily for vaginal opening (one could also check for age at first estrus and onset of estrous cyclicity). Dosing continues until vaginal opening is attained in all females (typically 2 weeks after weaning, unless delayed). The advantage over the uterotrophic assay is that one test detects both agonists and antagonists, it detects xenoestrogens like methoxychlor that are almost inactive via sc injection, it detects aromatase inhibitors, altered HPG function, and unusual chemicals like betasitosterol. In addition, at necropsy one should weigh the ovary (increased in size with aromatase inhibitors, but reduced with betasitosterol), save the thyroid for histopathology, take serum for T4, and measure thyroid-stimulating hormone (TSH). In addition to estrogens, the age at vaginal opening and uterine growth can be affected by alteration of several other endocrine mechanisms, including alterations of the HPG axis (Shaban and Terranova 1986; and Gonzalez et al. 1983). In rats, this event can also be induced by androgens (Salamon 1938; and EGF (Nelson et al. 1991). In the last 20 years there have been over 200 publications which demonstrate the broad utility of this assay to identify altered estrogen synthesis, ER action, growth hormone, prolactin, follicle-stimulating hormone (FSH) or luteinizing hormone (LH) secretion, or central nervous system (CNS) lesions.

iii. *Rodent 5–7 day Hershberger assay*. This assay is designed to detect androgenic and antiandrogenic effects. In this *in vivo* assay, sex accessory gland weights (ventral prostate and seminal vesicle separately) are measured in castrated, T-treated adult male rats after 4–7 days of treatment by gavage with the test compound. The advantage of this assay is that it is fairly simple, short term, and relatively specific for direct androgenic/antiandrogenic effects compared to other *in vivo* procedures. To detect both agonists and antagonists the assay requires two-dosing regimes:

a. Castrated male rat + Xenobiotic (to detect agonist)

b. Castrated male rat + T + Xenobiotic (to detect antagonist)

Although the androgens, T, and dihydrotestosterone (DHT), play a predominant role in the growth and maintenance of the size of these accessory gland structures, several other hormones and growth factors can influence sex organ weights including the thyroid and growth hormones, prolactin, and epidermal growth factor (EGF). Exposure to estrogenic pesticides can also reduce sex accessory gland size; however, it is unclear to what degree these reductions result from direct versus indirect action of the chemical. Other useful endpoints that help reveal the mechanism of action include serum hormone levels of T, DHT, LH, AR distribution, TRPM2/C3 gene activation, ornithine decarboxylase (ODC), and 5-alpha-reductase activity in the prostate.

The prostate and seminal vesicles should be weighed separately because these organs differ with respect to the androgen that controls their growth and differentiation. The prostate is dependent upon enzymatic reduction of T to DHT, whereas the seminal vesicle is less dependent upon this conversion. Hence, effects on 5-alpha-reductase can be distinguished from AR-mediated mechanisms by determining whether the prostate is preferentially affected. Growth of the levator ani muscle is T dependent, having little capacity to convert T to the more potent androgen DHT. Weight of this muscle is useful in identifying anabolic androgens and antiandrogens, and for this reason has been used extensively in the pharmaceutical industry. In order to detect androgenic rather than antiandrogen action one would simply delete the hormone administration from the protocol.

iv. *Frog metamorphosis assay*. This assay is in the screening battery to detect thyroid (increase in tail resorption rate) and antithyroid (decrease in tail resorption rate) effects. It also broadens the taxonomic representation of the screening battery. This assay employs intact larval (tadpole) stages of the African clawed frog (*Xenopus laevis*) exposed over a 14-day time period, 50–64 days of age, to observe the rate of tail resorption (Fort and Stover 1997). Tail resorption can be easily quantified with computer-aided video image processing (Fort and Stover 1997). The molecular mechanisms involved in tail resorption are well characterized (Brown et al. 1995; Hayes 1997a) and this assay is, therefore, considered to be a simple and specific assay for thyroid action. Because evidence also suggests that thyroid action on tail resorption is regulated by corticoids, estrogens, and prolactin (Hayes 1997b), this assay will address distinctive modulating pathways and, in tandem with the 20-day mammalian pubertal assay, a comprehensive screen for thyroid hormone activity is achieved.

v. *Fish gonadal recrudescence assay*. This assay is in the Tier 1 screening battery because as a group, fish are the most distant from mammals within the vertebrates, and it provides an additional safeguard that endocrine disruptors will not pass through the screen undetected. Intact mature fish maintained under simulated ''winter'' conditions (short-day length, cool temperatures) exhibit regressed secondary sex characteristics and gonad maturation.

In this assay, intact fish of both sexes (fathead minnow, *Pimephales promelas*, or other appropriate species) are simultaneously subjected to an increasing photoperiod/temperature regime and test substance to determine potential effects on maturation from the regressed position (recrudescence). The primary endpoints examined in the assay include morphological development of secondary sexual characteristics, ovary and testis development (weight increases), gonadosomatic index (ratio of gonadal weight to body weight), final gamete maturation (ovulation, spermiation), and induction of vitellogenin. This assay is sensitive to HPG axis effects in

addition to androgen- and estrogen-related activity.

Having diverse taxa in Tier 1 may give some information on the homology of the endocrine system across species and likelihood of consistent response across taxa and among organisms of the same species and when one must be concerned about variability.

3. *Alternative assays for possible inclusion*. These assays are being developed and validated (see Unit VI.F. of this notice) and may be acceptable cost effective substitutes for some of the assays in the primary Tier 1 screening battery of recommended by EDSTAC.

i. *Placental aromatase assay*. Aromatase converts T to estradiol. If an assay using a male is substituted for the 20-day pubertal female assay it will be necessary to add this assay to the screening battery since aromatase is present at very low levels in the testis. It is present at higher levels in the ovary, uterus, and placenta. Human placental aromatase is commercially available and could be used *in vitro* to assess the effects of toxicants on this enzyme.

ii. *Modified rodent 3-day uterotrophic assay (Intraperitoneal)*. The intraperitoneal (ip) injection method may enhance the sensitivity of the uterotrophic assay and is capable of detecting the estrogenic potential of methoxychlor, which has been cited as an example of a compound not detectable by the sc route. This is an *in vivo* assay (O'Conner et al. 1996) for estrogenic activity in ovx female rats. It can detect certain antiestrogens with mixed activity, i.e., some agonistic activity (e.g., tamoxifen).

The rats are injected intraperitoneally with the test agent daily for 3 days. The females are necropsied either 6 hours or 24 hours after the final treatment, depending on the protocol employed by the laboratory. Vaginal cytology is evaluated by vaginal lavage to determine whether the epithelium has become cornified, indicative of estrus. Presence of fluid in the uterine lumen is noted and recorded, and the number of animals that have fluid in the uterus is reported. Fluid imbibition (uptake) is indicative of estrogenic potential. The uterus is excised and weighed. It is then preserved in an appropriate fixative for subsequent histological evaluation, if needed. Subsequent histological evaluation will be triggered by an equivocal uterine weight or uterine fluid response (i.e., an increase that is not statistically significant). This evaluation will consist of a characterization of the appearance of the uterine epithelium, a measurement of uterine epithelial cell height, and epithelial mitotic index or proliferating cell nuclear antigen (PCNA) immunohistochemistry. Uterine cell height and cell proliferation are sensitive indicators of estrogenic potential.

iii. *14-Day intact adult male assay*. This *in vivo* assay is intended to detect effects on male reproductive organs that are sensitive to antiandrogens and agents that inhibit T synthesis or inhibit 5-alpha-reductase (Cook et al. 1997). The proponents of this assay believe that the duration of the assay is sufficient to detect effects on thyroid gland activity. The rats are anatomically intact and mature; therefore, they have an intact HPG axis, allowing an assessment of the higher order neuroendocrine control of male reproductive function and the thyroid. This assay coupled with the aromatase assay could potentially replace the Hershberger and the pubertal female assays in the recommended screening battery. Empirical assessment of this assay has shown it to be sensitive to agents that are directly antiandrogenic, inhibit 5-alpha-reductase, inhibit T synthesis, or affect thyroid function. The sensitivity of this assay, as defined as the ability to detect a hazard, may be comparable to other assays that have been recommended.

Young adult male rats (70–90 days of age) are used in this assay. They are dosed daily with the test agent for 14 days. The recommended route of administration is ip, which may, in some cases, maximize the sensitivity of the assay. They are necropsied 24 hours after the final dose. Immediately after sacrifice, one cauda epididymis is weighed and processed for evaluation of sperm motility and concentration. The following organs are weighed: Testes, epididymides, seminal vesicles, and prostate. The following are fixed and evaluated histologically: One testis and epididymis and the thyroid. The following hormones are measured in blood plasma: T4, TSH, LH, T, DHT, and estradiol.

iv. *Rodent 20-day thyroid/pubertal male assay*. This assay (in conjunction with the aromatase assay) is another candidate to replace the pubertal female and Hershberger assays in the screening battery. The thyroid/pubertal male assay detects androgens and antiandrogens *in vivo* in a single stage-apical test. ''Puberty'' is measured in male rats by determining age at preputial separation (PPS). Preputial separation and sex accessory gland weights are sensitive endpoints. However, a delay in PPS is not pathognomonic for antiandrogens. Pubertal alterations result from chemicals that disrupt hypothalamic-pituitary function (Huhtaniemi et al. 1986), and, for this reason, additional *in vivo* and *in vitro* tests are needed to identify the mechanism of action responsible for the pubertal alterations. For example, alterations of prolactin, growth hormone, gonadotrophin (LH and FSH) secretion, or hypothalamic lesions alter the rate of pubertal maturation in weanling rats. Sex accessory gland weights in intact-adult male rats also can be affected directly or indirectly by toxicant exposure. The HPG axis in an intact animal is able to compensate for the action of antiandrogens by increasing hormone production, which counteracts the effect of the antiandrogen on the tract (Raynoud et al. 1984; Edgren 1994; Hershberger 1953).

Delays in male puberty result from exposure to both estrogenic and antiandrogenic chemicals including methoxychlor (Gray et al. 1989), vinclozolin (Anderson et al. 1995b and dichlorodiphenyldichloroethylene (p,p' DDE) (Kelce et al. 1995). Exposing weanling male rats to the antiandrogenic pesticides p,p' DDE or vinclozolin delays pubertal development in weanling male rats as indicated by delayed PPS and increased body weight (because they are older and larger) at puberty. In contrast to the delays associated with exposure to estrogenic substances, antiandrogens do not inhibit food consumption or retard growth (Anderson et al. 1995). Antiandrogens cause a delay in PPS and affect a number of endocrine and morphological parameters including reduced seminal vesicle, ventral prostate, and epididymal weights. It is apparent that PPS is more sensitive than are organ weights in this assays. In addition, responses of the HPG are variable. In studies of vinclozolin, increases in serum LH were a sensitive response to this antiandrogen, whereas serum LH is not increased in males exposed to p,p' DDE during puberty (Kelce et al. 1997). Furthermore, a systematic review of the literature indicates that the sex accessory glands of the immature intact-male rat are consistently more affected than in the adult intact-male rat.

Animals are dosed by gavage beginning 1 week before puberty (which occurs at about 40 days of age) and PPS is measured. Androgens will accelerate and antiandrogens and estrogens will delay PPS. The assay takes about 3 weeks and allows for comprehensive assessment of the entire endocrine system in one study. The animals (10 per group, selected for uniform body weights to reduce variance) are dosed daily, 7 days a week, and examined daily for PPS. Dosing continues until 53

days of age; the males are then necropsied. The body, heart (thyroid), adrenal, testis, seminal vesicle plus coagulating glands (with fluid), ventral prostate, and levator ani plus bulbocavernosus muscles (as a unit) are weighed. The thyroid is retained for histopathology and serum is taken for T4, T3, and TSH. Testosterone, LH, prolactin, and DHT analyses are optional. These endpoints take several weeks to evaluate and are affected not only by estrogens but by environmental antiandrogens, drugs that affect the hypothalamic-pituitary axis (Hostetter and Piacsek 1977; Ramaley and Phares 1983), and by prenatal exposure to 2,3,78-tetrachlorodibenzo-p-dioxin (TCDD) (Gray et al. 1995a; Bjerke and Peterson 1994) or dioxin-like PCBs (Gray et al. 1995b). In contrast to these other mechanisms, only peripubertal estrogen administration accelerates this process in the female and delays it in the male. Preputial separation in the male rodent is easy to measure and this is not a terminal measure (Korenbrot et al. 1977). Age and weight at puberty, reproductive organ weights, and serum hormone levels can also be measured.

As indicated in this unit, the determination of the age at ''puberty'' in the male rat uses endpoints that already have gained acceptance in the toxicology community. Preputial separation in the male is a required endpoint in the new EPA 2-generation reproductive toxicity test guideline. In this regard, this assay would be easy to implement because these endpoints have been standardized and validated and PPS data are currently being collected under Good Laboratory Practice (GLP) conditions in most toxicology laboratories. In addition, PPS data are reported in many recently published developmental reproduction studies (i.e., see studies from R.E. Peterson's, J. Ashby's, R. Chapin's, and L.E. Gray's laboratories on dioxins, PCBs, antiandrogens, and xenoestrogens).

4. *Selection of doses in screening assays*. All *in vitro* screening assays (including the steroidogenesis assay) will involve multiple-dose levels, whether performed by HTPS or bench level methods, so a dose-response curve and assessment of relative potencies can be developed. EDSTAC recommended that *in vivo* screening assays be conducted at a single-dose level to save testing resources. In comments on the draft EDSTAC Report the SAB/SAP raised concern that relying on a single-dose level might give false negative results. EPA believes this question can be resolved in the standardization and validation program. EPA will require one-, two-, or three-dose levels for *in vivo* screens depending upon the results of the standardization and validation program. Information to assist in selecting the doses in the *in vivo* screens includes:

i. Prior information, such as that available during the priority-setting phase.

ii. Results from the HTPS (or its equivalent bench-level assays).

iii. Results from range-finding studies, utilized for T1S dose selection.

Results from the HTPS (or its equivalent) will provide potency information (i.e., EC 50) relative to a positive control such as 17-beta estradiol (E2), diethylstilbestrol (DES), or T for those chemical substances or mixtures which bind to the estrogen or androgen receptors. Information on the *in vitro* effective doses of E2, DES, or T, can be used to set the dose level(s), based on the validation process, for the *in vivo* Tier 1 screening assays for these chemical substances or mixtures.

It may be more cost effective to conduct the shortest of the *in vivo* screening assays at several doses without the intermediate step of a range finding study since repeating the study at different doses in the event that inappropriate doses are used would be relatively inexpensive. A range-finding study can be performed at multiple dose levels (at least five) with a few animals per dose level and a limited number of relevant endpoints. In general, range-finding studies should meet the following guidelines:

i. Use of the same species strain, sex(es), and age in the assay for which it is being performed (principal study).

ii. Use of the same route of administration, vehicle, and duration of dosing as in the principal study.

iii. Use of multiple dose levels; the number of dose levels will depend on the availability and extent of prior information.

iv. Use of multiple animals per dose level which may be fewer than the number used per group in the assay.

v. Use of relevant endpoints, which may be more limited than those in the main assay; for example, the range-finding study for the uterotrophic assay may employ only body weights and uterine wet weight, while the full screening assay may also evaluate uterine gland height, serum hormone levels, and/or vaginal cornification, etc.

vi. Use of comparable animals, e.g., ovarectomized females for the uterotrophic range-finding study or castrated males for the Hershberger range-finding assay. However, there may be circumstances under which exceptions occur, e.g., use of intact males in the range-finding study for the Hershberger assay to define doses producing systemic toxicity and any effects on the reproductive system as a first pass approximation.

vii. Use of more than one range-finding study if the initial version does not identify the dose level(s) to be used in the specific Tier 1 screening assay if necessary by extrapolation or interpolation.

The doses to be selected for the *in vivo* assays should not result in excessive systemic toxicity, but should result in effects useful for detection of potential EAT disruption. However, no-dose level higher than one gram/kilogram body weight/day (i.e., a ''limit'' dose) should be utilized. The rationale for selection of dose levels for each range-finding study, all of the results for such studies, and the logic employed to select the dose level(s) for the principal study should be included in the submission of study results for evaluation by the Agency as to the appropriateness of the study design, conduct, and conclusions.

B. Tier 2 Testing

The purpose of Tier 2 testing is to characterize the likelihood, nature, and dose-response relationship of the endocrine disruption of EAT in humans, fish, and wildlife. To fulfill this purpose, the tests are longer-term studies designed to encompass critical life stages and processes, a broad range of doses, and administration of the chemical substance by a relevant route of exposure, to identify a more comprehensive profile of biological consequences of chemical exposure and relate such results to the dose or exposure which caused them. Dose selection, specifically the use of environmentally relevent low doses for endocrine disruptor testing, has not been conclusively resolved. The EPA will continue its collaborations with other Federal agencies, industry, and environmental and public health organizations regarding low-dose research projects to resolve outstanding scientific questions. Effects associated with endocrine disruption may be latent and not manifested until later in life or may not appear until the reproductive period is reached. Unless a rationale exists to limit the test to 1 generation, tests for endocrine disruption will usually encompass 2 generations including effects on fertility and mating, embryonic development, sensitive neonatal growth and development, and transformation from the juvenile life stage to sexual maturity.

The outcome of Tier 2 is designed to be conclusive in relation to the outcome

of Tier 1 and any other prior information. Thus, a negative outcome in Tier 2 will supersede a positive outcome in Tier 1. Furthermore, each full test in Tier 2 has been designed to include those endpoints that will allow a definitive conclusion as to whether or not the tested chemical substance or mixture is or is not an endocrine disruptor for EAT in that species/taxa. Conducting all five tests in the Tier 2 testing battery would provide a more comprehensive profile of the effects a chemical substance or mixture could induce via EAT disruption mode(s)/mechanism(s) of action than would be the case if only a subset of tests or less comprehensive tests were performed. Considerations for determining whether the full battery of comprehensive tests should be implemented include an understanding of mechanisms of action, environmental fate and transport, persistence, potential for bioaccumulation, and potential exposure. EPA plans to require that all tests be performed in Tier 2 with all endpoints, unless compelling information is presented to show why testing should be limited.

Despite the design of Tier 2 to be as definitive as possible, there will always be situations in which ambiguous results are obtained. In some of these cases a weight of evidence approach using Tier 1 and Tier 2 data together may resolve the ambiguity. In others, it may be necessary to conduct additional special studies or to repeat a test to resolve the data interpretation issues.

1. *Tier 2 tests*. EPA is proposing that the Tier 2 test battery include the following tests: 2-Generation Mammalian Reproductive Toxicity Study, Avian Reproduction, Fish Reproduction, Amphibian Reproduction and Developmental Toxicity, and Invertebrate Reproduction.

Except for the amphibian reproduction and developmental toxicity study, these tests are routinely performed for pesticides with widespread outdoor exposures that are expected to affect reproduction. Modifications to each may be necessary to enhance the ability to detect endocrine-related effects. The amphibian test, though not standardized, is important because of the extensive fundamental knowledge base on amphibian development and the realization that amphibians may serve as key indicators of the health of the environment.

There is utility in considering the results of the entire battery when assessing human risk. For instance, if the results from different taxa produce similar results, one can feel more confident that the results are generally applicable to humans. If the results are widely divergent, either qualitatively or quantitatively, it indicates greater biological variability and perhaps additional caution in conducting a hazard assessment.

i. *Mammalian reproductive toxicity*. The 2-generation reproductive toxicity study in rats (40 CFR 799.9380; OPPTS Guideline 870.3800; OECD Guideline No. 416, 1983; FIFRA, Subdivision F, Guidelines 83–4) is designed to evaluate comprehensively the effects of a chemical on gonadal function, estrous cycles, mating behavior, fertilization, implantation, pregnancy, parturition, lactation, weaning, and the offspring's ability to achieve adulthood and successfully reproduce, through 2 generations, one litter per generation. While administration is usually oral (dosed feed, dosed water, or gavage), other routes are acceptable if justified (e.g., inhalation). In addition, the study also provides information about neonatal survival, growth, development, and preliminary data on possible teratogenesis.

In the existing 2-generation reproductive toxicity test, a minimum of three-treatment levels and a concurrent control group are required. At least 20 males and sufficient females to produce 20 pregnant females must be used in each group as prescribed in this current guideline. The highest dose must induce toxicity (or meet the limit dose requirement) but not exceed 10% mortality. In this study, potential hormonal effects can be detected through behavioral changes, ability to become pregnant, duration of gestation, signs of difficult or prolonged parturition, apparent sex ratio (as ascertained by anogenital distances) of the offspring, feminization or masculinization of offspring, number of pups, stillbirths, gross pathology and histopathology of the vagina, uterus, ovaries, testis, epididymis, seminal vesicles, prostate, and any other identified target organs.

Table 2 provides a summary of the endpoints evaluated within the framework of the experimental design of the updated 2-generation reproductive toxicity test (and some recommended additional endpoints for validation and inclusion to cover EAT concerns). These endpoints are comprehensive and cover every phase of reproduction and development. Tests that measure only a single dimension or component of hormonal activity, (e.g., *in vitro* or short-term assays) provide supplementary and/or mechanistic information cannot provide the breadth of information that is critical for risk assessment.

Additionally, in this study type, hormonally induced effects such as abortion, resorption, or premature delivery as well as abnormalities and anomalies such as masculinization of the female offspring or feminization of male offspring, can be detected. Substances such as the phytoestrogen, coumesterol, and the antiandrogen cyproterone acetate, which possess the potential to alter normal sexual differentiation, were similarly detected in this study test system (i.e., 1982 Guideline).

Table 2 contains two types of lists: First, those endpoints required in current EPA harmonized 1998 test guidelines; second, additional endpoints recommended by EDSTAC for validation and inclusion in both the recommended 2-generation test, as well as the alternative mammalian tests discussed in Unit V.B.3. of this notice. These additional endpoints will detect EAT effects.

The default assumption is that all of these endpoints would be evaluated unless the conditions which are set forth in the guidelines for determining the selection of endpoints are met.

Table 2.—Mammalian Tier 2 Test Endpoints

Current Guideline Endpoints Sensitive to Estrogens/Antiestrogens

sexual differentiation
gonad development (size, morphology, weight) ≤ accessory sex organ (ASO) development
ASO weight ± fluid; histology
sexual development and maturation: Acquisition of vaginal patency (VP), PPS
fertility
fecundity
time to mating
mating and sexual behavior
ovulation
estrous cyclicity
gestation length
abortion
premature delivery
dystocia
spermatogenesis
epididymal sperm numbers and morphology; testicular spermatid head counts; daily sperm production (DSP); efficiency of DSP
gross and histopathology of reproductive tissues
anomalies of the genital tract
viability of the conceptus *in utero* (prenatal demise)
survival and growth of offspring
maternal lactational behaviors (e.g., nursing, pup retrieval, etc.)

Current Guideline Endpoints Sensitive to Androgens/Antiandrogens

altered apparent sex ratio (based on AGD)
malformations of the urogenital system
altered sexual behavior
changes in testis and ASO weights
effects on sperm numbers, morphology, etc.
retained nipples in male offspring

altered AGD (now triggered from PPS/VP)
reproductive development; PPS/VP (puberty)
male fertility
agenesis of prostate
changes in androgen-dependent tissues in pups and adults (not limited to sex accessory glands)

Recommended Additional Estrogen/Androgen Endpoints for Validation and Inclusion

ASO function (secretory products)
sexual development and maturation (nipple development and retention)
androgen and estrogen levels
LH and FSH levels
testis descent

Current Guideline Endpoints Sensitive to Thyroid Hormone

Agonists/Antagonists (general)
growth, body weight
food consumption, food efficiency
developmental abnormalities
perinatal mortality
testis size and DSP
VP; PPS

Recommended Additional Thyroid Endpoints for Validation and Inclusion

neurobehavioral deficits (see developmental landmarks in this unit)
TSH, T4, thyroid weight and histology (e.g., goiter)
developmental landmarks:
prewean includes pinna detachment, surface righting reflex, eye opening, acquisition of auditory startle, negative geotaxis, mid-air righting reflex, motor activity on PND 13, 21, etc.
postwean includes motor activity PND 21 and postpuberty ages (sex difference); learning and memory PND 60—active avoidance/water maze
brain weight (absolute), whole and cerebellum
brain histology

ii. *Avian reproduction test.* While birds are not included as subjects in the Tier 1 screening battery, it is important to evaluate the effects of exposure of birds to chemical substances or mixtures with endocrine activity.

EPA is planning to modify its Avian Reproduction Test guideline (OPPTS Guidelines 850.2300) for use in the endocrine disruptor testing program. The modification include: The additional endpoints presented in this unit to make the test more sensitive to chemical substances or mixtures with endocrine activity. Table 3 provides a summary of the endpoints evaluated within the framework of the Avian Reproduction Test (and recommended additional endpoints for validation and inclusion to cover EAT concerns). Two important extensions of this guideline include modification and standardization of the husbandry and dosing of the offspring from EPA's Avian Reproduction Test guidelines (OPPTS Guidelines 850.2300) to create a 2-generation avian reproduction test and evaluation of an additional exposure pathway (i.e., direct topical exposure, which is common in the wild, by dipping eggs). The extensions to the guideline are outlined in Appendix Q in the EDSTAC Final Report (EDSTAC, 1998).

In the current Avian Reproduction Test guidelines, two species are commonly used, mallards and northern bobwhite. Exposure of adults begins prior to the onset of maturation and egg laying and continues through the egg-laying period; their offspring are exposed, in early development, by material deposited into the egg yolk by the females. These offspring can be used efficiently to test for the effects of chemical substances or mixtures on avian development. There are several endpoints currently required (see OPPTS Guidelines 850.2300(c)(2)) that are particularly relevant to disruption of endocrine activity, including: Eggs laid, cracked eggs, eggshell thickness, viable embryos, and chicks surviving to 14 days. EPA is extending the guidelines to require: Additional measurements of circulating steroid titers, thyroid hormones, major organ (including brain) weights, gland weights, bone development, leg and wing bone lengths, and ratios of organ weights to bone measurements; skeletal x-rays; histopathology; functional tests; and assessment of reproductive capability of offspring (Baxter et al. 1969; Bellabarba et al. 1988; Dahlgren and Linder 1971; Emlen 1963; Cruickhank and Sim 1986; Fleming et al. 1985a; Fleming et al. 1985b; Fox 1976; Fox et al. 1978; Freeman and Vince 1974; Hoffman and Eastin 1981; Hoffman and Albers 1984; Hoffman 1990; Hoffman et al. 1993; Hoffman et al. 1996; Jefferies and Parslow 1976; Kubiak et al. 1989; Maguire and Williams 1987; Martin 1990; Martin and Solomon 1991; McArthur et al. 1983; McNabb 1988; Moccia et al. 1986; Rattner et al. 1982; Rattner et al. 1987; Summer et al. 1996; Tori and Mayer 1981).

Table 3.—Avian Reproduction Test Endpoints

Current Guideline Endpoints Sensitive to Estrogens/Antiestrogens, Androgens/Antiandrogens, and/or HPG Axis

egg production
eggs cracked
viable embryos (fertility)
eggshell thickness
fertilization success
live 18-day embryos
hatchability
14-day-old survivors

Recommended Additional Endpoints for Validation and Inclusion

sex ratio
major organ (including brain) weights
gland weights
histopathology
plasma steroid concentrations
neurobehavioral test (e.g., nest attentiveness)

Current Guideline Endpoints Sensitive to Thyroid Hormone Agonists/Antagonists

body weight of adults
food consumption of adults
body weight of 14-day-old survivors
developmental abnormalities

Recommended Additional Endpoints for Validation and Inclusion

plasma T3/T4
thyroid histology
bone development (skeletal x-ray)
ratio of organ weights to bone measurements
neurobehavioral test (cliff test)
cold stress test

iii. *Fish reproduction test.* Fish are the most diverse of all vertebrates. Reproductive strategies extend from oviparity, to ovoviviparity, to true viviparity. The consequences of an endocrine disruptor may be quite different across the many families of fishes. As a first step though, EPA plans to require use of fathead minnows, or in special cases, sheepshead minnows in the Fish Life Cycle Test. The Fish Life Cycle Test consists of continuous exposure from fertilization through development, maturation, and reproduction, and early development of offspring with a test duration of up to 300 days. EPA also anticipates use of the fathead minnow in the Tier 1 fish gonadal recrudescence assay, and as such, the relevance of any activity detected in the screening assay would be evaluated. If exposure to a particular chemical substance or mixture is predominantly estuarine or marine, EPA may require use of the estuarine sheepshead minnow (*Cyprinodon variegatus*) in the test. However, EPA will permit flexibility to species selection with appropriate justification as to species choice by the test sponsor.

The Fish Life Cycle Test (OPPTS 850.1500) follows procedures outlined in (Benoit 1981) for the fathead minnow and (Hansen et al. 1978) for the sheepshead minnow. In general, the test begins with 200 embryos distributed among eight incubation cups in each treatment group. When hatching is completed, the number of larvae are reduced to 25 individuals, if available, which are released to each of four replicate larval growth chambers. Four weeks following their release into the larval growth chambers, the number of juvenile fish are reduced again and 25 individuals, if available, distributed to each of two replicate adult test chambers. When fish reach sexual

maturity, fish are separated into spawning groups (pairs or one male/two females) with a minimum of eight breeding females. Remaining adults will be maintained in the tank but will be segregated from the spawning groups. Adults will be allowed to reproduce, at will, until the 300th day of exposure. Alternatively, the test may be continued past 300 days until 1 week passes in which no eggs from any group have been laid. The embryos and fish are exposed to a geometric series of at least five test concentrations, a negative (dilution water) control, and, if necessary, a solvent control.

Assessment of effects on offspring of the parental group (first filial or F1 generation) will be made by collecting two groups of 50 embryos from each experimental group and incubating those embryos. When embryos hatch, the number of larvae hatched from each group will be impartially reduced to 25, if available, and released into the larval growth chambers. After 4 weeks of exposure, lengths, and weights of surviving individuals will be recorded.

Observations are made of the effects of the test substance on embryo hatching success, larvae-juvenile-adult survival, growth of parental and F1 generation, and reproduction of the adults. Table 4 provides a summary of the endpoints evaluated within the framework of the Fish Life Cycle Test (and recommended additional endpoints for validation and inclusion to cover EAT concerns).

Table 4.—Fish Reproduction Test Endpoints

Current Guideline Endpoints Sensitive to Estrogens/Antiestrogens, Androgens/Antiandrogens, and/or HPG Axis

viability of embryos
time to hatch
spawning frequency
egg production
fertilization success

Recommended Additional Endpoints for Validation and Inclusion

sexual differentiation (tubercle formation, gonadal histology)
sex ratio
gonadosomatic index
gamete maturation (production, final oocyte maturation, sperm motility test, etc.)
vitellogenin
plasma steroid concentrations
in vitro gonadal steroidogenesis

Current Guideline Endpoints Sensitive to Thyroid Hormone Agonists/Antagonists

growth, length, and body weight
developmental abnormalities

Recommended Additional Endpoints for Validation and Inclusion

plasma T3/T4
thyroid histopathology
bone development (skeletal x-ray)
ration of organ weights to bone measurements
neurobehavioral test (cliff test)
cold stress test

iv. *Invertebrate reproduction test.* Although invertebrates do not generate EAT, EPA plans, through use of this test, to examine in more depth invertebrate hormones that are functionally equivalent to EAT. The species of choice would be mysids or daphnia.

Although neither the daphnia nor the mysid chronic test was designed to examine endocrine-specific endpoints, both species are crustaceans and therefore share common physiology. Ecdysone is a steroid hormone that regulates growth and molting in arthropods, and exhibits some functional and structural similarities to estrogen. The central role of ecdysone makes it an attractive candidate for examining endocrine effects in invertebrates; however, other possibilities also exist. Morphogenetic and reproductive development of arthropods is controlled in part by juvenile hormone (JH). Methyl farnesoate is a JH like compound that may play a role in reproduction and development (Borstet et al. 1987; Laufer et al. 1987a,b).

Invertebrate hormones are beyond the immediate scope of the EDSTAC which has focused on the vertebrate EAT. Nevertheless, invertebrate hormones that are functionally equivalent to EAT need to be examined in more depth. More importantly, chemicals that affect these vertebrate hormones may also affect invertebrate hormones resulting in altered reproduction, development, and growth.

Chemicals with estrogenic properties are reported to have altered normal function of ecdysone systems (Mortimer 1993, 1994, 1995a, 1995b; Chu et al. 1997). Satyanarayana et al. 1994 showed stimulation of vitellogenin in insect prepupae and pupae by methoprene, a JH mimic with retinoid properties. Whether vitellogenin production is controlled through either an estrogen receptor or an alternative mechanism is not crucial for obtaining test results that show alteration occurs.

Therefore, the mysid shrimp chronic life cycle test (OPPTS 850.1350) may be adapted to determine whether chemicals that affect hormonal activity in vertebrates also affect arthropods. Once adapted to include reproductive and developmental endpoints relevant to the EDSP, the test could be a useful component in screening and testing.

The other common invertebrate bioassay, one using the water flea, daphnia, is used internationally (OECD Guideline No. 202). It incorporates life cycle assessment and reproductive and developmental endpoints, albeit applied quite differently in this group of animals. Reproduction is usually parthenogenic in the laboratory in these animals, limiting the applicability to endpoints identified in this report. The particular aspect of this system is that the daphnia is sensitive to estrogenic compounds (Baldwin et al. 1995; Baldwin et al. 1997; Shurin and Dodson 1997), and possesses receptors for T, making the system sensitive to another vertebrate hormone. Again, this bioassay would have to be adapted for the endpoints and processes of interest in the EDSP as a protocol for including invertebrate species in the endpoints addressed by the EDSP screening and testing batteries. Other invertebrates, such as molluscs, crayfishes, and echinoderms, do have EAT, but again relevant standardized tests for evaluating the consequences of interfering with these systems are not currently available. It is simply not known whether one (mysid) or two (mysid and daphnia) Tier 2 tests will provide sufficiently valid information for other invertebrate groups not tested. This is a source of uncertainty, potentially leading to Type II errors of unknown magnitude. These issues will be addressed during the development and validation of this assay.

v. *Amphibian development and reproduction.* A definitive amphibian test, which exposes larvae through metamorphosis and reproduction, is important to evaluate the consequences of endocrine disruption in poikilothermic oviparous vertebrate distinct from fishes. A rich literature on metamorphosis, growth, and reproduction exists for frogs. No established method has been identified which is suitably comprehensive to serve as a Tier 2 test at this time but a promising method is under development by EPA.

2. *Alternative test procedures*—i. *Alternative Mammalian Reproduction Test (AMRT).* One alternative to the 2-generation test procedure in Unit V.B.1.i. of this notice is the AMRT. The objectives of this test are to describe the consequences of *in utero* and/or lactational exposure on reproduction and development from compounds that displayed EAT activity in the Tier 1 screens. If validated, this test may be used, under certain defined circumstances, instead of the recommended 2-generation reproductive toxicity test (TSCA guidelines, 1997) in Tier 2 tests. In this regard, the test will be conducted with

at least three treatment groups plus a control and include endpoints sensitive to chemicals that alter development via EAT activities. As with the 2-generation mammalian reproductive toxicity study, the default assumption is that all of the endpoints would be evaluated in the AMRT, unless the conditions set forth in the guidelines for determining the selection of endpoints are met.

The AMRT involves exposure of maternal rats (designated F0 generation) from gestational day 6 (time of implantation), through parturition (birth), and through the lactation period until weaning of offspring (designated F1 generation) on post-natal day 21. F1 offspring (both sexes) are retained after weaning with no exposures for 10 weeks and then mated within groups. F1 males are necropsied after the mating. F1 females and their litters (designated the F2 generation) are retained until the F2 generation is weaned. F0 females (and a subset of F1 weanlings) are necropsied with organ weights and possible histopathology. F1 animals are evaluated for reproductive development (VP, PPS), estrous cyclicity, and, at necropsy, for organ weights, possible histopathology, andrological assessments, and T3/T4 (with TSH triggered). F2 weanlings are counted, sexed, weighed, examined externally, and discarded.

The AMRT differs from the ''standard'' 2-generation study design in that it:

a. Does not include exposures prior to mating, during mating, or during the early pre-implantation stage of pregnancy in the dams.

b. Does not include exposures to parental males.

c. Does not include direct exposure to the postweanling offspring; potential exposure is limited to *in utero* transplacental and/or lactational routes.

The AMRT differs from the 1-generation test (see Unit V.B.2.ii. of this notice) in that its study design provides for:

a. Exposure to the F0 dam only from gestational day 6 through weaning of the F1 offspring on post-natal day 21.

b. No exposure to parental males.

c. Mating of the F1 animals (who have not been directly exposed) to produce F2 offspring.

d. Following the F2 offspring to weaning (post-natal day 21).

ii. *1-Generation reproduction toxicity test*. A second alternative to the standard 2-generation reproductive toxicity test is a 1-generation reproductive toxicity test, which has been used in rats and mice. The 1-generation reproductive toxicity test has been used as a range-finding study prior to performance of a guideline 2-generation (or more) study for the last 10 years under EPA (TSCA/FIFRA) GLPs; the design is similar to that used by Sharpe et al. 1996. This is a shortened, scaled-down version of the new draft OPPTS and Final TSCA guidelines for reproductive toxicity testing. As with the 2-generation mammalian reproductive toxicity study, the default assumption is that all of the endpoints would be evaluated in the 1-generation test, unless the conditions set forth in the guidelines for determining the selection of endpoints are met.

The 1-generation test is a less comprehensive evaluation of functional reproductive development than the AMRT (since it does not follow F1 animals through production of F2 offspring), but it has the advantage of assessing post-natal development and adult reproductive capacity after *in utero* lactational and post-lactational exposure. In the presence of continued exposure, the post-natal component of the test is extended to evaluate acquisition of VP, PPS, estrous cyclicity, and andrological assessments in the F1 offspring. Inappropriate retention of Mullerian duct derivations (e.g., oviducts) in males and of Wolffian duct derivatives (e.g., seminal vesicles, epididymides) in females can be identified in all three proposed tests (with or without satellite F0 females and examination of term fetuses).

The 1-generation test involves a short prebreed-exposure period for male and female rats of the initial parental generation (designated F0), and exposure continues through mating, gestation, and lactation of F1 litters. F0 males are necropsied after F1 deliveries; F0 females are necropsied after F1 weaning. Postweanling F1 animals are directly exposed for a 10-week postwean period and are then necropsied. F1 animals are evaluated for reproductive development (VP, PPS), estrous cyclicity and at necropsy for organ weights, possible histopathology, andrological assessments, and T3/T4 (TSH triggered). F0 animals will undergo the same necropsy assessments.

The 1-generation test differs from the ''standard'' 2-generation study design in that it:

a. Is shorter (basic design calls for 2 weeks but it can be extended) than the standard 2-generation study (10 weeks to encompass one full spermatogenic cycle in rats), though it does include a prebreed-exposure period.

b. Does not evaluate effects of *in utero* and/or lactational exposure (and beyond) on generation of F2 offspring though it does include direct exposure of F1 offspring after weaning, including exposure through puberty and sexual maturation. F1 male and female reproductive organs (weight/histology), estrous cyclicity, and andrological endpoints are assessed at scheduled necropsy on post-natal day 90 ± 2.

The 1-generation test differs from the AMRT in that its study design provides for:

a. Exposure to both male and female F0 parental animals prior to mating, during mating, and during gestation and lactation of F1 offspring (F0 males are necropsied after F1 deliveries, F0 females are necropsied after F1 weaning).

b. Direct exposure of postweanling F1 offspring after lactation until termination.

c. No mating of F1 animals to produce F2 offspring.

C. Route of Administration

As part of the test guideline, EPA will provide guidance on a route of administration for each screen and test. Tier 1 screening assays may employ dosing routes that maximize the likelihood of detecting endocrine activity such as ip. Conversely, Tier 2 tests will employ routes of administration based upon the most ecologically relevant exposure pathway to provide data relevant for risk assessment.

The route of administration for the uterotrophic assay is sc injection while the route for the modified uterotrophic assay and 14-day intact adult male assay with thyroid is an ip injection. The route for all other mammalian *in vivo* assays is gavage (orogastric intubation). The parenteral (non-oral) routes avoid the first-pass metabolic effect of the liver and will permit detection of potential endocrine disruptors that are active as parent compounds and which undergo significant first-pass metabolism. Hepatic xenobiotic metabolism does occur eventually after parenteral administration (substantially with ip), so the potential effects of metabolites will be evaluated as well by these routes. Compounds are occasionally metabolized by the gut microflora; this type of metabolism has been shown to be important for some plant-derived estrogens. The oral route of exposure will allow for this type of metabolism.

VI. Implementation

This section of the **Federal Register** notice discusses the implementation steps for the EDSP and many of the issues EPA must deal with in its implementation.

A. Overview of Implementation Steps and Timeline

There are many elements associated with the development and implementation of the EDSP. A timeline that shows the key elements and their relationship to each other is provided in Figure 2.

They include:

Implementation steps	Estimated completion dates
EDSTAC Final Report and Recommendations	Completed
Development of EPA's EDSP	Completed
Public comment on EPA's EDSP	February 26, 1999
SAB/SAP Peer Review Processes	April 1, 1999
HTPS Demonstration	February 1999
HTPS	June 2000
EDPSD	June 2000
Priority Setting for Tier 1 Phase 1	November 2000
Tier 1 Standardization and Validation September	2001
Tier 1, Phase 1 TSCA Test Rule Notice of Proposed Rulemaking (NPRM) and FQPA Orders	December 2001
Tier 1, Phase 1 TSCA Final Test Rule	June 2003

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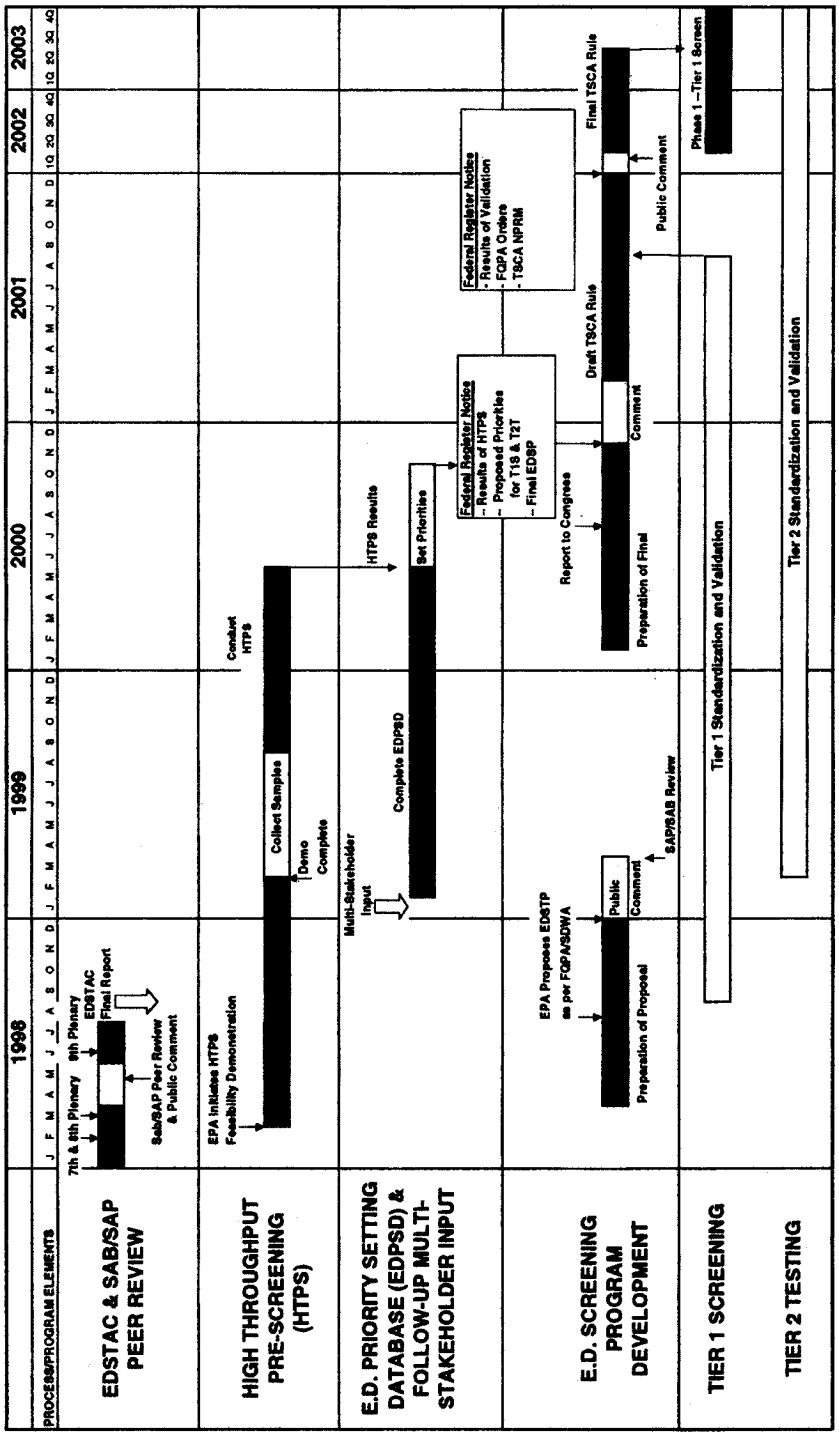
FIGURE 2-TIMELINE FOR IMPLEMENTATION OF THE EDSP



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As noted, the recommendations of EDSTAC form the basis for EPA's endocrine-disruptor screening and testing strategy. Today, EPA is soliciting comments on its strategy for screening and testing substances for their potential to disrupt the EAT. These comments and the Agency's proposal will be reviewed by a joint meeting of the EPA SAB and FIFRA SAP in March 1999. Notice of the meeting site and specific times will be published in the **Federal Register**.

EPA plans to begin running chemicals through the HTPS in August 1999.

The Agency will submit a report to Congress and plans to issue a notice in the **Federal Register** in the year 2000 adopting final policies for the screening program based on comments of the SAP/SAB and the comments received in response to this notice. The year 2000 notice will also propose the *Priority List* of chemicals and mixtures for Tier 1 screening. The proposed screening *Priority List* will be based on information in the EDPSD including the results of the HTPS. EPA may also issue a procedural rule that describes the procedures related to implementation of the EDSP.

EPA plans to publish the results of the standardization and validation effort for the screening battery along with guidelines for the screening assays that flow from this effort in the **Federal Register** in 2001. The standardization and validation of Tier 2 tests will be undertaken approximately in parallel with that of the screening battery. However, the test validation program is anticipated to take longer than the screening validation program because the Tier 2 tests take much longer to run than the Tier 1 screening assays.

In late 2001, EPA plans to issue testing orders to the first group of pesticides and other chemical substances that are subject to the authority provided to EPA under the FFDCA and SDWA. In parallel to these activities, EPA may propose a TSCA test rule to require screening of chemicals that may not be covered by the FFDCA/SDWA. EPA could propose the TSCA test rule in 2001 and promulgate it in mid 2003. The screening program will operate in phases so as to not overwhelm resources. The number of phases and length of time between phases will depend on available resources and the number of chemicals proposed for screening in each phase. EPA plans to review its initial prioritization of chemicals and issue a separate proposed rule for each screening phase. This would allow the results from the first phase of screening to improve the priority setting for the second phase of screening.

Tier 2 testing of chemicals that are part of the first phase of Tier 1 screening would begin after review of screening data indicated that testing was warranted. Standardization and validation of Tier 2 tests will take from 2 to 5 years. EPA plans to require tests as soon as they are available and not wait for the full battery to initiate Tier 2 testing. Orders under FFDCA, FIFRA, or SDWA would be issued on individual chemicals as their review is completed. TSCA rules would be issued for a group of chemicals, probably on an annual basis.

B. HTPS Demonstration

EPA has initiated a demonstration program to validate use of HTPS technology to screen chemical substances for EAT disrupting properties. The demonstration program is projected to be completed in February 1999. If EPA successfully validates HTPS through the demonstration program, it could begin running chemical substances through HTPS in August of 1999.

C. HTPS Priority-Setting Project

After completion of the HTPS demonstration and validation project, EPA plans to conduct the HTPS on approximately 15,000 chemicals (commercial chemicals produced in amounts greater or equal to 10,000 pounds per year and all pesticides) to supplement existing information. EPA will fund the actual screening of these compounds and is soliciting industry cooperation in supplying samples of pesticides and commercially produced chemicals. One major issue in HTPS is how to deal with the need for analytical characterization of so many chemicals. The cost of chemical analysis is more than an order of magnitude greater than the cost of the HTPS battery.

Option One is to require full analysis on each chemical prior to HTPS. This is the usual requirement for toxicological testing.

Option Two is to perform chemical analysis after HTPS on those substances that test positive.

Option Three is to rely on the chemical identity and composition claims of the chemical supplier.

EPA favors Option Two as a cost effective alternative to full analysis of every chemical. Nevertheless, every sample submitted to EPA should be accompanied by some information regarding its analytical characterization. It should at a minimum state whether the material is a technical grade, analytical grade, etc., to what extent it has been characterized, and note the concentration or percentage of the sample comprised by the test substance.

EPA plans to subject chemicals to HTPS that will bypass Tier 1 screening as well as those that need screening. The rationale for conducting HTPS on these chemicals is:

1. Data generated from the HTPS assays will be valuable for receptor-binding mechanisms even though such data by itself cannot be used to determine whether or not a chemical may be an endocrine disruptor.

2. As an ancillary benefit, the data can be used to improve and validate QSAR models.

3. For food-use pesticides that will probably undergo reregistration and tolerance reassessments prior to the availability of validated Tier 2 tests, HTPS data can be used along with other relevant testing information to help determine if and when they should undergo any additional endocrine-disruptor testing.

D. Priority-Setting Data Base (EDPSD) Development

As described in Unit IV.C. of this notice, EPA plans to use existing exposure, effects and statutory-related data and information to sort and prioritize chemicals for endocrine-disruptor screening and testing. To maximize its resources, EPA will rely upon data excerpted in electronic format instead of primary literature. Recognizing the numerous data bases of potential utility to initial sorting priority setting (see Appendix H of the EDSTAC Final Report), EPA plans to assemble the relevant and useful data sources into a single-relational data base. Development of this data base was initiated by the EDSTAC but not completed due to time and resource constraints of the EDSTAC process. EPA has resumed efforts to complete development of the prototype EDPSD initiated by EDSTAC. EPA is publishing elsewhere in this issue of the **Federal Register** a document announcing a priority-setting workshop for multi-stakeholders and the use of the EDPSD during the comment period.

The purpose of the workshop is to provide stakeholders an opportunity for input into the design and implementation of the priority-setting system. The focus of the workshop is to discuss the basic structure and functioning of the priority-setting system. Specifically, the workshop will address the definition of compartments, principles and approaches for developing rankings within compartments, and for assigning overall

weighting factors to the various compartments and categories.

E. Process for Public Nominations for Chemical Screening

Chemical nominations from the public were considered to be an important part of the nominations process by EDSTAC because they provide a mechanism to identify and screen chemicals which may result in high exposures in local communities but which do not receive national attention. EPA proposes to establish a nomination process. The nominations process could be a formal petition process or an informal one such as a letter submitted to the Agency. EPA belives that any nomination should be signed and should include the following information:

Statement that it is nominating a chemical for screening in the EDSP, identification of the chemical.

Statement of the reasons for its nomination.

Although EPA does not believe it can legally protect the identity of nominators, employees in the chemical industry are protected by law against reprisals from employers for reporting a chemical under TSCA (15 U.S.C. 2622) and any threats or reprisal of any kind should be reported to the U.S. Secretary of Labor with a copy of the threat or reprisal report to the EPA Administrator.

F. Standardization and Validation of Assays, Screening Battery, and Tests

Validation is the scientific process by which the reliability and relevance of an assay method are evaluated for the purpose of supporting a specific use (ICCVAM, 1997). Relevance refers to the ability of the assay to measure the biological effect of interest. Measures of relevance can include sensitivity (the ability to detect positive effects), specificity (the ability to give negative results for chemicals that do not cause the effect of interest), statistically derived correlation coefficients, and determination of the mechanism of the assay response with the toxic effects of interest. Reliability is an objective measure of a method's intra- and inter-laboratory reproducibility. The process of validation includes standardization, that is, definition of conditions under which the assay is run (species, strain, culture medium, dosing regimen, etc.). Standardization is critical to ensure reliability, that is, valid, consistent results between laboratories.

FFDCA as amended by the FQPA requires EPA to ''develop a screening program, using appropriate validated test systems and other scientifically relevant information, to determine whether certain substances may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect as the Administrator shall designate.''

EPA convened a meeting of the Domestic Validation Task Force (Task Force) comprised of experts and representatives of major stakeholders on August 6, 1998, and is scheduled to meet on a bimonthly basis during 1999. The Task Force is made up of members from Federal agencies, industry, and public interest groups. The purpose of the Task Force is to implement the validation program for the screens and tests. In March 1998 and November 1998, the OECD Endocrine Disruptor Testing and Assessment Workgroup met to initiate an international validation program for endocrine-disruptor screening and testing. The international validation program is important in developing an internationally harmonized approach to endocrine-disruptor screening and testing. An internationally harmonized approach saves money by reducing duplicative testing. EPA anticipates that some, but by no means all, of the assays it is proposing will be included in the international validation program. The majority of the screening assays and the screening battery itself will have to be validated in the domestic validation program.

Standard protocols for most of the screening assays and tests are now being developed. Most of these should be ready for Task Force review and approval in 1999. EPA is inviting laboratories to participate in the validation program. Laboratories that are interested in the participating in any aspect of the validation program should contact Anthony Maciorowski (see the ''FOR FURTHER INFORMATION CONTACT'' section of this notice). Participating laboratories will receive a standard protocol for each assay they want to conduct and appropriate control and test chemicals from the EPA or its agent. EPA is planning to begin the laboratory phase in the spring of 1999. Some assays which need further development will not begin validation until late 1999 or the year 2000.

G. Implementation Mechanisms

As stated previously, EPA believes that the FFDCA and SDWA provide authority to require the testing of many of the approximately 87,000 chemical substance that it wishes to test. As appropriate, EPA also will use other testing authorities, such as those under FIFRA and TSCA. Likewise, to the extent that EPA is concerned about the endocrine disrupting potential of other chemical substances, it will work with other Federal agencies and departments to ensure that these substances also are tested. EPA will determine under which authority it will require testing of specific chemicals on a case-by-case basis. A brief description of EPA's major testing authorities and guidance on their application to the EDSP are set forth in this unit.

1. *FFDCA testing authority*. Under the FFDCA, as amended by FQPA, EPA has authority to order registrants, manufactures, or importers to test certain chemical substances, including pesticide chemicals and any other substance that may have an effect that is cumulative to an effect of a pesticide chemical if EPA determines that a substantial population may be exposed to such substances.

Under the FFDCA, ''pesticide chemical'' includes ''any substance that is a pesticide within the meaning of FIFRA, including all active and inert ingredients.'' It also includes impurities (see 40 CFR 177.81). The testing requirement is not restricted to pesticides used on foods.

EPA is still working out how to determine whether a substance ''may have an effect that is cumulative to the effect of a pesticide chemical.'' However, at a minimum, EPA believes that if the mechanism of action of a pesticide chemical and a nonpesticide chemical is the same, their effects are additive and therefore may be cumulative. Likewise, when the metabolic detoxification or clearance process of a pesticide chemical and a nonpesticide chemical are the same, exposure to the nonpesticide chemical may slow the clearance of the pesticide, and therefore, increase the pesticide chemical's toxicity. This is an example of a cumulative effect even when the two chemicals do not operate by the same mechanism of toxicity or cause the same toxic effect. The same argument would also apply to enzyme poisons or noncompetitive inhibitors of pesticide metabolism that slow or completely block the metabolic pathway of a pesticide. EPA is interested in receiving comment on these and other examples or on methods to determine whether a substance may have an effect that is cumulative to the effect of a pesticide chemical.

The phrase ''substantial population'' is used in FFDCA section 408(p)(3)(B) and in SDWA section 1457 but is not defined in either of these statutes. Based upon EPA's experience under TSCA, it is necessary for the Agency to define this term. Under TSCA section 4(a)(1)(B) EPA defined ''substantial human

exposure'' in terms of numbers of persons exposed based on a sliding scale that reflected that more direct exposures would require smaller numbers of persons exposed in order to be substantial than less direct exposures would (58 FR 28736, May 14, 1993). EPA is offering no definition of ''substantial population'' for SDWA and FIFRA purposes at this time but seeks public comment on an appropriate definition.

2. *SDWA testing authority*. Congress amended SDWA to give EPA authority to provide for the testing, under the FFDCA Screening Program, ''of any other substance that may be found in sources of drinking water if the Administrator determines that a substantial population may be exposed to such substance'' (42 U.S.C. 300j–17).

Drinking water contaminants may include, but may not be limited to, pesticide active and inert ingredients and their degradates, commercial chemicals and their degradation products, substances formerly manufactured and used as pesticides or commercial chemicals (orphan chemicals), or natural substances.

3. *FIFRA testing authority*. FIFRA section 3(c)(2)(B) provides EPA authority to require pesticide registrants to submit to EPA additional data regarding a pesticide if EPA determines that the additional data are required to maintain in effect an existing pesticide registration. Under this provision, EPA could require submission of endocrine effects data for registered pesticides and for chemicals that may have an effect that is cumulative to that of a pesticide. FIFRA sections 3(c)(2)(A), 3(c)(5), 3(c)(7), and 3(d) also give EPA authority to require testing.

4. *TSCA testing authority*. TSCA section 4 provides EPA with authority to require testing of certain chemical substances, not including pesticides or food additives among other things, if the Agency finds that the chemical substance or mixture:

i. May present an unreasonable risk of injury to health or the environment.

ii. There are insufficient data and experience from which the Agency can determine the effects of such substance or mixture on health or the environment.

iii. Testing with respect to such substance or mixture with respect to such effects is necessary to develop such data.

Alternatively, EPA can require testing if the Agency finds that:

i. A chemical substance or mixture is or will be produced in substantial quantities and:

a. It enters or may reasonably be anticipated to enter the environment in substantial quantities, or

b. There is or may be significant or substantial human exposure to such substance or mixture.

ii. There are insufficient data and experience which from which the Agency can determine the effects of such substance or mixture on health or the environment.

iii. Testing with respect to such substance or mixture with respect to such effects is necessary to develop such data.

EPA achieves TSCA testing through rulemaking and enforceable consent agreements (ECAs). For more information on EPA's TSCA testing authority see 40 CFR part 790.

Some chemicals might be subject to more than one testing authority. Inert pesticide ingredients will frequently have TSCA uses in addition to their use as inert ingredients in pesticide formulations and could be screened or tested under TSCA or FFDCA/FIFRA authorities. TSCA chemicals found in drinking water sources could also be screened or tested under SDWA or TSCA. Compared with order authority under FIFRA, FFDCA, or SDWA, a test rule is a slow and labor intensive mechanism. Therefore, the Agency believes that when a choice is possible it is in the public interest to require screening and testing under its FIFRA, FFDCA, or SDWA authorities, rather than under TSCA, when it has that option.

H. Data Compensation Issues

The FFDCA, as amended, requires EPA ''to the extent practicable,'' to ''minimize duplicative testing of the same substance for the same endocrine effect, [and] develop, as appropriate, procedures for fair and equitable sharing of test costs.''

To meet these requirements, EPA is planning to adopt procedures similar, but not identical, to both TSCA's and FIFRA's data compensation procedures. If EPA knows that there is more than one registrant, manufacturer, and/or importer of a specific chemical, it will order each to test the chemical. As part of the order, it will include a list of all of the parties who receive equivalent orders and require the parties to work together to minimize duplicative testing and share testing costs. The parties may notify EPA of other parties not listed who also manufacture or import the chemical. Alternatively, or in addition, EPA will publish the order in the **Federal Register** and require parties not listed to self identify. If the parties are unable to work out testing and data compensation responsibilities, they will be required to submit to binding arbitration. If a party fails to comply with an arbitrator's decision, it will be subject to the penalties described in FFDCA section 408(p)(5)(C).

If, after completion of the testing, another party seeks to use the resulting data in support of a pesticide registration, it will be required to comply with FIFRA sections 3(c)(1)(F) or 3(c)(2)(B) which require compensation for data. Likewise, TSCA requires parties to compensate test sponsors if they manufacture or import a substance covered by a test rule within 5 years of the submission of the last required study. Chemicals being tested pursuant to a rulemaking under TSCA will follow the TSCA procedures for reimbursement under 40 CFR part 791.

I. Data Submission and Collection

EPA is proposing to post an electronic form for the capture of data from screening and testing so that these data can be easily uploaded into the Endocrine Knowledge Base (EKB) being developed by the FDA's National Center for Toxicological Research. The EKB will be the repository of all data from the EDSP as well as other sources of endocrine effects testing and research. The data base will thus serve research and regulatory purposes. As the data base is further developed, EPA will provide guidance on how to submit data electronically to be compatible with the EKB.

J. Data Release and CBI

FFDCA section 408(p)(5)(B) requires that EPA, to the extent practicable, develop, as necessary, procedures for handling CBI submitted as part of the EDSP. EPA anticipates that much of the information that registrants and manufacturers submit under the auspices of its EDSP will be health and safety information that generally does not warrant CBI protection. Nevertheless, EPA is interested in receiving comments from potential data submitters concerning whether they think any of the information will deserve CBI protection. If data submitters believe that certain information will be deserving of protection, the Agency is interested in receiving comments on the specific types of information that might need protection and on procedures that the Agency could develop to verify the validity of CBI claims and to ensure protection of valid CBI. EPA also is interested in receiving comments on whether current procedures under FIFRA and TSCA would be adequate and, if so, how they should be applied.

EPA is considering adopting FIFRA CBI procedures for data submitted on pesticide active ingredients and TSCA CBI procedures for all other substances. If necessary, EPA will develop additional procedures to ensure that any valid confidential business information is protected from disclosure.

K. Reporting Requirements Under TSCA 8(e) and FIFRA 6(a)(2)

The following provides EPA's guidance on the reporting obligations under the TSCA section 8(e) and FIFRA section 6(a)(2) with respect to results from certain priority-setting studies and *in vitro* screening assays that industry or others may conduct voluntarily or as part of EPA's EDSP. TSCA section 8(e) requires that ''[a]ny person who manufactures, processes, or distributes in commerce a chemical substance or mixture and who obtains information which reasonably supports the conclusion that such substance or mixture presents a substantial risk of injury to health or the environment shall immediately inform [EPA] of such information'' (15 U.S.C. 2607(e)). Likewise, FIFRA section 6(a)(2) requires registrants that, after registration of a pesticide, have additional factual information regarding unreasonable adverse effects on the environment of the pesticide to submit the information to EPA (7 U.S.C. 136d(a)(2)).

EPA will likely adopt as part of its EDSP both *in vitro* and *in vivo* assays that assess selected hormonal endpoints. Based on the current state of the science, EPA considers the results of endocrine disruptor *in vitro* screening assays to be indicators of potential endocrine activity. Whether performed at the bench or in a high throughput mode, results from *in vitro* assays may suggest some mechanisms of endocrine activity (e.g., hormone receptor binding, binding plus transcription, cell proliferation, steroidogenesis, etc.). Thus, the results of these *in vitro* assays are arguably within the scope of TSCA section 8(e) and FIFRA section 6(a)(2). At this time, however, EPA can not conclude that the results of these *in vitro* assays translate into an understanding of particular health or environmental hazards and risks *in vivo*. Therefore, based on the current state of the knowledge, EPA will not, at this time, require submission of TSCA section 8(e) or FIFRA section 6(a)(2) reports containing only the results of these *in vitro* assays. Registrants, manufactures, or importers are, nevertheless, encouraged to submit the data voluntarily. If these test results are included with other information reportable under TSCA section 8(e) or FIFRA section 6(a)(2), then they must be reported.

L. Exemptions

There are several circumstances in which exemptions from screening or testing requirements are appropriate. The FFDCA section 408(p) provides for exemptions from its requirements if EPA determines that a substance is anticipated not to produce any effect in humans similar to an effect produced by a naturally occurring estrogen. Although EPA has not determined when or under what circumstances it will grant exemptions from FFDCA 408(p) requirements, examples of the types of chemicals that might warrant such exemptions include class 4 pesticide formulation inerts—those inert ingredients in pesticide formulations judged by EPA to be virtually non-toxic (for example cookie crumbs)—and strong mineral acids and strong mineral bases, which would likely interact with tissue at the portal of entry giving rise to localized lesions rather than systemic effects. The strong reactivity of these substances would cause interaction with membranes and other biological chemicals before the chemical reached the endocrine receptors.

EPA is considering establishing a petition process as a means of establishing exemptions from screening. The details of this process could be set forth in the procedural rule EPA is considering issuing for the EDSP. EPA is asking for comments on criteria that might form the basis for granting exemptions.

Exemptions under FFDCA 408(p) are not the same as exemptions under FFDCA section 408(c). Please note also that the term exemption as used under FFDCA section 408(p) is different from, and should not be confused with, the use of this term under TSCA section 4(c). An exemption under FFDCA section 408(p) means that testing requirements do not apply. However, under TSCA section 4(c) an exemption is a mechanism for avoiding duplicative testing. Under TSCA section 4(c) an exemption can be granted when data are being or have been generated by a responsible party and, therefore, other responsible parties can reimburse the test sponsor for a portion of the cost. A similar cost sharing provision exists for data compensation among registrants under FIFRA (see Unit VI.H. of this notice). Unless otherwise indicated, the term exemption used in this notice will be used in the sense in which it is used under FFDCA section 408(p), that is, a waiver of all testing obligations.

M. Use of Significant New Use Rules (SNURs) Under TSCA

During the EDSTAC deliberations, concern was expressed that under certain circumstances less than the full Tier 2 testing would be permitted on chemicals based on their limited use and exposure profile. For instance, a pesticide registered for contained use only may result in human exposure but negligible or no environmental exposure. Therefore, performing the 2-generation mammalian reproductive effects test may be all that is needed to assess the hazards of this substance. Granting permission to limit Tier 2 testing does not present a problem for pesticides because pesticide registration limits the uses of the pesticide to those contained in the registration application. If a pesticide registrant wants to expand the uses and therefore potentially the exposure to a pesticide, the registrant must apply to register the expanded uses. The same is not true for chemicals under TSCA, since TSCA is not a registration statute. Once a commercial chemical is on the market it can ordinarily be used freely for any purpose resulting in exposures that were not occurring at the time testing requirements were promulgated. A potential solution to this dilemma lies in EPA's authority under TSCA section 5(a)(2) to issue SNURs.

A SNUR defines certain uses of a chemical as new uses. Before a manufacturer or processor can use a chemical for one of the defined new uses, the manufacturer or processor must notify EPA of such intention at least 90 days before commencement of the new use. A SNUR thus subjects an existing chemical that triggers a new use to the same review that a new chemical receives. Submission and review of the new use can be tied to the performance of testing and submission of test data to EPA if there is a test rule that covers that chemical.

EPA is considering the development of a SNUR based on a manufacturer's showing of limited use and exposure as a condition for granting a waiver for limited Tier 2 testing for TSCA chemicals (i.e., permission to perform fewer than the five tests in Tier 2 based upon exposure considerations). If the manufacturer's claims for limited use and exposure are refuted in the significant new use rulemaking process by someone who is already using the chemical in such a manner, the SNUR will not be valid and the manufacturer will be required to perform the full battery of Tier 2 tests required in the test rule issued for that chemical under the EDSP.

N. Relationship Between the EDSP and Related Actions Under TSCA

Several other testing actions under TSCA may affect chemicals in the EDSP. Actions planned or underway include the Hazardous Air Pollutants (HAPs) test rule (61 FR 33178, June 26, 1996) (FRL–4869–1) as amended, the Children's' Health test rule, the Agency for Toxic Substances and Disease Registry (ATSDR) test rule, the High Production Volume (HPV) testing initiative and the Screening Information Data Set (SIDS) Program on HPV chemicals. None of the EDSP Tier 1 screening assays is being considered for by these actions. The SIDS and HPV testing programs do not meet either the screening or testing requirements of the EDSP. The only likely overlap in testing requirements is the 2-generation mammalian test, which is proposed in the HAPs rule and being considered in the Children's Health test rule and ATSDR test rule. The reproductive effects testing for these programs will meet the Tier 2 mammalian reproductive effects testing requirement for the EDSP if the 1998 or later guideline for a 2-generation mammalian reproductive effects study is used. The results from some of these testing programs likely will be available before final testing decisions are made under the EDSP. It is possible that if the results of the 2-generation test (with endocrine-sensitive endpoints including thyroid) generated under one of these other testing programs is negative that only the fish gonadal recrudescence assay would need to be performed to satisfy the testing requirements of the EDSP. The correlation of various test results in the validation study will provide more information on which to make this judgment. If the mammalian 2-generation test were positive, the other Tier 2 tests would have to be run depending upon the exposure profile of the chemical in question.

O. Analysis of Data in the EDSP

EPA discussed use of HTPS data for priority setting for Tier 1 screening and as part of the weight of evidence consideration to determine when a chemical should be tested in Tier 2. These data may also used in conjunction with other data to help determine if adverse effects observed in Tier 2 are due to endocrine disruption or from another cause. The Tier 1 data will also serve a dual purpose. They will be used to make the determination of which chemicals receive Tier 2 testing and will also be used to help interpret positive results observed in Tier 2 testing.

More detailed guidance regarding the assessment of hazards due to endocrine disruption must await both the results of the standardization and validation program and ongoing research. EPA intends to review the need for revising its standard evaluation procedures for interpreting studies and its human health and ecological risk assessment guidelines as relevant data from these programs become available.

VII. Issues for Comment

1. The FFDCA, as amended, requires EPA to screen pesticides for estrogenic effects that may affect human health. EPA has decided that it is scientifically appropriate to focus on EAT effects, not just estrogenic effects. Is this an appropriate scope for the EDSP?

2. Are there classes of chemicals besides the ones identified in Unit VI.L. of this notice that should be exempted (excluded) from the EDSP? What criteria and what burden of proof should be applied to claims of persons seeking to exempt chemicals from screening? What type of process should EPA establish?

3. As discussed in Unit IV.E. of this notice, EPA is proposing a compartment-based (or set-based) approach to priority setting as a way of accommodating the real world situation of uneven data. Under the compartment-based approach, EPA will group the chemicals into sets based on the existence of factual information in a given area. Thus, priority ranking can be made fairly among chemicals, i.e., chemicals will compete for priority with other chemicals on the basis of comparable data and will not be assigned lower priority for lack of information. Are these principles and the compartment-based approach to priority setting reasonable? Are there alternatives to the compartment-based approach which EPA should consider?

4. As recommended by EDSTAC, EPA is proposing that polymers with an average number molecular weight greater than 1,000 daltons be excluded from priority setting and screening unless they are pesticide chemicals or unless their monomers, oligomers, or leachable components are shown to have endocrine-disrupting potential in Tier 1 screening. Is this approach scientifically sound?

5. EPA is developing a relational data base to assist in setting priorities for screening. The relational data base is intended to import existing data and information and allow its synthesis, as well as the estimation of certain parameters through modeling. EPA and EDSTAC consider the relational data base to have great value in helping to identify the specific compartments under the compartment-based priority-setting approach. The data base will also be helpful in selecting chemicals for the first and subsequent rounds of screening. The data fields currently in the data base are defined in Chapter 4 of the EDSTAC Final Report. What additional data fields or types of data should EPA include as it further develops the relational data base?

6. EPA is soliciting industry's cooperation in supplying chemicals for the HTPS. Is this an appropriate role for industry and is industry willing to do so?

7. EPA plans to screen and, if appropriate, test representative mixtures to which large or identifiable segments of the population are exposed. The high-priority mixture categories include: Chemicals in breast milk, phytoestrogens in soy-based infant formulas, mixtures commonly found at Superfund sites, common pesticide/fertilizer mixtures found in ground and surface water, disinfection byproducts, and gasoline. EPA plans to screen and test one representative mixture from each category.

a. Can standardized representative mixtures be developed? If so, how should the chemical combinations, ratios, and doses be selected for mixtures?

b. Is the proposal a reasonable way to address the practicality of screening and testing mixtures?

c. Are the six categories of mixtures the most appropriate to address first?

d. Are there other mixture categories that should be included in addition to, or instead of those identified (e.g., Should fish tissue contaminants be one of the first mixtures)?

e. If a mixture is positive in Tier 1, should the whole mixture be tested in Tier 2 or should EPA attempt to identify the active component(s) and test it (them) in Tier 2?

8. EPA has identified a screening battery consisting of *in vitro* and *in vivo* assays to address EAT effects. Will the battery, once validated, be capable of detecting such effects in a consistent and reliable manner?

9. EPA is planning to require that the Tier 1 screening *in vivo* assays be conducted at one dose, with appropriate use of range finding studies and other information (i.e., HTPS results) to inform dose selection. The single-dose approach was adopted to save testing resources. The SAB/SAP in a preliminary consultation raised concern about relying on only one dose level and suggested that EPA require a minimum of two doses and preferably three to ensure that tests did not result in false negatives. Does the potential risk of

false negatives outweigh the cost savings of running the Tier 1 screening *in vivo* assays with only one dose?

10. EDSTAC could not identify existing practical vertebrate endocrine disruptor screening assays that incorporated exposure *in utero* or *in ovo*. Do such screening assays exist?

11. Is adequate coverage of the thyroid provided in the recommended Tier 1 screening battery? Does the Tier 1 screening battery provide adequate coverage of non-receptor mediated pathways?

12. EPA is proposing a Tier 2 testing battery to delineate dose-response relationships of chemicals that yield positive results in the screening battery. Do the tests provide sufficient rigor to identify adverse effects and establish dose response for disruption of the EAT?

13. Will the Tier 2 tests be adequate to detect all known EAT endpoints in chemicals that bypass Tier 1 screening?

14. Tier 2 tests will identify the adverse effects due to endocrine disruption as well as reproductive and developmental effects caused by non-endocrine mechanisms of toxicity. Thus, it may not be possible to determine that a substance is an endocrine disruptor if it bypasses tier 1 screening. Is it important to be able to identify substances as endocrine disruptors from the standpoint of conducting a hazard assessment?

15. If the results of the 2-generation test (with endocrine-sensitive endpoints including thyroid) generated under one of these other testing programs is negative what additional screening or testing should be required to demonstrate that the chemical is not an endocrine disruptor?

16. FFDCA gives EPA authority to test pesticides and substances ''that are cumulative to the effect of a pesticide.'' EPA is interested in receiving comment on how the term ''cumulative to the effect of a pesticide'' should be applied in defining additional substances which can be tested under FFDCA.

17. How should EPA define substantial population as used in FFDCA section 408(p) and SDWA section 1457?

8. Is EPA's proposal to adopt FIFRA cost sharing provisions for data received under FIFRA and TSCA cost sharing provisions for all other substances feasible and practical?

19. Is EPA's proposal to adopt FIFRA CBI procedures for active pesticide ingredients and TSCA CBI procedures for all other substances feasible and practical? TSCA makes health and safety data freely available. The chemical portion of chemical substances comprising formulated products is confidential under both statutes.

20. Should EPA permit chemicals to receive less than the full Tier 2 testing battery under certain circumstances? Should EPA issue a SNUR for TSCA chemicals that are subject to limited Tier 2 testing?

21. Should EPA issue a procedural rule codifying many of the procedures discussed in Unit VII. of this notice?

VIII. References

The Agency's actions are supported by the references listed in this unit and cited in this notice. These references are available in the public record for this notice under docket control number OPPTS–42208 in the TSCA Docket, see the ''ADDRESSES''section in this notice.

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53. Tori, G.M., and L.P. Mayer (1981) ''Effects of Polychlorinated Biphenyls on the Metabolic Rates of Mourning Doves Exposed to Low Ambient Temperatures.'' *Bulletin of Environmental Contamination and Toxicology*, 27, pp. 678–682.

IX. Public Record and Electronic Submissions

The official record for this notice, as well as the public version, has been established for this notice under docket control number OPPTS–42208 (including comments and data submitted electronically as described in this unit). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in Unit I.B.3. of this notice.

Electronic comments can be sent directly to EPA at:

oppt-ncic@epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will alsobe accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPPTS–42208. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Chemicals, Drinking water, Endocrine disruptors, Hazardous substances, Health and safety, Pesticides and pests.

Authority: 21 U.S.C. 346a(p); 42 U.S.C. 300j–17; 7 U.S.C. 136a; 15 U.S.C. 2604.

Dated: December 21, 1998.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 98–34298 Filed 12–23–98; 9:49 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–42207; FRL–6052–8]

Endocrine Disruptor Screening Program; Priority-Setting Workshop

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice invites public participation in a workshop to discuss the development of a priority-setting system for the selection of chemicals for testing in the Endocrine Disruptor Screening Program (EDSP). The recommendations of the Endocrine Disruptor Screening and Testing Advisory Committee (EDSTAC) and the Agency's subsequent Statement of Policy contain a set of principles and a general strategy for setting priorities for testing. The Agency is now commencing the detailed design phase of the priority-setting system and seeks public input on the design of the system.

DATES: The workshop will be held on Wednesday, January 20, 1999, from 10 a.m. to 5 p.m. and Thursday, January 21, 1999, from 9 a.m. to 4 p.m. Comments may be submitted during the workshop or after the workshop until February 22, 1999.

ADDRESSES: The workshop will be held at the Crystal City Marriott Hotel, 1999 Jefferson Davis Hwy., Arlington, VA; telephone (703) 413–5500, toll-free reservation line (800) 228–9290.

Comments should be sent to Patrick Kennedy or James Darr and to the OPPTS Document Control Officer. Comments may be sent electronically or by mail to: Patrick Kennedy, e-mail address: kennedy.patrick@epa.gov or Jim Darr, e-mail address: darr.james@epa.gov; Office of Pollution Prevention and Toxics (7406), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Each comment must bear the docket control number OPPTS–42207. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Room G–099, East Tower, Washington, DC 20460.

Comments and data may also be submitted electronically to: oppt.ncic@epa.gov. Follow the instructions under Unit V. of this notice. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this rulemaking. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: For information related specifically to the workshop: Patrick Kennedy, telephone: (202) 260–3916, e-mail address: kennedy.patrick@epa.gov or Jim Darr, telephone: (202) 260–3441, e-mail address: darr.james@epa.gov; Office of Pollution Prevention and Toxics (7406), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. For general information or copies of the ESTAC Report: TSCA Hotline, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone (202) 554–1404, TDD (202) 554–0551; e-mail address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Agency first set forth the basic components of the EDSP in an August 11, 1998 (63 FR 42852) (FRL–6021–3) **Federal Register** notice. A more detailed Statement of Policy has been developed and is published elsewhere in this issue of the **Federal Register**.

The EDSP has five major components:

1. Sorting, in which chemicals are classified according to the availability of information on each chemical's endocrine-disrupting potential.

2. Priority setting, in which EPA will determine the priority order for entry into Tier 1 screening.

3. Tier 1 screening, a battery of *in vitro* and *in vivo* assays designed to identify those chemicals that are not likely to interact with the estrogen, androgen, or thyroid hormone systems (EAT).

4. Tier 2 testing, a battery of assays designed to determine whether a chemical may have an effect in humans similar to that of naturally occurring hormones and to identify, characterize, and quantify those effects for EAT effects.

5. Hazard assessment, a weight-of-evidence evaluation of Tier 1 and Tier 2 results.

It is expected that the sorting will result in a relatively small number of chemicals proceeding directly to Tier 2 testing or hazard assessment and that the vast majority of chemicals will be placed in priority setting for Tier 1 screening.

II. Purpose and Structure

The purpose of the workshop is to provide stakeholders and experts in exposure and health and ecological effects an opportunity for input into the design and implementation of the priority-setting system. The focus of the workshop is to discuss the basic structure and functioning of the priority-setting system. Specifically, the workshop will address principles and approaches for developing rankings within compartments and for assigning overall weighting factors to the various compartments and information-related categories. The Agency does not intend to either present or react to specific lists of chemicals that could result from the various approaches that may be discussed.

The workshop will be structured around the discussion of specific issues by invited participants. A limited amount of time will be allotted for additional comment by other meeting attendees. Participants may also submit written comments during the meeting or after the meeting. No formal registration for the workshop is required, but persons planning to attend are encouraged to notify the Agency contacts listed under ''FOR FURTHER INFORMATION CONTACT'' in this notice, preferably via e-mail, because space may be limited.

III. Issues for Discussion

The EDSTAC recommended a ''compartment-based priority setting strategy'' that builds upon distinct exposure- and effects-related information categories and criteria as well as a category of specially targeted priorities. The EDSTAC listed the following information-related categories and subcategories of information that should be considered in developing the compartment-based approach.

A. Exposure-Related Information

1. Biological sampling data
2. Environmental, occupational, consumer product, and food-related data (sampling and/or use data)
3. Environmental releases
4. Production volume
5. Fate and transport data and models

B. Effects-Related Information

1. Toxicological laboratory studies and data bases
2. Epidemiologic and field studies and data bases
3. Predictive biological activity or effects models (e.g. SAR, QSAR)
4. Results of high throughput pre-screening (HTPS)

C. Integrated Effects and Exposure Information

D. Specially Targeted Priorities

1. Mixtures
2. Naturally occurring non-steroidal estrogens (NONEs)
3. Nominations

The EDSTAC did not reach agreement on the definition or weighting of specific compartments. Following the basic framework and guiding principles laid out in the EDSTAC Report, EPA has developed an initial ''strawman'' proposal for a compartment-based system. In developing the strawman proposal, EPA adopted the following working definition of a compartment: All chemicals within a compartment share the feature(s) that define the compartment (e.g. chemicals with TRI release data). The defining feature(s) of the compartment should, whenever possible, allow for sorting chemicals within the compartment into a rank-ordered list.

PROPOSED COMPARTMENTS FOR EDSP PRIORITY SETTING

Specially targeted priorities	Exposure	Effects	Exposure and effects
Nominations	Human Biological Monitoring Data	Epidemiology and clinical data on endocrine target organ effects..	
EDSTAC Recommended Mixtures	Ecological Biological Monitoring Data	Reproductive/developmental toxicity—no observed adverse effect levels (NOAELs)/lowest observed adverse effect levels (LOAELs) from studies in laboratory animals..	
EDSTAC Recommended NONES	Chemicals in food and drinking water	Carcinogenicity—positive/negative results in endocrine target tissues.	
	Chemicals in consumer and cosmetic products	Subchronic toxicity—NOAELs/LOAELs for endocrine targets.	
	Occupational exposure chemicals	High Throughput Screen test results (degree of receptor binding).	
	Environmental monitoring data—Surface and ground water	Quantitative Structure—Activity Relationships (QSARs) for estrogen receptor binding.	
	Environmental monitoring data—Indoor and outdoor air	Ecotoxicity—field and laboratory studies.	
	Environmental monitoring data— Sediments/soil		
	Persistence		
	Bioaccumulation potential		
	Environmental releases		
	Production/import volume		

The Agency has identified several key issues related to the design of a compartment-based priority-setting system. The Agency welcomes comment on these issues:

1. Do the exposure and effects compartments in the strawman proposal make sense? Are there other compartments that should be added? Should certain compartments be combined, and if so, which?

2. How should exposure and effects data be integrated, combined in the exposure/effects category?

3. How should each of the major information-related categories (i.e. Exposure, Effects, and Exposure and Effects) be weighted? If they are not weighted equally, how much weight should each receive?

4. How should the compartments within each information-related category be prioritized relative to each other? What factors should be considered and how should they be used?

5. Do the exposure compartments allow for adequate consideration of disproportionately exposed and susceptible populations? How can this best be done?

6. Should a fraction of the chemicals screened be given priority status based solely on ecological concerns (as opposed to human health concerns)?

7. How should chemicals that occur in multiple compartments be treated, i.e. should the ranking system somehow take into account frequency of occurrence across all compartments?

8. Should the specially targeted priorities, i.e. nominations, mixtures, and NONES, be included in the priority-setting system or should they be handled outside of the system?

9. What are the best data sources for the priority-setting system in terms of accessibility, reliability, and format?

IV. Agenda

January 20

Activity	Time
Welcome	10–10:15 a.m.
Background	10:15–10:30 a.m.
EPA Strawman	10:30–10:45 a.m.
General Comments and Questions on the Strawman	10:45–11:15 a.m.
Break	11:15–11:30 a.m.
Biological and Environmental Monitoring Data Compartments	11:30–12:15 p.m.
Lunch	12:15–1:30 p.m.
Persistence and Bioaccumulation Compartments	1:30–2:15 p.m.
Chemicals in Drinking Water and Food Compartment	2:15–3 p.m.
Break	3–3:15 p.m.
Consumer/Cosmetic and Occupational Compartments	3:15–4 p.m.
Relative Weights of Exposure Compartments	4–4:30 p.m.
Audience Comments	4:30–5 p.m.

January 21

Activity	Time
Epi/Repro/Cancer/Subchronic Health Compartments	9–10 a.m.
Ecological Effects Compartments	10–11 a.m.
Break	11–11:15 a.m.
QSAR	11:15–12 noon
Lunch	12 noon–1:15 p.m.
Relative Weights of Effects Compartments	1:15–1:45 p.m.
Combining Exposure and Effects	1:45–2:45 p.m.
Break	2:45–3 p.m.
Specially Targeted Chemicals	3–3:15 p.m.
Audience Comments	3:15–4 p.m.

V. Public Record and Electronic Submissions

The official record for this notice, as well as the public version, has been established for this notice under docket control number OPPTS–42207 (including comments and data submitted electronically as described in this unit). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this notice.

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List of Subjects

Environmental protection, Chemicals, Drinking water, Endocrine disruptors, Hazardous substances, Health and safety, Pesticides and pests.

Dated: December 21, 1998.

Lynn R. Goldman,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. 98–34299 Filed 12–23–98; 9:49 am]

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200–699	(869–034–00110–6)	29.00	July 1, 1998
700–End	(869–034–00111–4)	33.00	July 1, 1998
31 Parts:			
0–199	(869–034–00112–2)	20.00	July 1, 1998
200–End	(869–034–00113–1)	46.00	July 1, 1998
32 Parts:			
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1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–034–00114–9)	47.00	July 1, 1998
191–399	(869–032–00115–4)	51.00	July 1, 1997
400–629	(869–034–00116–5)	33.00	July 1, 1998
630–699	(869–034–00117–3)	22.00	July 1, 1998
700–799	(869–034–00118–1)	26.00	July 1, 1998
800–End	(869–034–00119–0)	27.00	July 1, 1998
33 Parts:			
1–124	(869–034–00120–3)	29.00	July 1, 1998
125–199	(869–034–00121–1)	38.00	July 1, 1998
200–End	(869–034–00122–0)	30.00	July 1, 1998
34 Parts:			
1–299	(869–034–00123–8)	27.00	July 1, 1998
300–399	(869–034–00124–6)	25.00	July 1, 1998
400–End	(869–034–00125–4)	44.00	July 1, 1998
35	(869–034–00126–2)	14.00	July 1, 1998
36 Parts			
1–199	(869–034–00127–1)	20.00	July 1, 1998
200–299	(869–034–00128–9)	21.00	July 1, 1998
300–End	(869–034–00129–7)	35.00	July 1, 1998
37	(869–034–00130–1)	27.00	July 1, 1998
38 Parts:			
0–17	(869–034–00131–9)	34.00	July 1, 1998
18–End	(869–034–00132–7)	39.00	July 1, 1998
39	(869–034–00133–5)	23.00	July 1, 1998
40 Parts:			
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50–51	(869–034–00135–1)	24.00	July 1, 1998
52 (52.01–52.1018)	(869–034–00136–0)	28.00	July 1, 1998
52 (52.1019–End)	(869–034–00137–8)	33.00	July 1, 1998
53–59	(869–034–00138–6)	17.00	July 1, 1998
60	(869–034–00139–4)	53.00	July 1, 1998
61–62	(869–034–00140–8)	18.00	July 1, 1998
63	(869–034–00141–6)	57.00	July 1, 1998
64–71	(869–034–00142–4)	11.00	July 1, 1998
72–80	(869–034–00143–2)	36.00	July 1, 1998
81–85	(869–034–00144–1)	31.00	July 1, 1998
86	(869–034–00144–9)	53.00	July 1, 1998
87-135	(869–034–00146–7)	47.00	July 1, 1998
136–149	(869–034–00147–5)	37.00	July 1, 1998
150–189	(869–034–00148–3)	34.00	July 1, 1998
190–259	(869–034–00149–1)	23.00	July 1, 1998
260–265	(869–034–00150–9)	29.00	July 1, 1998
266–299	(869–034–00151–3)	33.00	July 1, 1998
300–399	(869–034–00152–1)	26.00	July 1, 1998
400–424	(869–034–00153–0)	33.00	July 1, 1998
425–699	(869–034–00154–8)	42.00	July 1, 1998
700–789	(869–034–00155–6)	41.00	July 1, 1998
790–End	(869–034–00156–4)	22.00	July 1, 1998
41 Chapters:			
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1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
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7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
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102–200	(869–034–00158–9)	15.00	July 1, 1998
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42 Parts:			
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400–429	(869–032–00161–8)	35.00	Oct. 1, 1997
430–End	(869–032–00162–6)	50.00	Oct. 1, 1997
43 Parts:			
1–999	(869–032–00163–4)	31.00	Oct. 1, 1997
1000–end	(869–032–00164–2)	50.00	Oct. 1, 1997
44	(869–032–00165–1)	31.00	Oct. 1, 1997
45 Parts:			
1–199	(869–032–00166–9)	30.00	Oct. 1, 1997
200–499	(869–032–00167–7)	18.00	Oct. 1, 1997
500–1199	(869–032–00168–5)	29.00	Oct. 1, 1997
1200–End	(869–032–00169–3)	39.00	Oct. 1, 1997
46 Parts:			
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41–69	(869–032–00171–5)	22.00	Oct. 1, 1997
70–89	(869–034–00173–4)	8.00	Oct. 1, 1998
90–139	(869–032–00173–1)	27.00	Oct. 1, 1997
140–155	(869–032–00174–0)	15.00	Oct. 1, 1997
156–165	(869–032–00175–8)	20.00	Oct. 1, 1997
166–199	(869–032–00176–6)	26.00	Oct. 1, 1997
200–499	(869–032–00177–4)	21.00	Oct. 1, 1997
500–End	(869–034–00179–3)	16.00	Oct. 1, 1998
47 Parts:			
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49 Parts:			
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50 Parts:			
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 1997 through December 31, 1997. The CFR volume issued as of January 1, 1997 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 1997, through April 1, 1998. The CFR volume issued as of April 1, 1997, should be retained.