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Vol. 64 No. 24
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federal register

Friday
February 5, 1999

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WASHINGTON, DC

WHEN: February 23, 1999 at 9:00 am.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

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Rules and Regulations

Federal Register
Vol. 64, No. 24
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2641

RIN 3209–AA07

Post-Employment Conflict of Interest Restrictions; Revision of Departmental Component Designations

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule.

SUMMARY: The Office of Government Ethics is issuing this rule to designate a departmental component, to correct the name of an existing component, and to revoke an existing component designation for purposes of a statutory post-employment conflict of interest restriction.

EFFECTIVE DATES: The amendments to appendix B to part 2641, as set forth in amendatory instruction 2, are effective February 5, 1999. The removal of a component designation from appendix B to part 2641, as set forth in amendatory instruction 3, is effective May 6, 1999.

FOR FURTHER INFORMATION CONTACT: Julia Loring Eirinberg, Office of General Counsel and Legal Policy, Office of Government Ethics; telephone: 202–208–8000, extension 1108; TDD: 202–208–8025; FAX: 202–208–8037.

SUPPLEMENTARY INFORMATION:

A. Substantive Discussion

The Director of OGE is authorized by 18 U.S.C. 207(h) to designate distinct and separate departmental or agency components in the executive branch for purposes of 18 U.S.C. 207(c). The representational bar of 18 U.S.C. 207(c) usually extends to the whole of any department or agency in which a former senior employee served in any capacity during the year prior to termination from a senior employee position. However, eligible senior employees may be permitted to communicate to or appear before parts of their former department or agency if one or more components of the department or agency have been designated as separate agencies or bureaus by OGE.

As specified in 5 CFR 2641.201(e)(3)(iii), the Director of OGE ''shall by rule make or revoke a component designation after considering the recommendation of the designated agency ethics official.'' Component designations are listed in appendix B of this part 2641. Pursuant to the procedures prescribed in 5 CFR 2641.201(e), two departments have forwarded letters to OGE requesting the amendment of appendix B since it was last revised in 1997 (62 FR 26915–26918 (May 16, 1997), as corrected at 62 FR 31865 (June 11, 1997)). After carefully reviewing these requests in light of the criteria in 18 U.S.C. 207(h) as implemented in 5 CFR 2641.201(e)(6), I have determined to revise appendix B as requested.

As requested by the Department of Defense (DOD), I am revoking the designation of the Defense Special Weapons Agency as a distinct and separate component of DOD because the agency has recently been disestablished. I am replacing the designation with a component which is, in large part, the successor component to that agency. The new component, the Defense Threat Reduction Agency, has replaced selected elements of the Office of the Secretary of Defense, the Defense Special Weapons Agency, the On-Site Inspection Agency, and the Defense Technology Security Administration. In addition, I am revising the listing for the Department of the Treasury to correct the name of the Financial Management Service. That entry has incorrectly referred to the Financial Management Center.

As indicated in 5 CFR 2641.201(e)(4), a designation ''shall be effective as of the effective date of the rule that creates the designation, but shall not be effective as to employees who terminated senior service prior to that date.'' Initial designations were effective as of January 1, 1991. The effective date of subsequent designations is indicated by means of parenthetical entries in appendix B. The new component designation and the correction made by this rulemaking document are effective February 5, 1999. As also provided in 5 CFR 2641.201(e)(4), a revocation is effective 90 days after the effective date of the rule that revokes the designation. Accordingly, the component designation revocation made in this rulemaking will take effect May 6, 1999. Revocations are not effective as to any individual terminating senior service prior to the expiration of the 90-day period.

B. Matters of Regulatory Procedure

Administrative Procedure Act

Pursuant to 5 U.S.C. 553, as the Director of OGE, I find that good cause exists for waiving the general requirements for notice of proposed rulemaking, opportunity for public comment, and a 30-day delayed effective date. It is important that the designation or revocation by OGE of separate departmental or agency components be published in the **Federal Register** as promptly as possible. Furthermore, since this rule is interpretive in nature, it is exempt from the notice, comment, and delayed effectiveness requirements of 5 U.S.C. 553.

Executive Order 12866

In promulgating this final rule, the Office of Government Ethics has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This rule has not been reviewed by the Office of Management and Budget under that Executive order since it deals with agency organization, management, and personnel matters and is not ''significant'' under the order.

Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this rule will not have a significant economic impact on a substantial number of entities because it affects only Federal departments and agencies and current and former Federal employees.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply to this rule because it does not contain information collection requirements that

require the approval of the Office of Management and Budget.

List of Subjects in 5 CFR Part 2641

Conflict of interests, Government employees.

Approved: January 29, 1999.

Stephen D. Potts,

Director, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics is amending part 2641 of subchapter B of chapter XVI of title 5 of the Code of Federal Regulations as follows:

PART 2641—[AMENDED]

1. The authority citation for part 2641 continues to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); 18 U.S.C. 207; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

2. Effective February 5, 1999, appendix B to part 2641 is amended by revising the listings for the Department of Defense and the Department of the Treasury to read as follows:

Appendix B to Part 2641—Agency Components for Purposes of 18 U.S.C. 207(c)

* * * * *

Parent: Department of Defense

Components:
- Department of the Air Force
- Department of the Army
- Department of the Navy
- Defense Information Systems Agency
- Defense Intelligence Agency
- Defense Logistics Agency
- Defense Special Weapons Agency (effective May 16, 1997; expiring May 6, 1999)
- Defense Threat Reduction Agency (effective February 5, 1999)
- National Imagery and Mapping Agency (effective May 16, 1997)
- National Security Agency

* * * * *

Parent: Department of the Treasury

Components:
- Bureau of Alcohol, Tobacco and Firearms
- Bureau of Engraving and Printing
- Bureau of the Mint
- Bureau of the Public Debt
- Comptroller of the Currency
- Federal Law Enforcement Training Center
- Financial Management Service
- Internal Revenue Service
- Office of Thrift Supervision
- United States Customs Service
- United States Secret Service

3. Effective May 6, 1999, appendix B to part 2641 is further amended by removing the Defense Special Weapons Agency from the listing for the Department of Defense.

[FR Doc. 99–2711 Filed 2–4–99; 8:45 am]

BILLING CODE 6345–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–126–AD; Amendment 39–11024; AD 99–03–11]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Beech Model 60 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Raytheon Aircraft Company (Raytheon) Beech Model 60 airplanes. This AD requires modifying the aircraft cabin heat control wiring. This AD is the result of an incident on one of the affected airplanes where the circuit control that operates the aircraft cabin heater overheated and caused the cabin heater to shut down during in-flight operation. The actions specified by this AD are intended to prevent this circuit from overheating because of the current wiring design, which could result in possible smoke/fire if the heating system continued to operate in an ''over-temperature'' condition.

DATES: *Effective:* March 4, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 4, 1999.

Comments for inclusion in the Rules Docket must be received on or before April 8, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–126–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from the Raytheon Aircraft Company, PO Box 85, Wichita, Kansas 67201–0085; telephone: (800) 625–7043 or (316) 676–4556. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–126–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Todd Dixon, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4152; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA has received a report of the aircraft cabin heater shutting down on a Raytheon Beech Model 60 airplane during in-flight operation. Raytheon incorporated a design change to the cabin heater circuit on the following airplanes: serial numbers P–159, and P–166 through P–596. A reconfiguration of the circuit protection that wires the 5-amp fuses in parallel instead of in series was part of this design change. Investigation of the above-referenced incident reveals that the incident airplane incorporated the design change and that the parallel-wired fuses caused the electrical resistor to overheat and eventually caused the heater system to shut down.

However, prior to shutting down, the heater system can operate in an ''over-temperature'' condition where it is possible for smoke or fire to occur due to the wiring and the resistor overheating.

Relevant Service Information

Raytheon has issued Mandatory Service Bulletin SB 24–3097, Issued: December, 1998, which specifies procedures for modifying the aircraft cabin heat control wiring.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, including the relevant service information, the FAA has determined that AD action should be taken to prevent the above-referenced condition from occurring.

Explanation of the Provisions of the AD

Since an unsafe condition has been identified that is likely to exist or develop in other Raytheon Beech Model 60 airplanes of the same type design, the FAA is issuing an AD. This AD requires modifying the aircraft cabin heat control wiring in accordance with the

instructions in Raytheon Mandatory Service Bulletin SB 24–3097, Issued: December, 1998.

Determination of the Effective Date of the AD

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–CE–126–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–03–11 Raytheon Aircraft Company (Type Certificate No. A12CE previously held by the Beech Aircraft Corporation): Amendment 39–11024; Docket No. 98–CE–126–AD.

Applicability: Beech Model 60 airplanes, serial numbers P–159, and P166 through P–596; certificated in any category.

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

Compliance: Required within the next 25 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent the circuit that operates the aircraft cabin heater from overheating because of the current wiring design, which could result in possible smoke/fire if the heating system continued to operate in an ''over-temperature'' condition, accomplish the following:

(a) Modify the aircraft cabin heat control wiring in accordance with the ACCOMPLISHMENT INSTRUCTIONS section in Raytheon Mandatory Service Bulletin SB 24–3097, Issued: December, 1998.

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

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

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

(d) The modification required by this AD shall be done in accordance with Raytheon Mandatory Service Bulletin SB 24–3097, Issued: December, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Raytheon Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(e) This amendment becomes effective on March 4, 1999.

Issued in Kansas City, Missouri, on January 29, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–2633 Filed 2–4–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AAL–23]

Revision of Class D Airspace; Anchorage, Elmendorf Air Force Base (AFB) Airport, AK Establishment of Class E Airspace; Anchorage, Elmendorf AFB Airport, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class D airspace operational times and establishes Class E airspace at Elmendorf AFB, AK. The United States Air Force (USAF) requested this action in response to a critical Air Traffic Control (ATC) controller shortage at Elmendorf AFB, AK. This action will allow the USAF to provide part time operation of the Class D airspace and establishment of Class E airspace for Instrument Flight Rules (IFR) and Special Visual Flight Rules (VFR) operations at Elmendorf AFB, AK.

EFFECTIVE DATE: 0901 UTC, March 8, 1999.

FOR FURTHER INFORMATION CONTACT: Derril Bergt, Operations Branch, AAL–535, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–2796; fax: (907) 271–2850; email: Derril.Bergt@faa.gov. Internet address: http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

SUPPLEMENTARY INFORMATION:

History

On October 27, 1998, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to allow the USAF to provide Class D airspace operational times and establish Class E airspace for IFR and Special VFR operations when the Class D airspace is inactive at Elmendorf AFB, AK, was published in the **Federal Register** (63 FR 57268). The proposal was necessary to provide the flexibility to the USAF to adjust the Elmendorf Tower operational times during times of a critical ATC controller shortage at Elmendorf AFB, AK.

The physical dimensions of the Class D airspace will not change. Currently, the Class D airspace is operational 24 hours a day, seven days a week. The following phraseology is added to the end of the Class D airspace description: ''This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.'' During any closure, the Class D airspace will convert to Class E airspace for IFR and Special VFR operations.

The FAA received two letters objecting to this proposal. The Aircraft Owners and Pilots Association (AOPA) letter, dated November 24, 1998, dealt with AOPA concerns over the unavailability of air traffic services that have been historically available for civilian operators in the area, specifically real-time weather, use as an alternate, and use of the instrument approach facilities. The Alaskan Aviation Safety Foundation (AASF) letter, dated November 18, 1998, dealt with AASF concerns over the economic effect and adverse safety influence on civilian air services to Anchorage and those cargo airlines using the Anchorage International Airport for refueling and cargo distribution. AASF concerns included losing the instrument approach facilities, fire, crash and rescue facilities, along with real-time weather information and use as an alternate when flights are diverted from Anchorage due to fog or other factors. Losing Elmendorf AFB, AK, as a divert alternate, would limit payloads by as much as 20,000 pounds if a divert B747 aircraft had to go to Fairbanks or Kenai. Both AOPA and AASF suggested FAA augment the controllers at Elmendorf Tower.

The USAF responded to the AOPA and AASF concerns in a letter to the FAA, dated January 15, 1999, wherein they stated that the action to reduce the hours of operation for the Elmendorf Tower is a contingency, not a plan for normal operation. It is one of several courses of action that the USAF may take to reduce the requirements on their tower controllers. The USAF's intent is to maintain a 24-hour operation at the tower with the flexibility to reduce the hours if required. Any closure of the tower would only occur during periods of minimum usage, and would be fully coordinated with adjacent FAA Air Traffic Control facilities. The USAF stated that the airfield itself will remain open 24 hours per day, with the normal exceptions of snow removal or other maintenance. Base operations and support functions, such as the fire department and weather, will also remain in service 24 hours per day. Anchorage Approach Control will still have access to the instrument approach facilities. With the airfield open, heavy jets could file and plan fuel reserves with Elmendorf AFB as an alternate. During periods of tower closure, the airfield will operate as a Class E airspace non-tower controlled airfield, the same as many other Alaskan airfields. On short notice, the tower could be staffed to handle an influx of traffic due to weather or an in-flight emergency.

The FAA determined that augmenting Elmendorf Tower was not necessary because the USAF intends currently to maintain a 24-hour operational tower. If the USAF were to shorten tower hours of operation, the airport would remain open, USAF air traffic controllers would be on-call, and the times of any closure would be selected to have minimum impact.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class D airspace areas are published in paragraph 5000 and Class E airspace areas designated as a surface area are published in paragraph 6002 in FAA Order 7400.9F, *Airspace Designations and Reporting Points,* dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class D and Class E airspace listed in this document would be revised and published in the Order.

The Rule

This amendment to 14 CFR part 71 allows the USAF to revise the Class D airspace operational times at Elmendorf AFB, AK, and establishes Class E airspace for IFR and Special VFR operations when the Class D airspace is inactive. The intended effect of this action is to provide the USAF the flexibility to adjust the operational times of the Elmendorf Tower.

The FAA has determined that these proposed regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

AAL AK D Anchorage, Elmendorf AFB Airport, AK [Revised]

Anchorage, Elmendorf AFB Airport, AK
(Lat. 61° 15′ 11″ N., long. 149° 47′ 38″ W)
Elmendorf Localizer
(Lat. 61° 15′ 14″ N., long. 149° 46′ 48″ W)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.7-mile radius of Elmendorf AFB Airport and within 2 miles each side of the Elmendorf Localizer front course extending from the 4.7-mile radius to a point 5.5 miles from Elmendorf AFB Airport; excluding that airspace east of long. 149°43′ W, and that airspace within the Anchorage International Airport, AK, Class C airspace area and the Anchorage Merrill Field, AK, Class D airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E airspace designated as surface areas

* * * * *

AAL AK E2 Anchorage, Elmendorf AFB Airport, AK [New]

Anchorage, Elmendorf AFB Airport, AK
(Lat. 61°15′11″ N., long. 149°47′38″ W)
Elmendorf Localizer
(Lat. 61°15′14″ N, long. 149°46′48″ W)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.7-mile radius of Elmendorf AFB Airport and within 2 miles each side of the Elmendorf Localizer front course extending from the 4.7-mile radius to a point 5.5 miles from Elmendorf AFB Airport; excluding that airspace east of long. 149°43′ W, and that airspace within the Anchorage International Airport, AK, Class C airspace area and the Anchorage Merrill Field, AK, Class D airspace area.

* * * * *

Issued in Anchorage, AK, on January 27, 1999.

Trent S. Cummings,

Acting Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 99–2830 Filed 2–4–99; 8:45 am]

BILLING CODE 4910–12–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8817]

RIN 1545–AV70

Notice of Certain Transfers to Foreign Partnerships and Foreign Corporations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations under section 6038B relating to information reporting requirements for certain transfers by United States persons to foreign partnerships. The regulations implement amendments made by the Taxpayer Relief Act of 1997 that require a United States person who transfers property to a foreign partnership to furnish certain information with respect to such transfer. This document also contains final regulations that require certain cash transfers to foreign corporations to be reported. The regulations provide guidance needed to comply with the reporting requirements with respect to transfers of cash to foreign corporations and transfers of property to foreign partnerships.

DATES: *Effective Dates:* These regulations are effective January 1, 1998, except that the amendments to § 1.6038B–1 are effective February 5, 1999.

Dates of Applicability: For dates of applicability of the amendments to § 1.6038B–1, see § 1.6038B–1(g). For dates of applicability of § 1.6038B–2, see § 1.6038B–2(j).

FOR FURTHER INFORMATION CONTACT: Eliana Dolgoff, 202–622–3860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in these final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545–1615. Responses to these collections of information are mandatory.

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 control number.

The collections of information contained in these final regulations are in §§ 1.6038B–1(b) and 1.6038B–2. The burden of complying with the collection of information required to be reported on Form 8865 is reflected in the burden for Form 8865. The burden of complying with the collection of information required to be reported on Form 926 is reflected in the burden for Form 926.

Comments concerning the accuracy of the burden estimates and suggestions for reducing the burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to these collections 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.

Background

On September 9, 1998, the IRS published in the **Federal Register** proposed regulations relating to the reporting of certain transfers to foreign corporations and foreign partnerships under section 6038B. A public hearing was held on November 10, 1998, even though no requests to speak at the hearing were received. Written comments regarding the proposed regulations, however, were received. After consideration of all of the comments received, the proposed regulations under section 6038B are adopted as revised by this Treasury decision. The revisions are discussed below.

Public Comments

Some commentators suggested that the final regulations provide that state and local government employee retirement plans be exempt from the section 6038B reporting requirements, asserting that contributions from such plans to foreign partnerships will not have federal income tax consequences. The final regulations provide that trusts relating to state and local government employee retirement plans are not required to report transfers to foreign partnerships under section 6038B, unless required to do so in the instructions to Form 8865.

One commentator noted that under the proposed regulations, if a United States person transfers property other than cash with a value in excess of $100,000 to a foreign partnership, such person must report the names and addresses of all the other partners of the partnership, regardless of the size of the person's ownership interest in the foreign partnership after the transfer. The commentator requested that the final regulations provide that if a United States person owns less than a 10 percent interest in the foreign partnership after the transfer, regardless of the type of property transferred, such person does not have to report the names and addresses of all the other partners. Alternatively, the commentator requested that it be recognized that a person that makes a good faith effort to obtain such information will have reasonable cause preventing the imposition of any penalties under section 6038B if such person fails to obtain and submit the information.

The final regulations do not adopt the commentator's recommendations. As in the proposed regulations, the final regulations contain a reasonable cause exception that, if satisfied, prevents the IRS from imposing penalties under section 6038B. Whether reasonable cause exists for a failure to comply with the requirements of section 6038B is determined by the district director under all the facts and circumstances. Although the final regulations do not explicitly say so, a failure to submit the names and addresses of the other partners will constitute a failure to comply with the requirements of section 6038B and therefore will always be subject to the reasonable cause exception.

Commentators also questioned whether United States persons must report indirect transfers from a foreign partnership to another foreign partnership. The final regulations reserve on such reporting. If a foreign partnership transfers property to another foreign partnership, a United States person that is a partner of the transferor partnership is not required to report that transfer until such time as the IRS and Treasury implement rules requiring such reporting. However, the IRS remains concerned about transfers from one foreign partnership to another. In conjunction with its study of section 721(c), the IRS is evaluating whether there is a need for the reporting of transfers from foreign partnerships to foreign partnerships.

The final regulations also clarify that if a domestic partnership contributes property to a foreign partnership, the partners of the domestic partnership will be considered to have contributed a proportionate share of the property transferred. Therefore, the partners of the transferor domestic partnership may be required to report under section 6038B transfers made by the transferor partnership. The proposed regulations provide, however, that an indirect transferor does not have to report the contribution on Form 8865 if certain conditions are satisfied, including the filing by the indirect transferor of a statement with the IRS. In an attempt to reduce the burden imposed on taxpayers, the final regulations eliminate the requirement that indirect transferors must file a statement. If the domestic transferor partnership properly reports the transfer of property to a foreign partnership, a United States person that is an indirect transferor need not report the transfer.

The final regulations also modify the reporting requirements with respect to deemed contributions. The proposed regulations provided that if by reason of an adjustment under section 482 a contribution required to be reported under section 6038B is deemed to have been made, the information required to be reported will be furnished timely if filed by the due date (including extensions) of the income tax return for the taxable year during which the adjustment is made. The final regulations provide that deemed contributions resulting from IRS-initiated section 482 adjustments are not required to be reported under section 6038B. However, taxpayers must report deemed contributions resulting from taxpayer-initiated adjustments. Such information will be furnished timely if filed by the due date, including extensions, for filing the taxpayer's income tax return for the year in which the taxpayer makes the section 482 adjustment.

Additionally, the final regulations clarify that a transfer to a foreign partnership made on or after January 1, 1998, but before January 1, 1999, will be considered timely reported either if it is reported on a Form 8865 attached to the taxpayer's income tax return for the first taxable year beginning on or after January 1, 1999, or it is reported on a Form 926 attached to the taxpayer's income tax return for the taxable year in which the transfer occurred.

The final regulations also clarify that transfers that were made between August 5, 1997, and January 1, 1998, may be reported in accordance with the provisions of the final section 6038B regulations or in accordance with Notice 98–17(1998–11 IRB 6).

Special Analyses

It has been determined that this regulation is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It is hereby certified that the collections of information contained in this regulation will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that these final regulations reduce or eliminate the reporting requirements for certain United States persons. Moreover, in general, only a United States person that owns a significant interest in a foreign partnership, or transfers a substantial amount to a foreign partnership, will be subject to these regulations. Thus, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required.

Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of the proposed regulations on small business.

Drafting information. The principal authors of these regulations are Eliana Dolgoff and Philip Tretiak of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding entries in numerical order to read in part as follows:

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

Section 1.6038B–1 also issued under 26 U.S.C. 6038B.

Section 1.6038B–2 also issued under 26 U.S.C. 6038B. * * *

Par. 2. Section 1.6038B–1 is amended as follows:

1. The section heading is revised.
2. Paragraph (b)(1)(i), first sentence, is revised.
3. The text of paragraph (b)(3) is added.
4. Paragraph (c), first sentence, is revised
5. Paragraph (g) is revised.

The additions and revisions read as follows:

§ 1.6038B–1 Reporting of certain transfers to foreign corporations.

* * * * *

(b) *Time and manner of reporting*—(1) *In general*—(i) *Reporting procedure.* Except for stock or securities qualifying under the special reporting rule of paragraph (b)(2) of this section, or cash, which is subject to special rules contained in paragraph (b)(3) of this section, any U.S. person that makes a transfer described in section 6038B(a)(1)(A), 367(d) or (e)(1), is required to report pursuant to section 6038B and the rules of this section and must attach the required information to Form 926, ''Return by Transferor of Property to a Foreign Corporation.'' * * *

* * * * *

(3) *Special rule for transfers of cash.* A U.S. person that transfers cash to a foreign corporation must report the transfer if—

(i) Immediately after the transfer such person holds directly, indirectly, or by attribution (determined under the rules of section 318(a), as modified by section 6038(e)(2)) at least 10 percent of the total voting power or the total value of the foreign corporation; or

(ii) The amount of cash transferred by such person or any related person (determined under section 267(b)(1) through (3) and (10) through (12)) to such foreign corporation during the 12-month period ending on the date of the transfer exceeds $100,000.

* * * * *

(c) *Information required with respect to transfers described in section 6038B(a)(1)(A).* A United States person that transfers property to a foreign corporation in an exchange described in section 6038B(a)(1)(A) (including cash and other unappreciated property) must provide the following information, in paragraphs labeled to correspond with the number or letter set forth in this paragraph (c) and § 1.6038B–1T(c)(1) through (5). * * *

* * * * *

(g) *Effective dates.* This section applies to transfers occurring on or after July 20, 1998, except that the first sentence of paragraph (b)(1)(i), paragraph (b)(3), and the first sentence of paragraph (c) apply to transfers occurring in taxable years beginning after February 5, 1999. See § 1.6038B–1T for transfers occurring prior to July 20, 1998.

Par. 3. Section 1.6038B–2 is added to read as follows:

§ 1.6038B–2 Reporting of certain transfers to foreign partnerships.

(a) *Reporting requirements*—(1) *Requirement to report transfers.* A United States person that transfers property to a foreign partnership in a contribution described in section 721 (including section 721(b)) must report that transfer on Form 8865 ''Information Return of U.S. Persons With Respect to Certain Foreign Partnerships'' pursuant to section 6038B and the rules of this section, if—

(i) Immediately after the transfer, the United States person owns, directly, indirectly, or by attribution, at least a 10-percent interest in the partnership, as defined in section 6038(e)(3)(C) and the regulations thereunder; or

(ii) The value of the property transferred, when added to the value of any other property transferred in a section 721 contribution by such person (or any related person) to such partnership during the 12-month period ending on the date of the transfer, exceeds $100,000.

(2) *Indirect transfer through a domestic partnership*—For purposes of this section, if a domestic partnership transfers property to a foreign partnership in a section 721 transaction, the domestic partnership's partners shall be considered to have transferred a proportionate share of the property to the foreign partnership. However, if the domestic partnership properly reports all of the information required under this section with respect to the contribution, no partner of the transferor partnership, whether direct or indirect (through tiers of partnerships), is also required to report under this section. For illustrations of this rule, see *Examples 4* and *5* of paragraph (a)(7) of this section.

(3) *Indirect transfer through a foreign partnership.* [Reserved]

(4) *Requirement to report dispositions*—(i) *In general.* If a United States person was required to report a transfer to a foreign partnership of appreciated property under paragraph (a)(1) or (2) of this section, and the foreign partnership disposes of the property while such United States person remains a direct or indirect partner, that United States person must report the disposition by filing Form 8865. The form must be attached to, and filed by the due date (including extensions) of, the United States person's income tax return for the year in which the disposition occurred.

(ii) *Disposition of contributed property in nonrecognition transaction.* If a foreign partnership disposes of contributed appreciated property in a nonrecognition transaction and substituted basis property is received in exchange, and the substituted basis property has built-in gain under § 1.704-3(a)(8), the original transferor is not required to report the disposition. However, the transferor must report the disposition of the substituted basis property in the same manner as provided for the contributed property.

(5) *Time for filing Form 8865*—(i) *General rule.* The Form 8865 on which a transfer is reported must be attached to the transferor's timely filed (including extensions) income tax return (including a partnership return of income) for the tax year that includes the date of the transfer.

(ii) *Time for filing when transferor also required to report information about the partnership under section 6038.* If the United States person required to file under this section is also required to file a Form 8865 under section 6038 for the period in which the transfer occurs, then the United States person must report under this section on the Form 8865 for the foreign partnership's annual accounting period in which the transfer occurred (not its own taxable year) and file with its income tax return for that year as provided in Section 6038 and the regulations thereunder.

(6) *Returns to be made*—(i) *Separate returns for each partnership.* If a United States person transfers property reportable under this section to more than one foreign partnership in a taxable year, the United States person must submit a separate Form 8865 for each partnership.

(ii) *Duplicate form to be filed.* If required by the instructions

accompanying Form 8865, a duplicate Form 8865 (including attachments and schedules) must also be filed by the due date for submitting the original Form 8865 under paragraph (a)(5)(i) or (ii) of this section, as applicable.

(7) *Examples.* The application of this paragraph (a) may be illustrated by the following examples:

Example 1. On November 1, 2001, *US*, a United States person that uses the calendar year as its taxable year, contributes $200,000 to *FP*, a foreign partnership, in a transaction subject to section 721. After the contribution, *US* owns a 5% interest in *FP*. *US* must report the contribution by filing Form 8865 for its taxable year ending December 31, 2001. On March 1, 2002, *US* makes a $40,000 section 721 contribution to *FP*, after which *US* owns a 6% interest in *FP*. *US* must report the $40,000 contribution by filing Form 8865 for its taxable year ending December 31, 2002, because the contribution, when added to the value of the other property contributed by *US* to *FP* during the 12-month period ending on the date of the transfer, exceeds $100,000.

Example 2. F, a nonresident alien, is the brother of *US*, a United States person. *F* owns a 15% interest in *FP*, a foreign partnership. *US* contributes $99,000 to *FP*, in exchange for a 1-percent partnership interest. Under sections 6038(e)(3)(C) and 267(c)(2), *US* is considered to own at least a 10-percent interest in *FP* and, therefore, *US* must report the $99,000 contribution under this section.

Example 3. US, a United States person, owns 40 percent of *FC*, a foreign corporation. *FC* owns a 20-percent interest in *FP*, a foreign partnership. Under section 267(c)(1), *US* is considered to own 8 percent of *FP* due to its ownership of *FC*. *US* contributes $50,000 to *FP* in exchange for a 5-percent partnership interest. Immediately after the contribution, *US* is considered to own at least a 10-percent interest in *FP* and, therefore, must report the $50,000 contribution under this section.

Example 4. US, a United States person, owns a 60-percent interest in *USP*, a domestic partnership. On March 1, 2001, *USP* contributes $200,000 to *FP*, a foreign partnership, in exchange for a 5-percent partnership interest. Under paragraph (a)(2) of this section, *US* is considered as having contributed $120,000 to *FP* ($200,000 × 60%). However, under paragraph (a)(2), if *USP* properly reports the contribution to *FP*, *US* is not required to report its $120,000 contribution. If *US* directly contributes $5,000 to *FP* on June 10, 2001, *US* must report the $5,000 contribution because *US* is considered to have contributed more than $100,000 to *FP* in the 12-month period ending on the date of the $5,000 contribution.

Example 5. US, a United States person, owns an 80-percent interest in *USP*, a domestic partnership. *USP* owns an 80-percent interest in *USP1*, a domestic partnership. On March 1, 2001, *USP1* contributes $200,000 to *FP*, a foreign partnership, in exchange for a 3-percent partnership interest. Under paragraph (a)(2) of this section, *USP* is considered to have contributed $160,000 ($200,000 × 80%) to *FP*. *US* is considered to have contributed $128,000 to *FP* ($200,000 × 80% × 80%). However, if *USP*1 reports the transfer of the $200,000 to *FP*, neither *US* nor *USP* are required to report under this section the amounts they are considered to have contributed. Additionally, regardless of whether *USP1* reports the $200,000 contribution, if *USP* reports the $160,000 contribution it is considered to have made, *US* does not have to report under this section the $128,000 contribution *US* is considered to have made.

(b) *Transfers by trusts relating to state and local government employee retirement plans.* Trusts relating to state and local government employee retirement plans are not required to report transfers under this section, unless otherwise specified in the instructions to Form 8865.

(c) *Information required with respect to transfers of property.* With respect to transfers required to be reported under paragraph (a)(1) or (2) of this section, the return must contain information in such form or manner as Form 8865 (and its accompanying instructions) prescribes with respect to reportable events, including—

(1) The name, address, and U.S. taxpayer identification number of the United States person making the transfer;

(2) The name, U.S. taxpayer identification number (if any), and address of the transferee foreign partnership, and the type of entity and country under whose laws the partnership was created or organized;

(3) A general description of the transfer, and of any wider transaction of which it forms a part, including the date of transfer;

(4) The names and addresses of the other partners in the foreign partnership, unless the transfer is solely of cash and the transferor holds less than a 10-percent interest in the transferee foreign partnership immediately after the transfer;

(5) A description of the partnership interest received by the United States person, including a change in partnership interest;

(6) A separate description of each item of contributed property that is appreciated property subject to the allocation rules of section 704(c)(except to the extent that the property is permitted to be aggregated in making allocations under section 704(c)), or is intangible property, including its estimated fair market value and adjusted basis.

(7) A description of other contributed property, not specified in paragraph (c)(6) of this section, aggregated by the following categories (with, in each case, a brief description of the property)—

(i) Stock in trade of the transferor (inventory);

(ii) Tangible property (other than stock in trade) used in a trade or business of the transferor;

(iii) Cash;

(iv) Stock, notes receivable and payable, and other securities; and

(v) Other property.

(d) *Information required with respect to dispositions of property.* In respect of dispositions required to be reported under paragraph (a)(4) of this section, the return must contain information in such form or manner as Form 8865 (and its accompanying instructions) prescribes with respect to reportable events, including—

(1) The date and manner of disposition;

(2) The gain and depreciation recapture amounts, if any, realized by the partnership; and

(3) Any such amounts allocated to the United States person.

(e) *Method of reporting.* Except as otherwise provided on Form 8865, or the accompanying instructions, all amounts reported as required under this section must be expressed in United States currency, with a statement of the exchange rates used. All statements required on or with Form 8865 pursuant to this section must be in the English language.

(f) *Reporting under this section not required of partnerships excluded from the application of subchapter K*—(1) *Election to be wholly excluded.* The reporting requirements of this section will not apply to any United States person in respect of an eligible partnership as described in § 1.761–2(a), if such partnership has validly elected to be excluded from all of the provisions of subchapter K of chapter 1 of the Internal Revenue Code in the manner specified in § 1.761–2(b)(2)(i).

(2) *Deemed excluded.* The reporting requirements of this section will not apply to any United States person in respect of an eligible partnership as described in § 1.761–2(a), if such partnership is validly deemed to have elected to be excluded from all of the provisions of subchapter K of chapter 1 of the Internal Revenue Code in accordance with the provisions of § 1.761–2(b)(2)(ii).

(g) *Deemed contributions.* Deemed contributions resulting from IRS-initiated section 482 adjustments are not required to be reported under section 6038B. However, taxpayers must report deemed contributions resulting from taxpayer-initiated adjustments. Such information will be furnished timely if filed by the due date, including extensions, for filing the taxpayer's

income tax return for the year in which the adjustment is made.

(h) *Failure to comply with reporting requirements*—(1) *Consequences of failure.* If a United States person is required to file a return under paragraph (a) of this section and fails to comply with the reporting requirements of section 6038B and this section, then such person is subject to the following penalties:

(i) The United States person is subject to a penalty equal to 10 percent of the fair market value of the property at the time of the contribution. Such penalty with respect to a particular transfer is limited to $100,000, unless the failure to comply with respect to such transfer was due to intentional disregard.

(ii) The United States person must recognize gain (reduced by the amount of any gain recognized, with respect to that property, by the transferor after the transfer) as if the contributed property had been sold for fair market value at the time of the contribution. Adjustments to the basis of the partnership's assets and any relevant partner's interest as a result of gain being recognized under this provision will be made as though the gain was recognized in the year in which the failure to report was finally determined.

(2) *Failure to comply.* A failure to comply with the requirements of section 6038B includes—

(i) The failure to report at the proper time and in the proper manner any information required to be reported under the rules of this section; and

(ii) The provision of false or inaccurate information in purported compliance with the requirements of this section.

(3) *Reasonable cause exception.* Under section 6038B(c)(2) and this section, the provisions of paragraph (h)(1) of this section will not apply if the transferor shows that a failure to comply was due to reasonable cause and not willful neglect. The transferor may attempt to do so by providing a written statement to the district director having jurisdiction of the taxpayer's return for the year of the transfer, setting forth the reasons for the failure to comply. Whether a failure to comply was due to reasonable cause will be determined by the district director under all the facts and circumstances.

(4) *Statute of limitations.* For exceptions to the limitations on assessment in the event of a failure to provide information under section 6038B, see section 6501(c)(8).

(i) *Definitions*—(1) *Appreciated property.* Appreciated property is property that has a fair market value in excess of basis.

(2) *Domestic partnership.* A domestic partnership is a partnership described in section 7701(a)(4).

(3) *Foreign partnership.* A foreign partnership is a partnership described in section 7701(a)(5).

(4) *Related person.* Persons are related persons if they bear a relationship described in section 267(b)(1) through (3) or (10) through (12), after application of section 267(c) (except for (c)(3)), or in section 707(b)(1)(B).

(5) *Substituted basis property.* Substituted basis property is property described in section 7701(a)(42).

(6) *Taxpayer-initiated adjustment.* A taxpayer-initiated adjustment is a section 482 adjustment that is made by the taxpayer pursuant to § 1.482–1(a)(3).

(7) *United States person.* A United States person is a person described in section 7701(a)(30).

(j) *Effective dates*—(1) *In general.* This section applies to transfers made on or after January 1, 1998. However, for a transfer made on or after January 1, 1998, but before January 1, 1999, the filing requirements of this section may be satisfied by—

(i) Filing a Form 8865 with the taxpayer's income tax return (including a partnership return of income) for the first taxable year beginning on or after January 1, 1999; or

(ii) Filing a Form 926 with the taxpayer's income tax return (including a partnership return of income) for the taxable year in which the transfer occurred.

(2) *Transfers made between August 5, 1997 and January 1, 1998.* A United States person that made a transfer of property between August 5, 1997, and January 1, 1998, that is required to be reported under section 6038B may satisfy its reporting requirement by reporting in accordance with the provisions of this section or in accordance with the provisions of Notice 98–17 (1998–11 IRB 6)(see § 601.601(d)(2) of this chapter).

* * * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 5. In § 602.101, paragraph (c) is amended by adding an entry in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB Control No.
* * * * *	
1.6038B–1	1545–1615
* * * * *	
1.6038B–2	1545–1615

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: January 29, 1999.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 99–2798 Filed 2–4–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–99–002]

Drawbridge Operation Regulation; Missouri River

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the A–S–B Railroad and Hannibal Railroad Drawbridges at Miles 365.6 and 366.1, across the Missouri River, respectively. This deviation allows the bridges to open upon receipt of 48-hour advance notice from 12:01 a.m. on January 17, 1999, to 11:59 p.m. on February 15, 1999. This action will facilitate maintenance work on the bridge.

DATES: The deviation is effective from 12:01 a.m. on January 17, 1999 to 11:59 p.m. on February 15, 1999.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, at Director, Western Rivers Operations (ob), Eighth Coast Guard District, 1222 Spruce Street, St. Louis, MO 63103–2832, telephone number (314) 539–3900, ext. 378.

SUPPLEMENTARY INFORMATION: The A–S–B Railroad Drawbridge is a lift bridge that provides a vertical clearance of 49.7 feet above zero on the Kansas City gauge in the closed-to-navigation position. The Hannibal Railroad Drawbridge is a wing bridge that provides a vertical clearance of 56.0 feet above zero on the Kansas City gauge in the closed-to-navigation position. Navigation on the waterway is a mixture of commercial tows and recreational boats. A temporary deviation has been requested from the

normal operation of the bridge in order to accommodate maintenance work. The work is essential for the continued safe operation of the drawbridges. This change in drawbridge operation has been coordinated with waterway users and no objections to the deviation have been made.

This deviation allows the A–S–B railroad Drawbridge and the Hannibal Drawbridge across the Missouri River at miles 365.6 and 366.1 respectively, at Kansas City, Missouri to remain closed to navigation from 12:01 a.m. on January 17, 1999 until 11:59 p.m. on February 15, 1999, with openings provided upon receipt of 48 hours advance notice.

This deviation will be effective from 12:01 a.m. on January 17, 1999 until 11:59 p.m. on February 15, 1999. During this period, the draw is required to open upon receipt of 24 hours advance notice when drawbridge operation regulations are not amended by a deviation.

Dated: January 17, 1999.

Paul J. Pluta,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 99–2829 Filed 2–4–99; 8:45 am]

BILLING CODE 4910–15–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–245; RM–9202]

Radio Broadcasting Services; St. Marys, WV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Seven Ranges Radio Company, Inc., allots Channel 287A at St. Marys, West Virginia, as the community's second local FM transmission service. *See* 63 FR 193, January 5, 1998. Channel 287A can be allotted to St. Marys in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.8 kilometers (6.7 miles) southeast to avoid a short-spacing to the licensed site of Station WZNW(FM), Channel 288B1, Bethlehem, West Virginia. The coordinates for Channel 287A at St. Marys are 39–18–03 North Latitude and 81–15–19 West Longitude. Since St. Marys is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence by the Canadian government has been obtained. With this action, this proceeding is terminated.

DATES: *Effective:* March 15, 1999. The window period for filing applications for Channel 287A at St. Marys, West Virginia, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–245, adopted January 20, 1999, and released January 29, 1999. 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 contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under West Virginia, is amended by adding Channel 287A at St. Marys.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–2731 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–19; RM–9219]

Radio Broadcasting Services; Smith Mills, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Henry G. Lackey, allots Channel 233A at Smith Mills, Kentucky, as the community's first local aural transmission service. *See* 63 FR 10355, March 3, 1998. Channel 233A can be allotted to Smith Mills in compliance with the Commission's minimum distance separation requirements with a site restriction of 14.2 kilometers (8.9 miles) west to avoid a short-spacing to the licensed site of Station WTRI–FM, Channel 235B, Mount Carmel, Illinois. The coordinates for Channel 233A at Smith Mills are 37–47–26 North Latitude and 87–55–23 West Longitude. With this action, this proceeding is terminated.

DATES: *Effective:* March 15, 1999. The window period for filing applications for Channel 233A at Smith Mills, Kentucky, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–19, adopted January 20, 1999, and released January 29, 1999. 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 contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by adding Smith Mills, Channel 233A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–2730 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–3; RM–9218]

Radio Broadcasting Services; Manson, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Manson Broadcasting, allots Channel 234C3 at Manson, Washington, as the community's first local aural transmission service. *See* 63 FR 4206, January 28, 1998. Channel 234C3 can be allotted to Manson in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 234C3 at Manson are 47–53–18 North Latitude and 120–09–18 West Longitude. Since Manson is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been obtained. With this action, this proceeding is terminated.

DATES: *Effective:* March 15, 1999. The window period for filing applications for Channel 234C3 at Manson, Washington, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–3, adopted January 20, 1999, and released January 29, 1999. 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 contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Washington, is amended by adding Manson, Channel 234C3.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–2729 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–58; RM–9252]

Radio Broadcasting Services; Brewster, MA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 232A to Brewster, Massachusetts, in response to a petition filed by Brewster Broadcast Company. *See* 63 FR 24517, May 4, 1998. The coordinates for Channel 232A at Brewster are 41–46–31 NL and 70–00–38 WL. With this action, this proceeding is terminated. A filing window for Channel 232A at Brewster will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addresed by the Commission in a subsequent order.

DATES: *Effective:* March 15, 1999.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 98–58, adopted January 20, 1999, and released January 29, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 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.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Massachusetts, is adding Brewster, Channel 232A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–2728 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–174; RM–9356]

Radio Broadcasting Services; Spencer & Webster, MA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reallots Channel 255A from Webster to Spencer, Massachusetts, and modifies the license for Station WXXW at Webster to specify operation on Channel 255A at Spencer, in response to a petition filed by Chowder Broadcast Group LLC. See 63 FR 53009, October 2, 1998. The coordinates for Channel 255A at Spencer are 42–11–00 and 72–02–30. Canadian concurrence has been obtained for the allotment of Channel 255A at Spencer, Massachusetts. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 15, 1999.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 98–174, adopted January 20, 1999, and released January 29, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 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.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Massachusetts, is amended by removing Webster and Channel 255A and adding Spencer and Channel 255A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–2759 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–104, RM–9048]

Radio Broadcasting Services; Wellington, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document dismisses a Petition for Reconsideration filed by Hunt Broadcasting, Inc. directed to the *Report and Order* in this proceeding. The *Report and Order* had determined that a counterproposal filed by Hunt Broadcasting proposing the modification of its Station KIKM license to specify operation on Channel 269C at Azle, Texas, was unacceptable. See 63 FR 11379, published March 9, 1995. With this action the proceeding is terminated.

EFFECTIVE DATE: February 5, 1999.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order in MM Docket No. 97–104, adopted December 2, 1998, and released January 8, 1999. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3805, 1231 M Street, NW, 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. 99–2760 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 981222313–8320–02; I.D. 020199A]

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish by Vessels Using Non-pelagic Trawl Gear in the Red King Crab Savings Subarea

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

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for groundfish with non-pelagic trawl gear in the red king crab savings subarea (RKCSS) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to utilize the amount of the interim 1999 red king crab bycatch limit specified for the RKCSS.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 1, 1999, until superseded by the Final 1999 Harvest Specification for Groundfish, which will be published in the **Federal Register**.

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

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

The amount of the interim 1999 red king crab bycatch limit specified for the RKCSS was established as 10,000 animals by the Interim 1999 Harvest Specifications of Groundfish (64 FR 50, January 4, 1999). The directed fishery for groundfish with non-pelagic trawl gear was closed effective 1200 hrs, A.l.t. January 25, 1999 in accordance with § 679.21(e)(7)(ii)(B)(64 FR 4602, January 29, 1999) because it was expected that the interim 1999 red king crab bycatch limit specified for the RKCSS would be caught.

NMFS has determined that as of January 25, 1999, 3,000 red king crab remain in the interim 1999 red king crab bycatch limit specified for the RKCSS. Therefore, NMFS is terminating the previous closure and is opening directed fishing for groundfish with non-pelagic trawl gear in the RKCSS.

Classification

All other closures remain in full force and effect. This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to allow full utilization of the amount of the interim 1999 red king crab bycatch limit specified for the RKCSS remaining. Providing prior notice and opportunity for public comment for this action is impracticable and contrary to the public interest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under E.O. 12866.

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

Dated: February 1, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–2691 Filed 2–1–99; 3:43 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register

Vol. 64, No. 24

Friday, February 5, 1999

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

Medical Use of Byproduct Material; Workshop

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of workshop.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is continuing the process of developing a proposed revision of its regulations governing the medical use of byproduct material in 10 CFR part 35, ''Medical Use of Byproduct Material.'' Throughout the development of the proposed rule the Commission solicited input from the various interests that may be affected by these proposed revisions. The proposed rule was published in the **Federal Register** on August 13, 1998 (63 FR 43516), for a 90-day comment period, which was later reopened to December 16, 1998. During the public comment period, several public meetings were held to discuss major issues, such as training and experience requirements, that are being addressed during the rulemaking. The Commission is now soliciting specific information on the implementation issues associated with the proposed revisions to the training and experience requirements. To that end, a public workshop is being convened to obtain comments and recommendations on implementation issues from affected parties. Francis X. Cameron, Special Counsel for Public Liaison, in the Commission's Office of the General Counsel, will be the convener and facilitator for the workshops.

DATES: The workshop will be held on February 17, 1999, from 9 a.m. to 4:30 p.m. and on February 18, 1999, from 9 a.m. to 12 noon.

ADDRESSES: This workshop will be held at the NRC Headquarters Office, 11555 Rockville Pike, Rockville, Maryland

Members of the public who are unable to attend the workshop can send comments to Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff.

FOR FURTHER INFORMATION CONTACT: Francis X. Cameron, Special Counsel for Public Liaison, Office of the General Counsel, U. S. Nuclear Regulatory Commission, Washington DC 20555, Telephone: 301–415–1642, e-mail fxc@nrc.gov.

SUPPLEMENTARY INFORMATION: After a comprehensive review of its medical use program, the Commission directed the staff to revise 10 CFR part 35, associated guidance documents, and, if necessary, the Commission's 1979 Medical Policy Statement (Staff Requirements Memorandum (SRM)—COMSECY–96–057, ''Materials/Medical Oversight'' (DSI–7), dated March 20, 1997). The Commission specifically directed the restructuring of Part 35 into a risk-informed, more performance-based regulation by June 1999. The revision is intended to:

(1) Focus the regulations on those medical procedures that pose the highest risk, from a radiation safety aspect, with a subsequent decrease in the oversight of low-risk activities;

(2) Focus on those requirements that are essential for patient safety;

(3) Initiate improvements in NRC's medical program, by implementing recommendations from internal staff audits, other rulemaking activities, and results of analyses in medical issues papers;

(4) Incorporate regulatory requirements for new treatment modalities; and

(5) Reference, as appropriate, available industry guidance and standards.

The program for revising part 35, associated guidance documents, and the Medical Policy Statement has provided more opportunity for input from potentially affected parties (the medical community and the public) than is provided by the typical notice and comment rulemaking process. Based on the worthwhile public input received earlier in the rulemaking process, the Commission is now soliciting additional comments on implementation issues associated with the proposed revisions to the training and experience requirements. The proposed training and experience requirements appear in subparts B, D–F, and H, and Appendix A of the proposed rulemaking (63 FR 43516; August 13, 1998). The Commission is specifically interested in information on the process and criteria for approving boards and examining organizations or entities. Such information includes how the boards would implement the training and experience requirements; how the boards would implement the requirements in Appendix A for examining organizations and entities; and what are the resource implications of these proposed actions? Accordingly, the Commission is convening a public workshop where representatives of the interests that may be affected by the proposed changes in the training and experience requirements will have an opportunity to discuss implementation of these requirements. Although the meeting is intended to foster a clearer understanding of the positions and concerns of the affected interests, as well as to identify areas of agreement or disagreement, it is not the intent of the meeting to develop a consensus agreement of the participants on the rulemaking issues.

To have a manageable discussion, the number of participants at the workshop will be limited. The Commission, through the facilitator for the meeting, will attempt to ensure participation by the broad spectrum of interests that may be affected by the rulemaking. Other members of the public are welcome to attend, and the public will have the opportunity to comment on the issues and the meeting discussions at periodic intervals during the workshop. Questions about participation may be directed to the facilitator, Francis X. Cameron. The agenda for the workshop will focus on:

(1) The impact, on the medical community, of the proposed revisions to the training and experience criteria; and

(2) The process and criteria used by NRC to approve certifying boards and examining organizations.

Dated at Rockville, Maryland this 28th day of January, 1999.

For the Nuclear Regulatory Commission.

Donald A. Cool,

Director, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–2749 Filed 2–4–99; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 275 and 279

[Release No. IA–1787; File No. S7–2–99]

RIN 3235–AH60

Transition Rule for Ohio Investment Advisers

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission (''Commission'') is publishing for comment a proposed rule under the Investment Advisers Act of 1940 to assist investment advisers that will be subject to a new Ohio investment adviser statute. The proposed rule would provide a transition process for these investment advisers to change from Commission to state registration.

DATES: Comments must be received on or before March 8, 1999.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Stop 6–9, Washington, D.C. 20549. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–2–99; this file number should be included on the subject line if E-mail is used. Comment letters will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W. Washington, D.C. 20549. Electronically submitted comment letters also will be posted on the Commission's Internet web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: Jeffrey O. Himstreet, Attorney, or Arthur B. Laby, Special Counsel, at (202) 942–0716, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 5–6, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is publishing for comment proposed rule 203A–6 [17 CFR 275.203A–6] and a proposed amendment to Schedule I of Form ADV [17 CFR 279.1], both under the Investment Advisers Act of 1940 [15 U.S.C. 80b] (''Advisers Act'' or ''Act'').

I. Background

Under the Advisers Act, as amended by the Investment Advisers Supervision Coordination Act (''Coordination Act''),[1] the Commission has regulatory responsibility for investment advisers that have at least $25 million of assets under management or advise a registered investment company.[2] The Commission also has regulatory responsibility for advisers that have less than $25 million of assets under management and have their principal place of business in a state that has not enacted an investment adviser statute.[3] At the time the Coordination Act was adopted, Ohio was one of four states that did not have an investment adviser statute.[4] Recently, Ohio enacted investment adviser legislation that will become effective by March 31, 1999.[5]

The Commissioner of the Ohio Division of Securities has requested that we create a transition process to assist in the implementation of the Ohio law.[6] The transition process would primarily affect investment advisers that have their principal place of business in Ohio and are eligible for Commission registration only because of the location of their principal office and place of business (''smaller Ohio advisers''). Absent a transition rule, the preemptive provisions of the Coordination Act would prevent the Ohio Division of Securities (and other state securities authorities) from requiring the registration of smaller Ohio advisers until the advisers withdrew from Commission registration or we canceled their registrations.[7] To assist the Ohio Division of Securities and to facilitate the transition of regulatory responsibilities for smaller Ohio advisers, we are proposing for public comment new rule 203A–6.

II. Discussion

Under the proposed rule, new Ohio advisers (i.e., those advisers that are not currently registered with the Commission) that would not be eligible for Commission registration would register with the Ohio Division of Securities on or after the effective date of Ohio's implementing rules.[8] Smaller Ohio advisers that are currently registered with the Commission would switch over to registration with the Ohio Division of Securities during a one year transition period.[9] These advisers could withdraw their Commission registration at the time they register with the Ohio Division of Securities, or by the end of the transition period.[10]

With the enactment of the Ohio law, smaller Ohio advisers may no longer rely on the location of their principal office and place of business as a basis for Commission registration. The Commission therefore is proposing to amend Schedule I by deleting the references to Ohio from both Schedule I and the Instructions to Schedule I. As a result of the proposed amendments to Schedule I, advisers would no longer be able to claim eligibility for Commission registration based on the location of their principal office and place of business in Ohio and must withdraw from Commission registration, unless otherwise eligible.[11] The amendments to Schedule I would become effective on December 31, 1999.

III. General Request for Comment

Any interested persons wishing to submit written comments on the proposed rule and form changes that are the subject of this release, to suggest additional changes or submit comments on other matters that might have an effect on the proposals described above, are requested to do so. Commenters

[1] Title III of the National Securities Markets Improvement Act of 1996, Pub. L. No. 104–290, 110 Stat. 3416 (1996) (codified in scattered sections of the United States Code).

[2] *Id.*

[3] *See* Rules Implementing Amendments to the Investment Advisers Act of 1940, Investment Advisers Act Release No. 1633 (May 15, 1997) [62 FR 28112 (May 22, 1997)] at II.E.1 (''Implementing Release'').

[4] Colorado, Iowa and Wyoming also did not have investment adviser statutes at the time Congress enacted the Coordination Act. The Commission recently amended Schedule I to Form ADV necessitated by the enactment of investment adviser statutes in both Colorado and Iowa. Technical Changes to Schedule I to Form ADV, Investment Advisers Act Release No. 1733A (Jan. 7, 1999).

[5] H.B. 695, 122d Gen. Ass., Reg. Sess. (Ohio 1997–1998).

[6] *See* Letter from Thomas E. Geyer, Commissioner, Ohio Division of Securities, dated September 25, 1998 (available in File No. S7–2–99).

[7] Section 203A(b) of the Act [15 U.S.C. 80b–3a(b)] preempts state laws that would require the registration, qualification and licensing of investment advisers registered with the Commission. *See* Implementing Release, *supra* note 3 at II.H.1.

[8] The Ohio Division of Securities estimates that its implementing rules would be effective by March 31, 1999.

[9] In addition, advisers ineligible for Commission registration may be required to register with other state securities authorities. *See* Section 222(d) of the Advisers Act [15 U.S.C. 80b–22(d)] (the national de minimis standard). The timing of an investment adviser's state registration obligations would be governed by state law.

[10] Proposed rule 203A–6(b). We recognize that Ohio investment advisers may be registered with, and regulated by, both the Ohio Division of Securities and the Commission until the advisers withdraw from Commission registration. During this time, Ohio investment advisers may be subject to both federal and state regulatory requirements. Ohio investment advisers no longer eligible for Commission registration may withdraw from Commission registration at any time and thus avoid dual regulation.

[11] The Commission is proposing to require smaller Ohio advisers to withdraw from Commission registration by March 30, 2000. Proposed rule 203A–6(b).

suggesting alternative approaches are encouraged to submit proposed rule text.

For purposes of making determinations required by the Small Business Regulatory Enforcement Fairness Act of 1996, discussed below, the Commission also is requesting information regarding the potential impact of the proposed rule and Schedule I amendment on the economy on an annual basis. Commenters should provide empirical data to support their views.

IV. Cost-Benefit Analysis

The proposed rule and form amendment are designed to facilitate the transition of certain advisers from Commission to state registration. This transition would further implement congressional intent to reallocate regulatory responsibilities for investment advisers between the Commission and state securities authorities.

Proposed rule 203A–6 would not have a significant effect on the regulatory burden borne by investment advisers. The Coordination Act imposes certain costs on advisers as a consequence of no longer being registered with the Commission, and, at the same time, confers benefits on these advisers, such as no longer requiring them to file amendments to Form ADV with the Commission. The proposed rule does not alter these burdens and benefits, but merely establishes a time by which advisers are required to switch registrations from the Commission to the Ohio Division of Securities.[12] Advisers may withdraw from Commission registration at any time and avoid any potential burdens associated with the proposed rule.

Comment is requested on any costs that may be imposed by the proposed rule and form amendment. Commenters should submit data indicating the cost of filing Schedule I to Form ADV and Form ADV–W. Commenters also should submit data on the expected effects of the proposed rule and form amendment on the customers of investment advisers (such as the amount of fees paid).

Comment is requested on this cost-benefit analysis. Commenters are requested to provide views and empirical data relating to any costs and benefits associated with the proposed rule and form amendment.

[12] Under current rules, advisers that are no longer eligible for Commission registration under section 203A(a) of the Act [15 U.S.C. 80b–3a(a)] must withdraw from registration within 90 days after the date the adviser is required by rule 204–1(a) [17 CFR 275.204–1(a)]. *See* 17 CFR 279.1 (Schedule I, instruction 6).

V. Paperwork Reduction Act

The proposed amendments to Schedule I to Form ADV contains a ''collection of information'' within the meaning of the Paperwork Reduction Act of 1995 [44 U.S.C. 3501 to 3520], and the Commission has submitted them to the Office of Management and Budget in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The title for the collection of information is ''Schedule I to Form ADV,'' under the Advisers Act. Schedule I to Form ADV contains a currently approved collection of information under OMB control number 3235–0490. An agency may not sponsor, conduct, or require response to an information collection unless a currently valid OMB control number is displayed.

Each investment adviser must declare on Schedule I to Form ADV whether it is eligible for Commission registration. The rules imposing this collection of information are found at 17 CFR 275.203–1 and 17 CFR 279.1. Rule 204–1 [17 CFR 275.204–1] requires an investment adviser registered with the Commission to file an amended Schedule I to Form ADV annually within 90 days after the end of the investment adviser's fiscal year. The Commission is proposing amendments to Schedule I only, and not to Form ADV. The burdens associated with this filing are the same as the burdens Form ADV–W imposes on all advisers withdrawing from registration. The proposed withdrawal procedures impose no additional paperwork burdens on advisers. The rule would create a March 30, 2000 deadline by which smaller Ohio advisers must withdraw from Commission registration. Additionally, smaller Ohio advisers may withdraw from Commission registration at any time prior to March 30, 2000 and not be subject to the proposed rule.

Approximately 899 investment advisers with their principal office in Ohio that are registered with the Commission would respond annually to the information requirements of Schedule I. In addition, an estimated 760 new advisers will file Schedule I to Form ADV annually, approximately 83 of which are estimated to have their principal office in Ohio. Of these 83 advisers, an estimated 72 will file Schedule I to Form ADV an average of once a year, and the remaining 11 that rely on the exemption provided by rule 203A–2(d) [17 CFR 275.203A–d] will file Schedule I to Form ADV an average of twice each year. The Commission would receive an estimated 993 total responses from investment advisers with their principal office in Ohio.

The proposed form amendment will not materially alter the number of burden hours for investment advisers with their principal office in Ohio. An estimated 889 advisers with their principal office in Ohio (90.5% of respondents, excluding the estimated ten advisers nationwide expected to rely on the multi-state exemption) either do not need to calculate assets under management to complete Schedule I or calculate assets under management as part of their normal business operations. The burden for these advisers would be 0.75 of an hour (unchanged from previous estimate). For the estimated 93 investment advisers with their principal office in Ohio that must calculate assets under management to complete Schedule I (9.5% of respondents, excluding the estimated ten advisers nationwide expected to rely on the multi-state exemption provided by rule 203A–2(e) [17 CFR 275.203A–2(e)]), compliance with the requirement to file an amended Schedule I would impose a total annual burden for each investment adviser of approximately two hours (unchanged from previous estimate). Schedule I to Form ADV therefore is estimated to impose 852.75 total burden hours on advisers with their principal office in Ohio. This estimate would likely remain constant absent the proposed rule and form amendment.

The collection of information required by Schedule I is mandatory, and responses are not kept confidential.

Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments to (i) evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collections of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Persons desiring to submit comments on the collection of information requirements should direct them to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, D.C. 20503, and also should send a copy of their comments to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Stop

6–9, Washington, D.C. 20549 with reference to File No. S7–2–99. OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

VI. Summary of Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis (''IRFA'') in accordance with 5 U.S.C. 603 regarding proposed rule 203A–6 and amendment to Schedule I to Form ADV. The following summarizes the IRFA.

The IRFA sets forth the statutory authority for the proposed rule and amendment to Schedule I. The IRFA also discusses the effect of the proposed rule and form amendment on small entities. For the purposes of the Advisers Act and the Regulatory Flexibility Act, an investment adviser, under Commission rules, generally is a small entity if (i) it has assets under management of $25 million or less reported on its most recent Schedule I to Form ADV [17 CFR 279.1]; (ii) it does not have total assets of $5 million or more on the last day of the most recent fiscal year; and (iii) it is not in a control relationship with another investment adviser that is not a small entity.[13]

The Commission estimates that approximately 1,000 Commission-registered advisers are small entities. Approximately 540 of these small entities have their principal office in Ohio. As explained in the IRFA, the majority of these advisers are smaller Ohio advisers that will be required by the Coordination Act to withdraw from Commission registration and register with the various state securities authorities. Absent Commission rulemaking, the Coordination Act will require smaller Ohio advisers to withdraw from Commission registration after the Ohio law is effective. Relatively few small entities thus would be affected by the proposed rule.

The IRFA states that the proposed rule amendments would impose no new reporting or recordkeeping requirements and would eliminate certain other requirements. The proposed rule would, however, create a deadline for complying with an existing requirement. Smaller Ohio advisers no longer eligible for Commission registration would be required to withdraw from Commission registration by March 30, 2000. These advisers will no longer be required to file an amended Schedule I with the Commission each year, or the other annual updates to Form ADV.

The proposed rule and rule amendment will not materially alter the time required for investment advisers to comply with these rules.[14] The proposed rule and form amendment also are necessary to implement the Coordination Act with respect to smaller Ohio advisers. The IRFA states that the burden to investment advisers subject to the rule should be outweighed by the benefits to the investment advisers subject to the proposed rule and form amendment.

There are no rules that duplicate, overlap, or conflict with, the proposed rule amendments.

The IRFA discusses the various alternatives considered by the Commission in connection with the proposed rule and form amendment that might minimize the effect on small entities, including (a) the establishment of differing compliance or reporting requirements or timetables that take into account resources available to small entities; (b) the clarification, consolidation, or simplification of compliance and reporting requirements under the proposed rule for small entities; (c) the use of performance rather than design standards; and (d) an exemption from coverage of the proposed rule, or any part of the proposed rule, for small entities.

As stated in the IRFA, it would be inconsistent with the Coordination Act to exempt small entities from the proposed rule and form amendment. This determination was made after taking into account the resources available to small entities and the potential burden that could be placed on investment advisers that may no longer be eligible for Commission registration. It does not appear feasible to establish different reporting or compliance requirements or to further clarify, consolidate or simplify the reporting or compliance requirements. The proposed rule and form amendment, as proposed, would not adversely affect small entities. The proposed rule and form amendment, instead, include regulatory alternatives that minimize the effect on small entities.

The IRFA includes information concerning the solicitation of comments with respect to the IRFA generally, and in particular, the number of small entities that would be affected by the proposed rule and form amendment. A copy of the IRFA may be obtained by contacting Jeffrey O. Himstreet, Securities and Exchange Commission, 450 5th Street, N.W., Mail Stop 5–6, Washington, D.C. 20549.

VII. Statutory Authority

The Commission is proposing new rule 203A–6 pursuant to the authority set forth in section 203(h) [15 U.S.C. 80b–3(h)]; section 203A(c) [15 U.S.C. 80b–3a(c)]; and section 211(a) [15 U.S.C. 80b–11(a)] of the Investment Advisers Act of 1940.

The Commission is proposing amendments to Form ADV pursuant to the authority set forth in section 203(c)(1) [15 U.S.C. 80b–3(c)(1)]; and section 204 [15 U.S.C. 80b–4] of the Investment Advisers Act of 1940.

Text of Proposed Rule and Form Amendments

List of Subjects in 17 CFR Parts 275 and 279

Reporting and recordkeeping requirements; Securities.

For the reasons discussed in the preamble, the Commission proposes to amend Title 17, Chapter II of the Code of Regulations as follows:

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

1. The authority citation for Part 275 continues to read in part as follows:

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

* * * * *

2. Section 275.203A–6 is added to read as follows:

§ 275.203A–6 Transition period for Ohio investment advisers.

(a) *Ohio authority.* Notwithstanding section 203A(b) of the Act [15 U.S.C. 80b–3a(b)], the Ohio Revised Code, sections 1707.01 to 1707.99, is effective with respect to an investment adviser registered with the Commission that, but for having its principal office and place of business in Ohio, would be prohibited from registering with the Commission under section 203A of the Act [15 U.S.C. 80b–3a].

(b) *Withdrawal required.* Every investment adviser that is registered with the Commission solely because its principal office and place of business is located in Ohio must withdraw from Commission registration by March 30, 2000.

[13] Rule 0–7 [17 CFR 275.0–7].

[14] Currently, investment advisers that are required to withdraw from Commission registration because they are no longer eligible under section 203A(a) of the Act [15 U.S.C. 80b–3a(a)] are required to withdraw from registration within 90 days after the date the adviser's Schedule I was required by rule 204–1(a) [17 CFR 275.204–1(a)] to have been filed with the Commission. *See* Schedule I, instruction 6 [17 CFR 279.1].

PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940

3. The authority citation for Part 279 continues to read as follows:

Authority: The Investment Advisers Act of 1940, 15 U.S.C. 80b–1, *et seq.*

4. By amending Schedule I to Form ADV (referenced in § 279.1) to remove all references to ''Ohio'' and by amending the Instructions to Schedule I to Form ADV (referenced in § 279.1) to remove all references to ''Ohio''.

Note: The text of Schedule I to Form ADV [§ 279.1] does not and the amendments will not appear in the Code of Federal Regulations.

Dated: January 29, 1999.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–2703 Filed 2–4–99; 8:45 am]

BILLING CODE 8010–01–U

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 655 and 656

RIN 1215–AB09

Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H–1B Visas in Speciality Occupations and as Fashion Models; Labor Certification Process for Permanent Employment of Aliens in the United States

AGENCY: Employment and Training Administration, Labor, in concurrence with the Wage and Hour Division, Employment Standards Administration, Labor.

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

SUMMARY: This document extends the period for filing comments regarding a proposed rule to implement recent legislation and clarify existing Departmental rules relating to the temporary employment in the United States of nonimmigrants under H–1B visas (20 CFR part 655), and provides an opportunity for additional comments to implement an ACWIA provision which modifies the methodology for the determination of the prevailing wage under the Permanent Labor Certification program (20 CFR part 656).

DATES: Comments must be received on or before February 19, 1999.

ADDRESSES: Submit written comments concerning Part 655 to Deputy Administrator, Wage and Hour Division, ATTN: Immigration Team, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW, Washington, DC 20210. If you want to receive notification that we received your comments, you should include a self-addressed stamped post card. You may submit your comments by facsimile (''FAX'') machine to (202) 693–1432. This is not a toll free number.

Submit written comments concerning Part 656 to the Assistant Secretary for Employment and Training, ATTN: Division of Foreign Labor Certifications, U.S. Employment Service, Employment and Training Administration, Department of Labor, Room N–4456, 200 Constitution Avenue, NW, Washington, DC 20210. If you want to receive notification that we received your comments, you should include a self-addressed stamped post card. You may submit your comments by facsimile (''FAX'') machine to (202) 208–5844. This is not a toll-free number.

FOR FURTHER INFORMATION CONTACT: On part 655, contact either of the following:

Michael Ginley, Director, Office of Enforcement Policy, Wage and Hour Division, Employment Standards Administration, Department of Labor, Room S–3510, 200 Constitution Avenue, NW, Washington, DC 20210. Telephone: (202) 693–0745 (this is not a toll-free number).

James Norris, Chief, Division of Foreign Labor Certifications, U.S. Employment Service, Employment and Training Administration, Department of Labor, Room N–4456, 200 Constitution Avenue, NW, Washington, DC 20210. Telephone: (202) 219–5263 (this is not a toll-free number).

On Part 656, contact James Norris, Chief, Division of Foreign Labor Certifications, U.S. Employment Service, Employment and Training Administration, Department of Labor, Room N–4456, 200 Constitution Avenue, NW, Washington, DC 20210. Telephone: (202) 219–5263 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 5, 1999 (64 FR 628), the Department of Labor published a proposed rule intended to revise 20 CFR parts 655 and 656 which concern Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H–1B Visas in Specialty Occupations and as Fashion Models, and the Labor Certification Process for Permanent Employment of Aliens in the United States.

Specifically, the Department published this notice of proposed rulemaking to obtain public comment on issues to be addressed in regulations to implement changes made to the Immigration and Nationality Act (INA) by the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA). In addition, the Department is providing an opportunity for additional comments on certain provisions which were previously published for comment as a Proposed Rule in 1995 (60 FR 55339).

The Department also proposed to modify regulations to implement an ACWIA provision which modifies the methodology for the determination of the prevailing wage under the Permanent Labor Certification program (20 CFR part 656). This methodology is also applicable to prevailing wages for the H–1B program. After receiving public comments on this notice of proposed rulemaking, the Department plans to publish an Interim Final Rule (inviting further comment) and a Final Rule (after reviewing all the comments received).

Because of the continuing interest in this proposal, the agency believes that it is desirable to extend the comment period for all interested persons. Therefore, the comment period for the proposed rule, revising 20 CFR parts 655 and 656, is extended to February 19, 1999.

Signed at Washington, DC, this 2nd day of February, 1999.

Raymond J. Uhalde,

Deputy Assistant Secretary for Employment and Training, Employment and Training Administration.

John R. Fraser,

Deputy Administrator, Wage and Hour Division, Employment Standards Administration.

[FR Doc. 99–2747 Filed 2–4–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Parts 50 and 51

[Public Notice 2961]

Nationality Procedures—Report of Birth Regulation; Passport Procedures—Revocation or Restriction of Passports Regulation

AGENCY: Bureau of Consular Affairs, State.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend regulations to add new grounds for denying, revoking or canceling a passport, and for canceling a Consular Report of Birth. The proposed rule

would authorize the cancellation of a Consular Report of Birth, or a certification thereof, if it appears that such document was illegally, fraudulently, or erroneously obtained, or was created through illegality or fraud. It also would amend the existing regulation to authorize the cancellation of a United States passport when a person has obtained a United States passport illegally or erroneously, or when the Department of State has been notified that a naturalized person whose order of admission to citizenship and certificate of naturalization, on the basis of which the passport was issued, have been canceled or set aside as the result of a judicial denaturalization procedure.

The proposed rule also amends regulations to replace the procedures for appeal of adverse passport action. Other agency regulations contain provisions for the organization and operation of the Board of Appellate Appeal of the Department of State. Under the proposed rule, the Board of Appellate Review would no longer have jurisdiction to consider appeals from adverse passport actions. The decision of the Deputy Assistant Secretary of State for Passport Services would be final.

DATES: Written comments must be received no later than March 8, 1999.

ADDRESSES: Written comments should be addressed to: Chief, Legal Division, Office of Passport Policy, Planning and Advisory Services, 1111 19th Street, N.W., Suite 260, Washington, D.C. 20524.

FOR FURTHER INFORMATION CONTACT: Sharon Palmer-Royston, Office of Passport Policy and Advisory Services, Bureau of Consular Affairs, Department of State (202) 955–0231.

SUPPLEMENTARY INFORMATION: A passport when issued for its full validity period and a ''Report of Birth Abroad of a Citizen of the United States'', issued by a consular officer to document a citizen born abroad, are documents established as proof of United States citizenship by the provisions of section 33 of the Department of State Basic Authorities Act of 1956, as amended (22 U.S.C. 2705). 8 U.S.C. 1504 (108 Stat. 4309, October 25, 1994) authorizes the Secretary of State to cancel either of these documents if it appears that they were obtained illegally, fraudulently or erroneously. The proposed rule would amend the regulations to provide for a post-cancellation hearing when a Consular Report of Birth, or certification thereof, is canceled. The provisions of 22 CFR 51.75 already provide for notification in writing of the reasons for the revocation and of the procedures for review to any person who is the subject of a passport cancellation and revocation on the grounds, among others, that the passport was obtained illegally, fraudulently or erroneously. Procedures for review include a hearing available under subsections 51.80 through 51.89 of the passport regulations in 22 CFR part 51. Such a hearing concerns only the extent to which the passport was illegally, fraudulently or erroneously obtained and not the citizenship status of the person in whose name the document was issued.

A district court of the United States may denaturalize an individual in a judicial proceeding on the grounds that such order and certificate of naturalization were illegally procured or were procured by concealment of a material fact or by willful misrepresentation. Any person who is the subject of a passport revocation due to judicial denaturalization, *i.e.*, by reason of noncitizenship, is not entitled to a hearing by the Department of State, pursuant to the provisions in 22 CFR 51.80(a).

The Board of Appellate Review of the Department of State has had jurisdiction to consider appeals from decisions of the Office of Passport Services that constitute adverse action affecting a passport: denial, revocation, or limitation. This jurisdiction has been infrequently utilized, and an adverse action can be reviewed fairly and efficiently without the same kind of administrative hearing that the Board conducts in loss of nationality cases. Changes in the applicable laws, their interpretation, and practice thereunder now make it even more unlikely that administrative appeals will be taken. Accordingly, 22 CFR Part 7 is being amended to eliminate this particular administrative appeal jurisdiction. This amendment to 22 CFR part 51, subpart F, reflects that change and replaces an appeal with a request for reconsideration.

In current practice, the most common adverse passport action is denial or revocation based upon grounds set forth in 22 CFR section 51.70(a), such as being subject to a Federal warrant of arrest or being under court ordered restraint. In these cases, the Board of Appellate Review or other appellate body within the Department of State has no authority to affect the underlying ground for adverse passport action, so that this rule would result in no change in existing practice. Similarly, passport denial or revocation as set forth in 22 CFR subsection 51.70(b)(4), the Secretary of State's determination that activities of the affected national abroad are causing or are likely to cause serious damage to the national security or the foreign policy of the United States, has not been delegated by the Secretary and is not subject to subordinate review.

Accordingly, the findings of fact and recommendations resulting from a hearing before a hearing officer are proposed to be referred to the Deputy Assistant Secretary for Passport Services for decision instead of to the Assistant Secretary for Consular Affairs. The rule would permit the adversely affected person to request reconsideration by the Deputy Assistant Secretary, but the initial decision or the decision based upon request for reconsideration, as the case may be, is final.

The rule would also amend 22 CFR section 51.84 to substitute a more general statement of legal qualifications for representatives for the current reference to the qualification set by the Board of Appellate Review.

Finally, the rule would make clear that nothing in revised 22 CFR section 51.89 bars an adversely affected person from submitting a new passport application as provided for in 22 CFR part 51, subparts B through D.

These proposed changes to the regulations are hereby certified as not expected to have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 605(b). In addition, they will not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C., Chapter 35. Nor do these rules have federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12988. These rules are exempt from review under E.O. 12988 but have been reviewed and found to be consistent with its objectives.

List of Subjects

22 CFR Part 50

Citizenship and Naturalization

22 CFR Part 51

Administrative practice and procedure, Drug traffic control, Passports and visas, Reporting and recordkeeping requirements.

Accordingly, 22 CFR Parts 50 and 51 are proposed to be amended as follows:

PART 50—NATIONALITY PROCEDURES

1. The authority citation for Part 50 is revised to read as follows:

Authority: 22 U.S.C. 2651a; 8 U.S.C. 1104, 1502, 1503 and 1504.

2. Section 50.7 is amended by adding a new paragraph (d) as follows:

§ 50.7 Consular Report of Birth Abroad of a Citizen of the United States of America.

* * * * *

(d) A consular report of birth, or a certification thereof, may be canceled if it appears that such document was illegally, fraudulently, or erroneously obtained, or was created through illegality or fraud. The cancellation under this paragraph of such a document purporting to show the citizenship status of the person to whom it was issued shall affect only the document and not the citizenship status of the person in whose name the document was issued. A person for or to whom such document has been issued or made shall be given at such person's last known address, written notice of the cancellation of such document, together with the specific reasons for the cancellation and the procedures for review available under the provisions in 22 CFR 51.81 through 51.89.

PART 51—PASSPORTS

1. The authority citation for Part 51 is revised to read as follows:

Authority: 22 U.S.C. 211a; 22 U.S.C. 2651a, 2671(d)(3), 2714 and 3926; 31 U.S.C. 9701; E.O. 11295, 3 CFR, 1966–1970 Comp., p 570; sec. 129, Pub. L. 102–138, 105 Stat. 661; 8 U.S.C. 1504.

2. Section 51.72 is amended by revising paragraph (b) and adding paragraph (c) as follows:

§ 51.72 Revocation or restriction of passports.

* * * * *

(b) The passport has been obtained illegally, by fraud, or has been fraudulently altered, or has been fraudulently misused, or has been issued in error; or

(c) The Department of State is notified that a certificate of naturalization issued to the applicant for or bearer of the passport has been canceled by a federal court.

3. Section 51.80 is revised to read as follows:

§ 51.80 Applicability of §§ 51.81 through 51.89.

(a) The provisions of §§ 51.81 through 51.89 apply to any action of the Secretary taken on an individual basis in denying, restricting, revoking or invalidating a passport or a Consular Report of Birth, or in any other way adversely affecting the ability of a person to receive or use a passport except action taken by reason of:

(1) Noncitizenship,

(2) Refusal under the provisions of § 51.70(a)(8),

(3) Refusal to grant a discretionary exception under the emergency or humanitarian relief provisions of § 51.71(c), or

(4) Refusal to grant a discretionary exception from geographical limitations of general applicability.

(b) The provisions of this subpart shall otherwise constitute the administrative remedies provided by the Department to persons who are the subject of adverse action under §§ 51.70, 51.71 or 51.72.

5. Section 51.83 is amended by revising the phrase ''Administrator of'' to read ''Deputy Assistant Secretary for Passport Services in'' and by removing ''Security and''.

6. Section 51.84 is amended by revising the phrase ''must possess the qualifications prescribed for practice before the Board of Appellate Review'' to read ''must be admitted to practice in any State of the United States, the District of Columbia, or any territory or possession of the United States''.

7. Section 51.89 is revised to read as follows:

§ 51.89 Decision of Deputy Assistant Secretary for Passport Services.

The person adversely affected shall be promptly notified in writing of the decision of the Deputy Assistant Secretary for Passport Services, and, if the decision is adverse to that person, the notification shall state the reasons for the decision. The notification shall also state that the adversely affected person may request reconsideration within 60 days from the date of the notice of the adverse action. If no request is made within that period, the decision is considered final and not subject to further administrative review; a decision on a request for reconsideration is also administratively final. Nothing in this section, however, shall be considered to bar the adversely affected person from submitting a new passport application as provided for in subparts B through D of this part.

Dated: December 29, 1998.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 99–2698 Filed 2–4–99; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 53

[REG–246256–96]

RIN 1545–AV60

Failure by Certain Charitable Organizations To Meet Certain Qualification Requirements; Taxes on Excess Benefit Transactions; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the excise taxes on excess benefit transactions under section 4958 of the Internal Revenue Code (Code). In addition, this document announces that persons wishing to testify in the Los Angeles, California, area will be able to make their presentations at an IRS remote videoconference site.

DATES: The public hearing will be held on Tuesday, March 16, 1999, at 1 p.m. (EDT), and will continue Wednesday, March 17, 1999, at 1 p.m., if necessary. Requests to speak and outlines of oral comments must be received by Wednesday, February 24, 1999.

ADDRESSES: The public hearing will be held in the auditorium of the New Carrollton Federal Building (Building A), 5000 Ellin Street, New Carrollton, Maryland. The videoconference site for persons testifying in Los Angeles is room 5003 in the Federal Building, 300 N. Los Angeles Street, Los Angeles, California.

Mail requests to speak and outlines to: CC:DOM:CORP:R (REG–246256–96), room 5226, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Hand deliver outlines Monday through Friday between the hours of 8 a.m. and 5 p.m. to CC:DOM:CORP:R (REG–246256–96), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Submit outlines electronically via the Internet by selecting the ''Tax Regs''option on the IRS Home Page, or by submitting them directly to the IRS Internet site at

http://www.irs.ustreas.gov/prod/tax__regs/comments.html.

FOR FURTHER INFORMATION CONTACT: Concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, LaNita Van Dyke, (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations issued under section 4958 of the Code. These regulations (REG–246256–96) appeared in the **Federal Register** (63 FR 41486), August 4, 1998, and in the Internal Revenue Bulletin (1998–34 IRB 9), August 24, 1998. No hearing was scheduled at the time of publication of the proposed regulations.

The rules of § 601.601(a)(3) of the ''Statement of Procedural Rules'' (26 CFR part 601) shall apply with respect to the public hearing, except that persons who did not file written comments within the time prescribed by the notice of proposed rulemaking (*i.e.*, November 2, 1998) will be permitted to make oral comments at the public hearing by submitting their requests to speak and outlines in a timely manner. Any persons who wish to present oral comments at the hearing on the proposed regulations should submit an outline of the oral comments/testimony to be presented at the hearing, as well as the time they wish to devote to each subject (signed original and eight (8) copies). Submissions must be received no later than February 24, 1999.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation, exclusive of the time consumed by the government panel in asking questions of the speaker and answers to those questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Federal Building more than 15 minutes before the hearing starts. Hearing times at the Los Angeles, California, videoconference site will be concurrent with the hearing in New Carrollton, Maryland (*i.e.*, 10 a.m. PDT).

Due to a limited seating capacity at the Los Angeles site, no more than 12 people may be accommodated at any one time in the videoconference room. Seating in the videoconference room will be made available based on the order of presentations. IRS personnel will be available at the Los Angeles videoconference site to assist speakers in using the videoconference equipment.

The IRS will prepare and provide at the hearing, free of charge, an agenda showing the scheduling of speakers. Testimony will begin with the speakers at the Los Angeles videoconference site and conclude with presentations by the speakers in New Carrollton.

Cynthia Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 99–2585 Filed 2–4–99; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–6231–2]

RIN 2060–AE94

Standards of Performance for New Stationary Sources: Volatile Organic Compound Emissions From the Synthetic Organic Chemical Manufacturing Industry Wastewater; Extension of Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of public comment period.

SUMMARY: The EPA is extending the public comment period on the supplement to the proposed rule for the Standards of Performance for New Stationary Sources: Volatile Organic Compound Emissions from the Synthetic Organic Chemical Manufacturing Industry Wastewater, which was published in the **Federal Register** on December 9, 1998 (63 FR 67988). The purpose of this notice is to extend the public comment period from February 9, 1999, to March 5, 1999, in order to provide commenters additional time to review the proposed rule.

DATES: Comments must be received on or before March 5, 1999.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (MC–6102), Attention, Docket No. A–94–32, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460. The docket is available for public inspection and for copying between 8:00 a.m. and 5:30 p.m. Monday through Friday at the above address, or by calling (202) 260–7548 or 260–7549. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed rule, contact Ms. Mary Tom Kissell, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, N.C., 27711. Her telephone number is (919) 541–4516. Her e-mail address is kissell.mary@epa.gov.

Dated: January 29, 1999.

Robert Perciasepe,

Assistant Administrator, OAR.

[FR Doc. 99–2789 Filed 2–4–99; 8:45 am]

BILLING CODE 6560–50–P

LEGAL SERVICES CORPORATION

45 CFR Part 1641

Debarment, Suspension and Removal of Recipient Auditors

AGENCY: Legal Services Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule implements a provision in the Legal Services Corporation's (''Corporation'' or ''LSC'') fiscal year 1996 and subsequent fiscal year appropriations acts which authorized the Office of Inspector General (''OIG'') to ''remove, suspend, or bar an independent public accountant, upon a showing of good cause, from performing audit services. * * * after notice to the auditor and an opportunity for hearing.'' This rule sets out the debarment, suspension and removal authority of the OIG and informs independent public accountants performing audit services for LSC recipients of their rights, and the standards that will apply, in connection with debarment, suspension and removal actions. The Corporation solicits public comment on the rule in anticipation of adoption of a final rule.

DATES: Comments must be submitted on or before April 6, 1999.

ADDRESSES: Comments should be submitted to the Office of Inspector General, Legal Services Corporation, 750 First St. NE., 11th Floor, Washington, DC 20002–4250. Comments may be submitted by electronic mail (e-mail) to LTarantowicz@oig.lsc.gov.

FOR FURTHER INFORMATION CONTACT: Laurie Tarantowicz, Counsel, Office of Inspector General, (202) 336–8830, LTarantowicz@oig.lsc.gov.

SUPPLEMENTARY INFORMATION: The Corporation's fiscal year 1996 appropriations act authorized the LSC Inspector General (''IG'') to ''remove, suspend, or bar an independent public accountant, upon a showing of good cause, from performing audit services. * * * after notice to the auditor and an opportunity for hearing.'' Public Law 104–134, 110 Stat. 1321, § 509(d) (1996). This provision has continuing effect in fiscal years 1997, Public Law 104–208, 110 Stat. 3009, § 503(a) (1996) and 1998, Public Law 105–119, 111 Stat. 2440 (1997), and 1999, Public Law 105–277 (1998). In accordance with the statutory

direction to ''develop and issue rules of practice,'' 110 Stat. 1321, § 509(d), the OIG issues this proposed rule.

Pursuant to Executive Order, the Federal government has a government wide system of suspension and debarment. The Executive Office of the President, Office of Management and Budget, has issued guidance setting forth procedures for agencies to follow in establishing procedures for making suspension and debarment decisions. Policy Letter 82–1. Based on this guidance, agencies have promulgated regulations, all substantially similar, implementing suspension and debarment. These regulations have been developed after extensive public comment and have withstood considerable judicial scrutiny. This proposed rule is based on the government wide system, but includes some modifications based on the OIG's specific statutory authorization to debar, suspend and remove, and on the particular circumstances of independent public accountants and their relationship to LSC recipients.

Section-by-Section Analysis

Subpart A—General

Section 1641.1 Purpose/Applicability

Recipients are required by statute to have an annual audit conducted by an independent public accountant (IPA). In order to assist in ensuring that recipients receive acceptable audits, the OIG is authorized to debar, suspend and remove IPAs from performing audit services for recipients. This proposed rule sets out that authority and informs IPAs of their rights, and the standards that will apply, in connection with debarment, suspension and removal actions. This proposed rule applies to IPAs performing audit services for entities which receive LSC funds. LSC recipients and subrecipients are required to have an audit performed in accordance with guidance promulgated by the OIG. This is consistent with LSC's general policy extending the requirements and restrictions which apply to recipients to entities which receive transfers of LSC funds from recipients, *see* 45 CFR 1610.7, and with LSC's regulation governing subgrants, 45 CFR Part 1627, which requires subrecipients to obtain an audit in accordance with LSC's audit policy, 45 CFR 1627.3(c).

Section 1641.2 Definitions

This section defines the key terms used in the proposed rule. Many of the terms are defined in the proposed rule as they are defined in the government wide system.

Paragraph (a) defines ''adequate evidence,'' which is the standard of proof for imposing a suspension, as information sufficient to support the reasonable belief that a particular act or omission has occurred. This is a less stringent standard than ''preponderance of the evidence,'' the standard applicable to debarment and removal actions.

Paragraph (b) defines ''audit services'' as the annual financial statement audit of a recipient. This is the audit required by section 509(a) of LSC's fiscal year 1996 appropriations act. (As discussed above, section 509 of the fiscal year 1996 appropriations act has been incorporated by reference in subsequent fiscal year appropriations acts and continues to be effective, see, e.g., Public Law 105–277 (1998). For ease of reference, this provision of law is hereinafter referred to as ''section 509.''

Paragraph (c) defines ''contract'' as an agreement between a recipient and an IPA for an IPA to provide audit services to the recipient. Debarment and suspension affects future contracts between a recipient and an IPA; removal affects existing contracts.

Paragraph (d) defines ''conviction'' as a judgment or conviction of a criminal offense by any court, whether entered upon a verdict or plea, including pleas of nolo contendere. An IPA may be debarred, suspended or removed if convicted of any offense indicating a breach of trust, dishonesty or lack of integrity, or conspiracy to do the same, by any court, whether federal, state, county or municipal. For examples of such offenses, see the discussion under section 1641.7(d) of this section-by-section analysis.

Paragraph (e) defines ''debarment.'' Debarment is a decision by the debarring official to prohibit an IPA from soliciting or entering into new contracts to perform audit services for recipient(s). Debarment does not affect existing contracts between a recipient and an IPA. A debarment must be based on a finding, by a preponderance of the evidence, that any of the causes for debarment exist. Debarment may cover an IPA's contracts with all recipients or with one or more specific recipients.

Paragraph (f) defines ''debarring official.'' This is the official responsible for debarment, suspension and removal actions. Under the proposed rule, the debarring official is the OIG legal counsel or person performing that function regardless of title or his or her designee. The IG may designate another staff person as the debarring official if the OIG legal counsel is unavailable.

Because the debarring official may be called upon to render judgment on compliance with applicable auditing standards, some consideration was given to changing the debarring official from the OIG legal counsel to an OIG employee with professional experience in government auditing. Specifically, consideration was given to identifying the Assistant Inspector General for Audit (AIGA), a CPA, as the debarring official. The AIGA, however, will likely be the OIG official who initially identifies the facts giving rise to a possible cause for debarment and recommends that a debarment, suspension or removal action be pursued. The proposed rule identifies the OIG legal counsel as the debarring official because, weighing the two concerns, it was determined that fundamental fairness would require that the process allow for more reflection and some separation of the debarring official from the immediate audit work. Comments on this issue are specifically requested.

Paragraph (g) defines ''indictment'' for a criminal offense. An information or other filing by competent authority charging a criminal offense shall be given the same effect as an indictment. An IPA may be suspended if indicted for any offense indicating a breach of trust, dishonesty or lack of integrity, or conspiracy to do the same.

Paragraph (h) defines ''IPA,'' an independent public accountant.

Paragraph (i) defines ''knowingly'' to mean that an act was done voluntarily and intentionally and not because of mistake or accident. This term is used in the proposed rule in the context of prohibiting recipients from knowingly awarding contracts to, extending or modifying existing contracts with, or soliciting proposals from IPAs that have been debarred or suspended.

Paragraph (j) defines ''material fact'' as one which is necessary to determine the outcome of an issue or case and without which the case could not be supported. In certain respects, whether material facts are in dispute determines the extent of the procedures afforded the IPA under the proposed rule. For example, if the debarring official determines that the IPA's response to the notice of proposed debarment does not raise a genuine issue of material fact, the debarment proceeding will be conducted entirely by written submissions.

Paragraph (k) defines ''preponderance of the evidence,'' which is the standard of proof for imposing a debarment or removal, as proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not. This is a more stringent standard than ''adequate

evidence,'' the standard applicable to suspension actions.

Paragraph (l) defines ''removal.'' Removal is a decision by the debarring official to prohibit an IPA from performing audit services in subsequent years of an existing contract. Suppose, for example, that a recipient has entered into a contract with an IPA under which the IPA will perform an audit of the recipient for years 1, 2 and 3. If the IPA is conducting the year-1 audit of the recipient when the IPA is removed by the OIG, removal of the IPA will not prohibit the IPA from completing the year-1 audit. Removal will prohibit the IPA from conducting the year-2 and year-3 audits. Removal must be based on a finding, by a preponderance of the evidence, that any of the causes for debarment exist. Removal may cover an IPA's contracts with one or more recipients.

Paragraph (m) defines ''suspension.'' Suspension is a decision by the debarring official prohibiting an IPA from soliciting or entering into new contracts to perform audit services for recipient(s). Suspension does not affect existing contracts between recipients and IPAs. A suspension must be based on a finding, by adequate evidence, that any of the causes for debarment may exist. Suspension may cover an IPAs contracts with all recipients or with one or more specific recipients.

Section 1641.3 Scope of debarment, suspension and removal

This section sets out the scope of debarment, suspension or removal; that is, the effect of such action on the IPA and, for example, the IPA's divisions and affiliates.

Debarment, suspension or removal of an individual IPA prohibits that IPA from performing audit services as an individual or as an employee, independent contractor, agent or other representative of an IPA firm.

Unless the decision is limited by its terms to specifically identified divisions or other organizational elements, debarment, suspension or removal of an IPA firm prohibits that firm and all its divisions and other organizational elements from performing audit services. The OIG intends to issue decisions which have an impact on only those organizational elements of an IPA firm which were materially involved in the relevant engagement because extending the debarment to other organization elements would go beyond what is necessary to achieve the purposes of debarment, suspension or removal.

In addition, the OIG may include in its debarment, suspension or removal of an IPA firm any firm that is an affiliate, subcontractor, joint venturer, agent or representative of the IPA firm. Such affiliates, etc., may be included in the decision only if such firm was materially involved in the relevant engagement and only if such affiliate, etc., was specifically named and given notice of the proposed action and an opportunity to respond.

Similarly, the OIG may include in its debarment, suspension or removal of an IPA firm an individual officer director or partner responsible for the engagement, or an individual employee, independent contractor, agent, representative or other individual associated with the IPA firm. Such individuals may be included in the decision only if specifically named and given notice of the proposed action and an opportunity to respond. If not named in the decision, such individuals would be prohibited from performing audit services only as a representative of the debarred firm. Otherwise, such individuals are not prohibited from performing audit services.

Section 1641.4 Duration of debarment, suspension and removal

This section provides that a debarment, suspension or removal only becomes effective after the IPA has been provided the opportunity to avail itself of the procedures outlined in this rule (notice and an opportunity to be heard) and a decision is issued by the debarring official.

Subsection (a) sets out the length of time that a debarment will be effective. Generally, a debarment should not exceed three years. Debarment may be effective for less than three years if appropriate after consideration of the evidence presented by the IPA. Debarment may exceed three years in extraordinary circumstances. A longer period may be appropriate, for example, if an IPA has been debarred by a Federal agency for a longer period, see section 1641.7(b), or if an IPA has been convicted of an offense referred to in section 1641.7(d) and will be incarcerated for a period exceeding three years. If a suspension precedes a debarment, the suspension period will be considered in determining the debarment period and the debarment may be effective for less than three years.

After debarment for a specified period has been instituted, the debarring official may extend the debarment for an additional period if necessary to protect LSC funds. The debarment period may not be extended based solely on the facts and circumstances upon which the initial debarment was based, but must be based on new facts, not previously in the record, and will be effective only after the procedures outlined in the proposed rule have been followed.

Subsection (b) defines the duration of suspension. A suspension is a temporary measure, which may be instituted while debarment proceedings are being conducted. In addition, an IPA may be suspended in anticipation of the initiation of debarment proceedings, for example, upon conclusion of an investigation conducted by either the OIG or other authority, upon completion of a debarment proceeding conducted by a Federal agency, pending the outcome of a criminal prosecution, or pending the outcome of proceedings conducted by a sanctioning or licensing body with authority over IPAs, such as the American Institute of Certified Public Accountants (AICPA) or a State Board of Accountancy. If debarment proceedings are not initiated within 12 months after the date of the suspension notice, the suspension shall be terminated. However, if a law enforcement official, including the police or a prosecuting authority, an official from another OIG, a state licensing body or other organization with authority over IPAs, or a government agency requests an extension of the suspension in writing, the suspension may be extended. Unless a debarment has been initiated, a suspension may not be imposed for more than 18 months.

Subsection (c) defines the duration of removal. A removal is effective for the years remaining on the existing contract between the IPA and the recipient. Because removal affects existing contracts, there is an obvious concern that removal not cause financial harm to the recipient. Although current contracts between recipients and their IPAs may vary, the sample contract included as an appendix to the Audit Guide for Recipients and Auditors (Audit Guide) contains a provision which may be interpreted to allow the recipient to end its relationship with the IPA in the event of removal, see Audit Guide, Appendix B. To clearly address removal (and recognize debarment and suspension), the OIG intends to publish an amendment to the sample agreement. The OIG also believes it would be advisable to send out a notice to recipients when this rule becomes final suggesting that recipients attempt to modify existing contracts if possible, to specifically address removal. Such a term would be required in future contracts between recipients and their IPAs. In the meantime, if a removal action is considered against an IPA with a current contract that does not include

such a term, the OIG will consider this when contemplating removal of the IPA.

Subpart B—Debarment

Section 1641.5 Debarment

The OIG may debar an IPA from performing audit services to all recipients or may debar an IPA from performing audit services for one or more specific recipients. This section informs the IPA and recipients of the effect of both types of debarment. Recipients are prohibited from knowingly awarding contracts to, extending or modifying existing contracts with, or soliciting proposals from debarred IPAs. Although IPAs debarred from providing audit services to selected recipients may contract with other recipients, the IPA must give prior written notice to the debarring official before providing such services to other recipients. In addition, the debarred IPA is required to provide prior written notice of the debarment to any recipient seeking its services.

Section 1641.6 Procedures for Debarment

This section sets out the general procedures for debarment. The specific procedures are set out more fully in subsequent sections. The OIG shall provide an IPA with an opportunity to be heard prior to debarring the IPA. Such hearing will be held entirely by written submissions unless the debarring official finds that there is a genuine dispute of material fact. In addition, an informal meeting may be held between the debarring official and the IPA.

Section 1641.7 Causes for Debarment

The subsections in this section set out the causes for debarment. The causes are based on those set out in the government wide system, but have been modified to recognize the particular circumstances of IPAs performing audits of LSC recipients. The existence of a cause for debarment does not necessarily require that the IPA be debarred; the seriousness of the IPA's acts or omissions and any mitigating circumstances shall be considered in making any debarment decisions.

Subsection (a) allows the OIG to debar an IPA that has failed significantly to comply with government auditing standards established by the Comptroller General of the United States, generally accepted auditing standards and/or OIG audit guidance. Under section 509, LSC recipients are required to have audits conducted in accordance with guidance established by the OIG. Such guidance appears in the OIG Audit Guide and audit bulletins issued by the OIG. The OIG audit guidance incorporates government auditing standards. Under the IG Act, the OIG is required to ensure that audits are conducted in accordance with government auditing standards (established by the Comptroller General).

Subsection (b) allows debarment when an IPA is currently debarred or suspended from contracting with any Federal agency or entity receiving Federal funds. This would include, for example, where the IPA has been debarred consistent with the government wide system for debarment.

Subsection (c) allows debarment if the IPA's license to practice accounting has been revoked, terminated or suspended by a state licensing body or other organization with authority over IPAs.

Subsection (d) allows debarment if the IPA has been convicted of any offense indicating a breach of trust, dishonesty or lack of integrity, or conspiracy to do the same. Offenses indicating a breach of trust, dishonesty or lack of integrity include, for example, fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, making false claims, or receiving stolen property.

Subsection (e) allows debarment if the IPA has been found subject to a civil judgement for any action indicating a breach of trust, dishonesty or lack of integrity, or conspiracy to do the same.

Section 1641.8 Notice of Proposed Debarment

This section sets out the information which must be included in the notice of proposed debarment sent to the IPA. Because the IPA will have a specified time from receipt of the notice to respond, see section 1641.18, notice will be sent in such a way as to ensure that the OIG receives evidence of the IPA's receipt of the notice. Under this section, a copy of the notice is sent to any affected recipient and the recipient may comment on the proposed action within the time that the IPA has to respond under section 1641.9.

Section 1641.9 Response to Notice of Proposed Debarment

This section gives the IPA 30 days from receipt of the notice within which to respond. Such response must be in writing and should include information and argument in opposition to the proposed debarment. The response may request a meeting with the debarring official to permit the IPA to discuss issues of fact or law relating to the proposed debarment or to otherwise resolve the matter. Although the meeting shall take such form as the debarring official deems appropriate, if requested, the meeting shall be an in person meeting at LSC headquarters. The meeting must be held within 20 days of the response.

Under subsection (d), if the IPA fails to respond to the notice, this shall be deemed an admission of the existence of the cause(s) for debarment set out in the notice and an acceptance of the period of debarment, and the debarring official may enter a final decision without further proceedings.

Section 1641.10 Additional Proceedings as to Disputed Material Facts

If the debarring official finds that the IPA's submission raises a genuine dispute of material fact and the action is not based on a conviction or civil judgment under section 1641.7(d) or (e), the IPA will be afforded an opportunity to appear (with counsel), submit documentary evidence, present witnesses, and confront any witnesses the OIG presents. Where there is no genuine dispute of material fact, an evidentiary hearing is not warranted. In the case of a conviction or civil judgment, the facts underlying the conviction or civil judgment would have been fully adjudicated in another forum and a hearing on those facts would be inappropriate. In addition, there should be no dispute about the existence of the conviction or civil judgment.

If, on the other hand, the debarring official finds that the IPA's submission does not raise a genuine issue of material fact, no such additional proceedings will be provided and the hearing shall be held entirely by written submissions (except to the extent a meeting is held under section 1641.9(c)).

If additional proceedings are to be held, the IPA shall be notified, and such notice shall identify the procedures under which the proceeding will be conducted. A transcribed record of such proceedings shall be prepared, with a copy provided to the IPA without cost. At the debarring official's discretion, disputed material facts may be referred to a fact finder for analysis and recommendation. Such fact finder need not be a member of the OIG staff.

Subpart C—Suspension

The sections in this subpart set out the causes, procedures and effect of a suspension. Suspension procedures are similar to those for debarment. However, the procedures have been streamlined by shortening the time

periods and providing for a strictly show cause procedure, entirely by written submissions, except that an informal meeting may be held.

Section 1641.11 Suspension

A suspension is for a temporary period pending the completion of an investigation or other legal, administrative or debarment proceedings. This section applies section 1641.5, regarding debarment, to suspension. The OIG may suspend an IPA from performing audit services to all recipients or may suspend an IPA from performing audit services for one or more specific recipients. This section informs the IPA and recipients of the effect of both types of suspension.

Section 1641.12 Procedures for Suspension

Before suspending an IPA, the OIG will provide a show cause hearing held entirely by written submissions (except that a meeting between the IPA and the debarring official may be held). The specific procedures are set out more fully in subsequent sections.

Section 1641.13 Causes for Suspension

The causes for suspension are the same as those for debarment. In a suspension, however, there must be adequate evidence that the cause(s) may exist, rather than a preponderance of the evidence that the cause(s) exist as in debarment. In addition, an indictment for the listed types of offenses, rather than a conviction, is sufficient cause for suspension.

Section 1641.14 Notice of Proposed Suspension

The notice for suspension is the same as that for debarment, except a suspension notice includes a directive, returnable in 10 days, to show cause why a suspension should not be instituted.

Section 1641.15 Response to Notice of Proposed Suspension

The IPA's response to the notice of suspension must be received within 10 days of receipt of the notice. The response should contain information similar to that discussed under section 1641.9 relating to debarment. Similar provisions allow for a meeting between the IPA and the debarring official and describe the effect of not responding.

Subpart D—Removal

Section 1641.16 Removal

The OIG may remove an IPA from performing audit services for one or more recipients. This section informs the IPA and recipients of the effect of a removal. Recipients are prohibited from extending existing contracts with removed IPAs. It is likely that the OIG would simultaneously debar (or prohibit the IPA from entering into future contracts with recipients) and remove the IPA, see section 1641.17(b). Absent complete debarment, IPAs removed from providing audit services to selected recipients may contract with other recipients. The IPA, however, must give prior written notice to the debarring official before providing such services to other recipients. In addition, the removed IPA is required to provide prior written notice of the removal to any recipient seeking its services.

Section 1641.17 Notice of Proposed Removal; Response to Notice; Additional Proceedings

The notice, response and limited availability of additional proceedings are the same for removal as they are for debarment.

Subpart E—Decisions

Section 1641.18 Decisions of Debarring Official

Subsection (a) sets out the standard of proof for debarment and removal (preponderance of the evidence) and for suspension (adequate evidence).

Subsection (b) sets out the information that will be included in the administrative record, which will form the basis for the decision.

Subsection (c) notifies IPAs that the failure of the OIG to meet a time requirement does not preclude the OIG from taking the debarment, suspension or removal action.

Subsection (d) sets forth the information that will be contained in the debarring official's decision. Among other things, this includes notifying the IPA that the decision will become a matter of public record. In the government wide system for suspension and debarment, the General Services Administration (GSA) is required to maintain and distribute a current list of all entities debarred or suspended by Federal agencies or by the General Accounting Office (GAO). Although we cannot include IPAs which the OIG debars on this GSA list, the OIG plans to maintain a list of debarred, suspended and removed IPAs, to distribute the list to recipients, and to maintain the list on the OIG website.

Subsection (e) sets out the debarring official's authority to withdraw the notice of debarment, suspension or removal, where appropriate, or to terminate the proceedings, and subsection (f) sets out the debarring official's authority to settle the action and to place appropriate conditions on the IPA.

Section 1641.19 Exceptions to Debarment, Suspension and Removal

In unique circumstances, where there are compelling reasons to use a particular IPA for a specific task, the recipient requiring such services may submit to the OIG a request to except the IPA from the effects of the debarment, suspension or removal. The Inspector General may provide an exception for a particular contract upon a written determination that a compelling reason exists for using the IPA in a particular instance. Under certain circumstances, a compelling reason may be that the recipient is in a rural area and there are no other IPAs within a reasonable distance from the recipient.

Section 1641.20 Appeal and Reconsideration of Debarring Official Decisions

This section allows for appeal or reconsideration of the debarring official's decision to debar, suspend or remove an IPA.

Appeals are decided by the Inspector General, who may uphold, reverse or modify the debarring official's decision. A written appeal may be filed by a debarred or removed IPA within 30 days of receipt of the decision and by a suspended IPA within 15 days of receipt. At his discretion, the Inspector General may stay the effect of the debarring official's decision pending the conclusion of review, after determining that a compelling reason to do so exists.

Requests for reconsideration are decided by the debarring official. Such requests must be in writing and supported by documentation justifying the action on reconsideration. Modification of the decision on reconsideration is appropriate only in the circumstances set out in the proposed rule.

List of Subjects in 45 CFR Part 1641

Accounting, Grant programs, Hearing and appeal procedures, Legal services.

For reasons set forth in the preamble, LSC proposes to amend Chapter XVI of Title 45 by adding part 1641 as follows:

PART 1641—DEBARMENT, SUSPENSION AND REMOVAL OF RECIPIENT AUDITORS

Subpart A—General

Sec.

1641.1 Purpose/Applicability.
1641.2 Definitions.
1641.3 Scope of debarment, suspension and removal.

1641.4 Duration of debarment, suspension and removal.

Subpart B—Debarment

1641.5 Debarment.
1641.6 Procedures for debarment.
1641.7 Causes for debarment.
1641.8 Notice of proposed debarment.
1641.9 Response to notice of proposed debarment.
1641.10 Additional proceedings as to disputed material facts.

Subpart C—Suspension

1641.11 Suspension.
1641.12 Procedures for suspension.
1641.13 Causes for suspension.
1641.14 Notice of proposed suspension.
1641.15 Response to notice of proposed suspension.

Subpart D—Removal

1641.16 Removal.
1641.17 Notice of proposed removal; response to notice; additional procedures.

Subpart E—Decisions

1641.18 Decisions of debarring official.
1641.19 Exceptions to debarment, suspension and removal.
1641.20 Appeal and reconsideration of debarring official decisions.

Authority: 42 U.S.C. 2996e(g); Pub. L. No. 105–277 (1998), incorporating by reference Pub. L. No. 104–208, § 503(a), 110 Stat. 1321, § 509(d) (1996).

Subpart A—General

§ 1641.1 Purpose/Applicability.

In order to assist in ensuring that recipients receive acceptable audits, this rule sets out the authority of the Legal Services Corporation (''LSC'') Office of Inspector General (''OIG'') to debar, suspend and remove independent public accountants (''IPAs'') from performing audit services for recipients. This rule informs IPAs of their rights to notice and an opportunity to be heard on actions involving debarment, suspension and removal, and the standards upon which such actions will be taken. This part applies to IPAs performing audit services for recipients, subrecipients or other entities which receive LSC funds and are required to have an audit performed in accordance with guidance promulgated by the OIG.

§ 1641.2 Definitions.

(a) *Adequate evidence* means information sufficient to support the reasonable belief that a particular act or omission has occurred.

(b) *Audit services* means the annual financial statement audit of a recipient.

(c) *Contract* means agreement between a recipient and an IPA for an IPA to provide audit services to the recipient.

(d) *Conviction* means a judgment or conviction of a criminal offense by any court, whether entered upon a verdict or plea including pleas of *nolo contendere*.

(e) *Debarment* means a decision by the debarring official to prohibit an IPA from soliciting or entering into new contracts to perform audit services for recipient(s) based upon a finding by preponderance of the evidence that any of the causes for debarment set out in § 1641.7 exist. Debarment may cover an IPA's contracts with all recipients or with one or more specific recipients.

(f) *Debarring official* is the official responsible for debarment, suspension and removal actions under this part. The OIG staff person performing the function of legal counsel or his or her designee is the debarring official. In the absence of an OIG legal counsel, the debarring official shall be the OIG staff person designated by the Inspector General.

(g) *Indictment* means an indictment for a criminal offense. An information or other filing by competent authority charging a criminal offense shall be given the same effect as an indictment.

(h) *IPA* means an independent public accountant.

(i) *Knowingly* means that an act was done voluntarily and intentionally and not because of mistake or accident.

(j) *Material fact* means one which is necessary to determine the outcome of an issue or case and without which the case could not be supported.

(k) *Preponderance of the evidence* means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

(l) *Removal* means a decision by the debarring official to prohibit an IPA from performing audit services in subsequent years of an existing contract with one or more specific recipients based upon a finding by a preponderance of the evidence that any of the causes referred to in § 1641.17 exist.

(m) *Suspension* means a decision by the debarring official, in anticipation of a debarment, to prohibit an IPA from soliciting or entering into new contracts to perform audit services for recipient(s) based upon a finding of adequate evidence that any of the causes referred to in § 1641.13 exist. Suspension may cover an IPA's contracts with all recipients or with one or more specific recipients.

§ 1641.3 Scope of debarment, suspension and removal.

An IPA may be debarred, suspended or removed under this part only if the IPA is specifically named and given notice of the proposed action and an opportunity to respond in accordance with this part.

(a) *Actions against individual IPAs.* Debarment, suspension or removal of an individual IPA, debars, suspends or removes that individual from performing audit services as an individual or as an employee, independent contractor, agent or other representative of an IPA firm.

(b) *Actions against IPA firms.* (1) Debarment, suspension or removal of an IPA firm under this rule constitutes debarment, suspension or removal of all its divisions and other organizational elements, unless the decision is limited by its terms to one or more specifically identified divisions or other organizational elements.

(2) The debarment, suspension or removal action contemplated in paragraph (b)(1) of this section may include any firm that is an affiliate, subcontractor, joint venturer, agent or representative of the IPA firm only if such firm was materially involved in the relevant engagement and is specifically named and given notice of the proposed action and an opportunity to respond in accordance with this part.

(3) The debarment, suspension or removal action contemplated in paragraph (b)(1) of this section may include an individual officer, director, or, partner responsible for the engagement, or an individual employee, independent contractor, agent, representative or other individual associated with an IPA firm only if such individual is specifically named and given notice of the proposed action and an opportunity to respond in accordance with this part.

§ 1641.4 Duration of debarment, suspension and removal.

A debarment, suspension or removal is effective as set out in the debarring official's decision to debar, suspend or remove, issued pursuant to § 1641.18.

(a) *Debarment.* (1) Debarment generally should not exceed three years, but may be for a shorter period based on a consideration of the evidence presented by the IPA. Debarment may exceed three years in extraordinary circumstances.

(2) If a suspension precedes a debarment, the suspension period shall be considered in determining the debarment period.

(3) The debarring official may extend an existing debarment for an additional period if the debarring official determines, based on additional facts not previously in the record, that an extension is necessary to protect LSC funds. The standards and procedures in

this part shall be applied in any proceeding to extend a debarment.

(b) *Suspension.* (1) Suspension shall be for a temporary period pending the completion of an investigation or other legal or debarment proceedings, including a proceeding conducted by a state licensing body or other organization with authority over IPAs.

(2) If debarment proceedings are not initiated within 12 months after the date of the suspension notice, the suspension shall be terminated unless a law enforcement official, an investigative or audit official from another OIG, a state licensing body or other organization with authority over IPAs, or a government agency requests its extension in writing. In such cases, the suspension may be extended for an additional six months. In no event may a suspension be imposed for more than 18 months, unless debarment proceedings have been initiated within that period.

(3) OIG shall notify the appropriate official, state licensing body or other organization with authority over IPAs, or appropriate government agency, if any, of an impending termination of a suspension at least 30 days before the 12-month period expires to allow an opportunity to request an extension. Providing such notification follows Federal policy.

(4) The limit on the duration of a suspension in paragraph (b)(2) of this section may be waived by the affected IPA.

(c) *Removal.* Removal shall be effective for the years remaining on the existing contract(s) between the IPA and the recipient(s).

Subpart B—Debarment

§ 1641.5 Debarment.

(a) IPAs debarred from providing audit services for all recipients are prohibited from soliciting or entering into any new contracts for audit services with recipients for the duration of the specified period of debarment. Recipients shall not knowingly award contracts to, extend or modify existing contracts with, or solicit proposals from, such IPAs. Debarred IPAs also are prohibited from providing audit services to recipients as agents or representatives of other IPAs.

(b) IPAs debarred from providing audit services for one or more specific recipient(s) are prohibited from soliciting or entering into any new contracts for audit services with such recipient(s) for the duration of the period of debarment as determined pursuant to this part. The affected recipient(s) shall not knowingly award contracts to, extend or modify existing contracts with, or solicit proposals from, such IPAs. Debarred IPAs also are prohibited from providing audit services to the affected recipient(s) as agents or representatives of other IPAs, and are required to provide prior written notice to the debarring official before providing such services to other recipients Debarred IPAs also must provide prior written notice of the debarment to any such recipient.

§ 1641.6 Procedures for debarment.

Before debarring an IPA, the OIG shall provide the IPA with a hearing in accordance with the procedures set out in §§ 1641.7 through 1641.9. Such hearing shall be held entirely by written submissions, except:

(a) Additional proceedings shall be held under § 1641.10 if the debarring official finds there is a genuine dispute of material fact; and/or

(b) A meeting may be held under § 1641.9(c).

§ 1641.7 Causes for debarment.

The debarring official may debar an IPA from performing audit services in accordance with the procedures set forth in this part upon a finding by a preponderance of the evidence that:

(a) The IPA has failed significantly to comply with government auditing standards established by the Comptroller General of the United States, generally accepted auditing standards and/or OIG audit guidance;

(b) The IPA is currently debarred or suspended from contracting with any Federal agency or entity receiving Federal funds, including where the IPA has stipulated to such debarment or suspension;

(c) The IPA's license to practice accounting has been revoked, terminated or suspended by a state licensing body or other organization with authority over IPAs;

(d) The IPA has been convicted of any offense indicating a breach of trust, dishonesty or lack of integrity, or conspiracy to do the same; or

(e) The IPA has been found subject to a civil judgment for any action indicating a breach of trust, dishonesty or lack of integrity, or conspiracy to do the same.

§ 1641.8 Notice of proposed debarment.

(a) Before debarring an IPA, the OIG shall send it written notice of the proposed debarment. Such notice shall:

(1) State that debarment is being considered;

(2) Identify the reasons for the proposed debarment sufficient to put the IPA on notice of the conduct or transaction(s) upon which a debarment proceeding is based;

(3) Identify the regulatory provisions governing the debarment proceeding; and

(4) State that debarment may be for a period of up to three years or longer under extraordinary circumstances. If the OIG has determined that extraordinary circumstances warranting debarment in excess of three years may exist, the notice shall so state.

(b) A copy of the notice also shall be sent to the affected recipient(s), if any, which may comment on the proposed action in the time frame set out in § 1641.9.

§ 1641.9 Response to notice of proposed debarment.

(a) The IPA shall have 30 days from receipt of the notice within which to respond.

(b) The response shall be in writing and may include information and argument in opposition to the proposed debarment, including any additional specific information pertaining to the possible causes for debarment, and information and argument in mitigation of the proposed period of debarment.

(c) The response may request a meeting with the debarring official to permit the IPA to discuss issues of fact or law relating to the proposed debarment, or to otherwise resolve the pending matters. Any such meeting shall take such form as the debarring official deems appropriate and shall be held within 20 days of the response. If requested by the IPA, such meeting shall be an in person meeting at LSC headquarters.

(d) Failure to respond to the notice shall be deemed an admission of the existence of the cause(s) for debarment set forth in the notice and an acceptance of the period of debarment. In such circumstances, without further proceedings, the debarring official may enter a final decision stating the period of debarment.

§ 1641.10 Additional proceedings as to disputed material facts.

(a) In actions not based upon a conviction or civil judgment under § 1641.7(d) or (e), if the debarring official finds that the IPA's submission raises a genuine dispute of material fact, the IPA shall be afforded an opportunity to appear (with counsel, if desired), submit documentary evidence, present witnesses, and confront any witnesses the OIG presents. If the debarring official finds that the IPA's submission does not raise a genuine issue of material fact, additional proceedings will not be provided. In such case, the

hearing shall be held entirely by written submissions, except that a meeting may be held under § 1641.9(c).

(b) If the debarring official determines additional proceedings to be warranted, OIG shall notify the IPA. Such notice shall include notice of the procedures under which such proceedings shall be conducted.

(c) A transcribed record of any additional proceedings shall be prepared and a copy shall be made available to the IPA without cost.

(d) The debarring official may refer disputed material facts to a fact finder, who need not be a member of the OIG staff, for analysis and recommendation.

Subpart C—Suspension

§ 1641.11 Suspension.

(a) A suspension shall be for a temporary period pending the completion of an investigation or such other legal, administrative or debarment proceedings as may ensue.

(b) Section 1641.5 applies to a suspension action, except that the term ''suspension'' shall be substituted for the term ''debarment.''

§ 1641.12 Procedures for suspension.

Before suspending an IPA, the OIG shall provide the IPA with a show cause hearing in accordance with the procedures set out in §§ 1641.13 through 1641.15. Such hearing shall be held entirely by written submissions, except that a meeting may be held under § 1641.15(c).

§ 1641.13 Causes for suspension

The debarring official may suspend an IPA in accordance with the procedures set forth in this part upon adequate evidence that:

(a) A cause for debarment under § 1641.7 may exist; or

(b) The IPA has been indicted for any offense described in § 1641.7.

§ 1641.14 Notice of proposed suspension.

(a) Before suspending an IPA, OIG shall send it written notice of cause to suspend. Such notice shall:

(1) Include the information set out in § 1641.8, except the term ''suspension'' shall be substituted for the term ''debarment''; and

(2) Include a directive to show cause, signed by the debarring official, which shall inform the IPA that unless the IPA responds within 10 days as provided in § 1641.15, a suspension will be imposed.

(b) A copy of the notice also shall be sent to the affected recipient(s), if any, who may comment on the proposed action in the time frame set out in § 1641.15.

§ 1641.15 Response to notice of proposed suspension.

(a) The IPA shall have 10 days from receipt of the notice within which to respond.

(b) The response shall be in writing and may include information and argument in opposition to the proposed suspension, including any additional specific information pertaining to the possible causes for suspension, and information and argument in mitigation of the proposed period of suspension.

(c) The response may request a meeting with the OIG official identified in the notice to permit the IPA to discuss issues of fact or law relating to the proposed suspension, or to otherwise resolve the pending matters.

(1) Any such meeting shall take such form as the debarring official deems appropriate and shall be held within 10 days of the response.

(2) No meeting will be held if a law enforcement official, an investigative or audit official from another OIG, a state licensing body or other organization with authority over IPAs, or a governmental agency has advised in writing that the substantial interest of a governmental unit would be prejudiced by such a meeting and the debarring official determines that the suspension is based on the same facts as pending or contemplated legal proceedings referenced by the law enforcement official.

(d) Failure to respond to the notice shall be deemed an admission of the existence of the cause(s) for suspension set forth in the notice and an acceptance of the period of suspension. In such circumstances, the OIG may proceed to a final decision without further proceedings.

Subpart D—Removal

§ 1641.16 Removal.

Removed IPAs are prohibited from performing audit services in subsequent years under an existing contract(s) with one or more specific recipients. The affected recipient(s) shall not extend existing contracts with such IPAs. Removed IPAs also are prohibited from providing audit services to the affected recipient(s) as agents or representatives of other IPAs, and are required to provide prior written notice to the debarring official before providing such services to other recipients. Debarred IPAs also must provide prior written notice of the removal to any such recipient.

§ 1641.17 Notice of proposed removal; response to notice; additional procedures.

(a) Sections 1641.6 through 1641.10 apply in the case of a removal action, except the term ''removal'' shall be substituted for the term ''debarment.''

(b) A Notice of Proposed Removal normally will be accompanied by a Notice of Proposed Debarment, and the proceedings may be consolidated.

Subpart E—Decisions

§ 1641.18 Decisions of debarring official.

(a) *Standard of proof.* (1) A debarment or removal must be based on a finding that the cause or causes for debarment or removal are established by a preponderance of the evidence in the administrative record of the case.

(2) A suspension must be based on a finding that the cause or causes are established by adequate evidence in the administrative record of the case.

(b) The administrative record consists of the portion of any information, reports, documents or other evidence identified and relied upon in the Notice of Proposed Debarment, the Notice of Proposed Suspension, or the Notice of Proposed Removal, together with any material portions of the IPA's response and any relevant material submitted by an affected recipient. In the case of debarment, when additional proceedings are necessary to determine disputed material facts, the debarring official shall base the decision on the facts as found, together with consideration of any information and argument submitted by the IPA or an affected recipient and any other information in the administrative record.

(c) Failure of the OIG to meet a time requirement of this part does not preclude the OIG from debarring, suspending or removing an IPA.

(d) *Notice of decisions.* IPAs shall be given prompt notice of the debarring official's decision. A copy of the decision also will be sent to the affected recipient. If the debarring official debars, suspends or removes an IPA, the decision shall:

(1) Set forth the finding(s) upon which the decision is based;

(2) Set forth the effect of the debarment, suspension or removal action and the effective dates of the action;

(3) Refer the IPA to its procedural rights of appeal and reconsideration under § 1641.20; and

(4) Inform the IPA that a copy of the debarring official's decision will be a public document and the fact of debarment or suspension will be a matter of public record.

(e) If the debarring official decides that a debarment, suspension, or removal is not warranted, the Notice may be withdrawn or the proceeding may be otherwise terminated.

(f) If the debarring official deems it appropriate, the debarring official may, at any time, settle by agreement with the IPA a debarment, suspension, or removal action. Such a negotiated settlement may include the imposition of appropriate conditions on the IPA.

§ 1641.19 Exceptions to debarment, suspension and removal.

Exceptions to the effects of debarment, suspension or removal may be available in unique circumstances, where there are compelling reasons to use a particular IPA for a specific task. Requests for such exceptions may be submitted only by the recipient requiring audit services. The Inspector General may except a contract from the effects of debarment, suspension or removal upon a written determination that a compelling reason exists for using the IPA in the particular instance.

§ 1641.20 Appeal and reconsideration of debarring official decisions.

(a) A debarred, suspended or removed IPA may submit the debarring official's decision for appeal or reconsideration in accordance with this section. Within 60 days, IPAs shall be given notice of decisions on appeal and reconsideration.

(b) *Appeal.* (1) A debarred, suspended or removed IPA may appeal the decision to the Inspector General, who may uphold, reverse or modify the debarring official's decision.

(2) The appeal shall be filed in writing:

(i) By a debarred or removed IPA, within 30 days of receipt of the decision;

(ii) By a suspended IPA, within 15 days of receipt of the decision.

(3) The Inspector General, at his or her discretion and after determining that a compelling reason exists, may stay the effect of the debarment, suspension or removal pending conclusion of his or her review of the matter.

(c) *Reconsideration.* (1) A debarred, suspended or removed IPA may submit a request to the debarring official to reconsider the debarment, suspension or removal decision, reduce the period of debarment or removal or terminate the suspension.

(2) Such requests shall be in writing and supported by documentation that the requested action is justified by:

(i) Reversal of the conviction or civil judgment upon which the debarment, suspension or removal was based;

(ii) Newly discovered material evidence;

(iii) Bona fide change in ownership or management;

(iv) Elimination of other causes for which the debarment, suspension or removal was imposed; or

(v) Other reasons the debarring official deems appropriate.

(3) A request for reconsideration based on the reversal of the conviction, civil judgment, or sanction may be filed at any time.

(4) Requests for reconsideration based on other grounds may only be filed during the period commencing 60 days after the debarring official's decision imposing the debarment or suspension. Only one such request may be filed in any twelve month period.

(5) The debarring official's decision on a request for reconsideration is subject to the appeal procedure set forth in paragraph (b) of this section.

Dated: February 2, 1999.

Victor M. Fortuno,

General Counsel.

[FR Doc. 99–2762 Filed 2–4–99; 8:45 am]

BILLING CODE 7050–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–15, RM–9440]

Radio Broadcasting Services; Neihart, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 246C2 to Neihart, Montana, as that community's first local broadcast service. The channel can be allotted to Neihart without a site restriction at coordinates 46–56–18 NL and 110–44–18 WL. Canadian concurrence will be requested for the allotment of Channel 246C2 at Neihart.

DATES: Comments must be filed on or before March 22, 1999, and reply comments on or before April 6, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, WY 82209.

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. 99–15, adopted January 13, 1999, and released January 29, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 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 l980 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. 99–2755 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–14, RM–9442]

Radio Broadcasting Services; Columbia Falls, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 276C3 to Columbia Falls, Montana, as that community's second FM broadcast service. The channel can be allotted to Columbia Falls without a site restriction at coordinates 48–22–30 NL and 114–10–54 WL. Canadian concurrence will be requested for the allotment of Channel 276C3 at Columbia Falls.

DATES: Comments must be filed on or before March 22, 1999, and reply comments on or before April 6, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, WY 82209.

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. 99–14, adopted January 13, 1999, and released January 29, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 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. 99–2756 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–13, RM–9428]

Radio Broadcasting Services; Palacios, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Prawn Broadcasting Company proposing the allotment of Channel 252A to Palacios, Texas, as that community's second FM broadcast service. The channel can be allotted to Palacios with a site restriction 8.3 kilometers (5.2 miles) northeast at coordinates 28–44–10 NL and 96–08–18 WL.

DATES: Comments must be filed on or before March 22, 1999, and reply comments on or before April 6, 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: Henry E. Crawford, Law Offices of Henry E. Crawford, 1150 Connecticut Avenue, N.W., Suite 900, Washington, DC 20036–4192.

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. 99–13, adopted January 13, 1999, and released January 29, 1999. 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. 99–2757 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–12, RM–9441]

Radio Broadcasting Services; Joliet, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 259C3 to Joliet, Montana, as that community's first commercial FM broadcast service. The channel can be allotted to Joliet without a site restriction at coordinates 45–29–06 NL and 108–58–18 WL.

DATES: Comments must be filed on or before March 22, 1999, and reply comments on or before April 6, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, WY 82209.

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. 99–12, adopted January 13, 1999, and released January 29, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 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. 99–2758 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–21, RM–9389]

Radio Broadcasting Services; Perry, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Albert L. Brooks proposing the allotment of Channel 299C3 to Perry, Florida, as that community's third FM broadcast service. The channel can be allotted to Perry at coordinates 29–59–47 NL and 83–39–33 WL. There is a site restriction 14.9 kilometers (9.3 miles) southwest of the community.

DATES: Comments must be filed on or before March 22, 1999, and reply comments on or before April 6, 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: John S. Neely, Miller & Miller, P.C., P. O. Box 33003, Washington, DC 20033.

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. 99–21, adopted January 13, 1999, and released January 29, 1999. 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. 99–2767 Filed 2–4–99; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–20, RM–9413]

Radio Broadcasting Services; Florence, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Florence Broadcasting Company proposing the allotment of Channel 278A to Florence, Montana, as that community's first local broadcast service. The channel can be allotted to Florence without a site restriction at coordinates 46–37–42 NL and 114–04–48 WL. Canadian concurrence will be requested for the allotment of Channel 278A at Florence.

DATES: Comments must be filed on or before March 22, 1999, and reply comments on or before April 6, 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. 99–20, adopted January 13, 1999, and released January 29, 1999. 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. 99–2768 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–19, RM–9397]

Radio Broadcasting Services; Lockwood, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Lockwood Broadcasting Company proposing the allotment of Channel 294A to Lockwood, Montana, as that community's first local broadcast service. The channel can be allotted to Lockwood without a site restriction at coordinates 45–49–09 NL and 108–24–51 WL.

DATES: Comments must be filed on or before March 22, 1999, and reply comments on or before April 6, 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. 99–19, adopted January 13, 1999, and released January 29, 1999. 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. 99–2769 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–16, RM–9403]

Radio Broadcasting Services; Eden, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Kent S. Foster proposing the allotment of Channel 283A to Eden, Texas, as that community's first local broadcast service. The channel can be allotted to Eden without a site restriction at coordinates 31–13–06 NLand 99–50–36 WL. Mexican concurrence will be requested for the allotment of Channel 283A at Eden.

DATES: Comments must be filed on or before March 22, 1999, and reply comments on or before April 6, 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: Lawrence N. Cohn, Joseph M. di Scipio, Cohn and Marks, 1920 N Street, N.W., Suite 300, Washington, DC 20036.

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. 99–16, adopted January 13, 1999, and released January 29, 1999. 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. 99–2770 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–17, RM–9409]

Radio Broadcasting Services; Belt, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Belt Broadcasting Company proposing the allotment of Channel 269A to Belt, Montana, as that community's first local broadcast service. The channel can be allotted to Belt without a site restriction at coordinates 47–23–12 NL and 110–55–18 WL. Canadian concurrence will be requested for the allotment of Channel 269A at Belt.

DATES: Comments must be filed on or before March 22, 1999, and reply comments on or before April 6, 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. 99–17, adopted January 13, 1999, and released January 29, 1999. 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. 99–2771 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–18, RM–9414]

Radio Broadcasting Services; Washburn, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by The State of Wisconsin Educational Communications Board proposing the allotment of Channel 284A to Washburn, Wisconsin, and reservation of the channel for noncommercial educational use. The channel can be allotted to Washburn without a site restriction at coordinates 46–40–12 NL and 90–53–36 WL. Canadian concurrence will be requested for the allotment of Channel *284A at Washburn.

DATES: Comments must be filed on or before March 22, 1999, and reply comments on or before April 6, 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: Todd D. Gray, Margaret L. Miller, Christine J. Newcomb, Dow Lohnes & Albertson, pllc, 1200 New Hampshire Avenue, N.W., Suite 800, Washington, DC 20036.

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. 99–18, adopted January 13, 1999, and released January 29, 1999. 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. 99–2772 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 990128036–9036–01; I.D. 033198A]

RIN 0648–AG49

Designated Critical Habitat: Proposed Critical Habitat for Nine Evolutionarily Significant Units of Steelhead in Washington, Oregon, Idaho, and California

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to designate critical habitat for nine evolutionarily significant units (ESUs) of steelhead (*Oncorhynchus mykiss*) previously listed and currently proposed for listing under the Endangered Species Act (ESA). Proposed critical habitat occurs in the States of Washington, Oregon, Idaho, and California. The areas described in this proposed rule represent the current freshwater and estuarine range inhabited by the ESU. Freshwater critical habitat includes all waterways and substrates below longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years) and several dams that block access to former anadromous habitats. The economic and other impacts resulting from this critical habitat designation are expected to be minimal.

DATES: Comments must be received by May 6, 1999. Requests for public hearings must be received by March 22, 1999.

ADDRESSES: Comments on this proposed rule or requests for reference materials should be sent to Branch Chief, Protected Resources Division, NMFS, Northwest Region, 525 NE Oregon Street, Suite 500, Portland, OR 97232–2737; telefax (503) 230–5435.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, (503) 231–2005, Craig Wingert, (562) 980–4021, or Chris Mobley, 301–713–1401.

SUPPLEMENTARY INFORMATION:

Background

On May 20, 1993, NMFS announced its intent to conduct a status review to identify all coastal steelhead ESU(s) within California, Oregon, and Washington and to determine whether any identified ESU(s) warranted listing under the ESA. Subsequently, on February 16, 1994, NMFS received a petition from the Oregon Natural Resources Council and from 15 co-petitioners to list all steelhead (or specific ESUs, races, or stocks) within the states of California, Oregon, Washington, and Idaho. In response to this petition, NMFS announced the expansion of its status review to include inland steelhead populations occurring in eastern Washington and Oregon and the State of Idaho (59 FR 27527, May 27, 1994).

On August 9, 1996, NMFS published a proposed rule to list 10 ESUs of west coast steelhead as threatened or endangered under the ESA; NMFS solicited comments on the proposal (61 FR 41541, August 9, 1996). In this document, NMFS concluded that the Middle Columbia River ESU warranted classification as a candidate species since NMFS was concerned about the status of steelhead in this area, but lacked sufficient information to merit a proposed listing, and that the Upper Willamette River steelhead ESU did not warrant listing, based on available scientific information.

On August 18, 1997, NMFS published a final rule listing five ESUs as threatened and endangered under the ESA (62 FR 43937). In a separate document published on the same day,

NMFS determined that substantial scientific disagreement remained for five proposed ESUs (62 FR 43974, August 18, 1997). In accordance with section 4(b)(6)(B)(i) of the ESA, NMFS deferred its decision on these remaining steelhead ESUs for 6 months, until February 9, 1998, for the purpose of soliciting additional data. By court order, NMFS' deadline for issuing determinations on these five remaining ESUs was extended to March 13, 1998.

On March 10, 1998, NMFS published a proposed rule to list the Upper Willamette River and Middle Columbia River ESUs as threatened species (63 FR 11798). On March 19, 1998, NMFS published a final rule to list the Lower Columbia River and Central Valley, California, ESUs as threatened species (63 FR 13347). NMFS now proposes critical habitat for all nine currently listed and proposed steelhead ESUs.

Critical Habitat

Section 4(a)(3)(A) of the ESA requires that, to the maximum extent prudent and determinable, NMFS designate critical habitat concurrently with a determination that a species is endangered or threatened. NMFS has determined that sufficient information exists to propose designating critical habitat for the nine ESUs of steelhead previously listed and currently proposed for listing under the ESA. NMFS will consider all available information and data in finalizing this proposal.

The use of the term ''essential habitat'' within this document refers to critical habitat as defined by the ESA and should not be confused with the requirement to describe and identify Essential Fish Habitat pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq*.

Definition of Critical Habitat

''Critical habitat'' is defined in section 3(5)(A) of the ESA as ''(i) the specific areas within the geographical area occupied by the species * * * on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species * * * upon a determination by the Secretary that such areas are essential for the conservation of the species.'' The term ''conservation,'' as defined in section 3(3) of the ESA, means '' * * * to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary.''

In designating critical habitat, NMFS considers the following requirements of the species: (1) space for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for breeding, reproduction, or rearing offspring; and, generally, (5) habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of this species (50 CFR 424.12(b)). In addition to these factors, NMFS also focuses on the known physical and biological features (primary constituent elements) within the designated area that are essential to the conservation of the species and that may require special management considerations or protection. These essential features may include, but are not limited to, spawning sites, food resources, water quality and quantity, and riparian vegetation (50 CFR 424.12(b)).

Consideration of Economic and Other Factors

The economic and other impacts of a critical habitat designation have been considered and evaluated in this proposed rulemaking. NMFS identified present and anticipated activities that may adversely modify the area(s) being considered or that may be affected by a designation. An area may be excluded from a critical habitat designation if NMFS determines that the overall benefits of exclusion outweigh the benefits of designation, unless the exclusion will result in the extinction of the species (16 U.S.C. 1533(b)(2)).

The impacts considered in this analysis are only those incremental impacts resulting specifically from a critical habitat designation, above the economic and other impacts attributable to listing the species or resulting from other authorities. Since listing a species under the ESA provides significant protection to a species' habitat, in many cases, the economic and other impacts resulting from the critical habitat designation, over and above the impacts of the listing itself, are minimal. In general, the designation of critical habitat highlights geographical areas of concern and reinforces the substantive protection resulting from the listing itself.

Impacts attributable to listing include those resulting from the ''take'' prohibitions contained in section 9 of the ESA and associated regulations. ''Take,'' as defined in the ESA means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct'' (16 U.S.C. 1532(19)). Harm can occur through destruction or modification of habitat (whether or not designated as critical) that significantly impairs essential behaviors, including breeding, feeding, rearing or migration (63 FR 24148, May 1, 1998).

Significance of Designating Critical Habitat

The designation of critical habitat does not, in and of itself, restrict human activities within an area or mandate any specific management or recovery actions. A critical habitat designation contributes to species conservation primarily by identifying important areas and by describing the features within those areas that are essential to the species, thus alerting public and private entities to the area's importance. The only regulatory impact of a critical habitat designation is through the provisions of section 7 of the ESA. Section 7 applies only to actions with Federal involvement (e.g., authorized, funded, or conducted by a Federal agency) and does not affect exclusively state or private activities.

Under the section 7 provisions, a designation of critical habitat would require Federal agencies to ensure that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of designated critical habitat. Activities that destroy or adversely modify critical habitat are defined as those actions that ''appreciably diminish the value of critical habitat for both the survival and recovery'' of the species (50 CFR 402.02). Regardless of a critical habitat designation, Federal agencies must ensure that their actions are not likely to jeopardize the continued existence of the listed species. Activities that jeopardize a species are defined as those actions that ''reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery'' of the species (50 CFR 402.02). Using these definitions, activities that are likely to destroy or adversely modify critical habitat would also be likely to jeopardize the species. Therefore, the protection provided by a critical habitat designation generally duplicates the protection provided under the section 7 jeopardy provision. Critical habitat may provide additional benefits to a species in cases where areas outside the species' current range have been designated. Federal agencies are required to consult with NMFS under section 7 (50 CFR 402.14(a)), when these designated areas

may be affected by their actions. The effects of these actions on designated areas may not have been recognized but for the critical habitat designation.

A designation of critical habitat provides Federal agencies with a clear indication as to when consultation under section 7 of the ESA is required, particularly in cases where the proposed action would not result in direct mortality, injury, or harm to individuals of a listed species (e.g., an action occurring within the critical habitat area when a migratory species is not present). The critical habitat designation, in describing the essential features of the habitat, also helps determine which activities conducted outside the designated area are subject to section 7 (i.e., activities outside critical habitat that may affect essential features of the designated area).

A critical habitat designation will also assist Federal agencies in planning future actions because the designation establishes, in advance, those habitats that will be given special consideration in section 7 consultations. With a designation of critical habitat, potential conflicts between Federal actions and endangered or threatened species can be identified and possibly avoided early in an agency's planning process.

Another indirect benefit of designating critical habitat is that it helps focus Federal, state, and private conservation and management efforts in such areas. Management efforts may address special considerations needed in critical habitat areas, including conservation regulations that restrict private as well as Federal activities. The economic and other impacts of these actions would be considered at the time regulations are proposed and, therefore, are not considered in the critical habitat designation process. Other Federal, state, and local authorities, such as zoning or wetlands and riparian lands protection, may also benefit critical habitat areas.

Process for Designating Critical Habitat

Developing a proposed critical habitat designation involves three main considerations. First, the biological needs of the species are evaluated, and essential habitat areas and features are identified. If alternative areas exist that would provide for the conservation of the species, such alternatives are also identified. Second, the need for special management considerations or protection of the area(s) or features identified are evaluated. Finally, the probable economic and other impacts of designating these essential areas as ''critical habitat'' are evaluated. After considering the requirements of the species, the need for special management, and the impacts of the designation, a notification of the proposed critical habitat is published in the **Federal Register** for comment. The final critical habitat designation is promulgated after considering all comments and any new information received on the proposal. Final critical habitat designations may be revised, using the same process, as new information becomes available.

A description of the essential habitat, need for special management, impacts of designating critical habitat, and the proposed action are described in the following sections.

Critical Habitat of Steelhead ESUs

Biological information for steelhead can be found in NMFS species status reviews (Busby *et al.*, 1996), species life history summaries (Shapavalov and Taft, 1954; Barnhart, 1986; Pauley *et al.*, 1986; Groot and Margolis, 1991), and in **Federal Register** announcements of proposed and final listing determinations (61 FR 41541, August 9, 1996; 62 FR 43937, August 18, 1997; 63 FR 11798, March 10, 1998; 63 FR 13347, March 19, 1998). Historically, steelhead were distributed throughout the North Pacific Ocean from the Kamchatka Peninsula in Asia to the northern Baja Peninsula. Presently, the species distribution extends from the Kamchatka Peninsula, east and south along the Pacific coast of North America, to at least Malibu Creek in southern California. There are infrequent anecdotal reports of steelhead occurring as far south as the Santa Margarita River in San Diego County (McEwan and Jackson, 1996). The species' marine distribution south of Punta Gorda, California, appears to encompass a relatively narrow, nearshore strip less than 100 kilometers (km) wide (NOAA, 1990). North of Punta Gorda, the distribution widens to encompass nearly all marine areas north of 42° N latitude in the North Pacific Ocean and Gulf of Alaska (NOAA, 1990). Any attempt to describe the current distribution of steelhead must take into account the fact that many extant populations and densities are a small fraction of historical levels. Hence, some populations considered extinct could in fact exist but be represented by only a few individuals that could escape detection during surveys.

In the Central California Coast ESU, the major populations are found in the Russian and San Lorenzo Rivers. In the South-Central California Coast ESU, major rivers include the Big Sur, Carmel, Little Sur, Pajaro, and Salinas Rivers. In the Southern California Coast ESU, major rivers include Malibu Creek and the Santa Clara, Santa Ynez, and Ventura Rivers. Within the range of the California Central Valley ESU, major tributaries supporting steelhead in the Sacramento-San Joaquin River Basins include the American, Feather, Merced, Mokelumne, Tuolumne, and Yuba Rivers, as well as numerous smaller tributaries.

The Columbia River serves as a migration corridor as well as an important estuary for all of the listed or proposed steelhead ESUs in Washington, Oregon, and Idaho. Major tributaries known to support steelhead in the Upper Columbia River ESU include the Entiat, Methow, Okanogan, and Wenatchee Rivers. In the Snake River Basin ESU, major tributaries include the Clearwater, Grande Ronde, Salmon, Selway, and Tucannon Rivers. In the Middle Columbia River ESU, major tributaries include the Deschutes, John Day, Klickitat, Umatilla, and Yakima Rivers. In the Lower Columbia River ESU, major tributaries include the Clackamas, Cowlitz, Hood, Kalama, Lewis, Sandy, Washougal, and Wind Rivers. Finally, in the Upper Willamette River ESU, major tributaries known to support steelhead include the Molalla and Santiam Rivers.

In addition to the rivers identified, many smaller rivers and streams in each ESU also provide important habitat for steelhead, but access is often constrained by seasonal fluctuations in hydrological conditions.

Defining specific river reaches that are critical for steelhead is difficult because of the current low abundance of the species and of our imperfect understanding of the species' freshwater distribution, both current and historical. The latter is due, in large part, to the lack of comprehensive sampling effort dedicated to monitoring the species. Based on consideration of the best available information regarding the species' current distribution, NMFS believes that the preferred approach to identifying critical habitat for steelhead is to designate all areas accessible to the species within the range of specified river basins in each ESU. NMFS believes that adopting a more inclusive, watershed-based description of critical habitat is appropriate because it (1) recognizes the species' extensive use of diverse habitats and underscores the need to account for all of the habitat types supporting the species' freshwater and estuarine life stages; (2) takes into account the natural variability in habitat use that makes precise mapping problematic (e.g., some streams may have fish present only in years with

plentiful rainfall); and (3) reinforces the important linkage between aquatic areas and adjacent riparian/upslope areas.

While NMFS is proposing to focus on accessible (i.e., fish bearing) river reaches, it is important to note that habitat quality is intrinsically related to the quality of upland areas and upstream areas (including headwater or intermittent streams) which provide key habitat elements (e.g., large woody debris, gravel, water quality) crucial for steelhead in downstream reaches. NMFS recognizes that estuarine habitats are critical for steelhead and has included them in this designation. Marine habitats (i.e., oceanic or nearshore areas seaward of the mouth of coastal rivers) are also vital to the species, and ocean conditions may have a major influence on steelhead survival. However, NMFS is still evaluating whether these areas currently warrant consideration as critical habitat, particularly whether marine areas require special management consideration or protection. Therefore, NMFS is not proposing to designate critical habitat in marine areas at this time. If additional information becomes available that supports the inclusion of such areas, NMFS may revise this designation.

Introductions of non-native species and habitat modifications have resulted in increased predator populations in numerous river systems, thereby increasing the level of predation experienced by salmonids. Predation by marine mammals is also of concern in areas experiencing dwindling steelhead run sizes. NMFS recently published a report describing the impacts of California sea lions and Pacific harbor seals upon salmonids and on the coastal ecosystems of Washington, Oregon, and California (NMFS, 1997). This report concludes that, in certain cases where pinniped populations co-occur with depressed salmonid populations, salmon populations may experience severe impacts due to predation. An example of such a situation is Ballard Locks, Washington, where sea lions are known to consume significant numbers of adult winter steelhead. This study further concludes that data regarding pinniped predation is quite limited and that substantial additional research is needed to fully address this issue. Existing information on the seriously depressed status of many salmonid stocks is sufficient to warrant actions to remove pinnipeds in areas of co-occurrence where pinnipeds prey on depressed salmonid populations (NMFS, 1997).

Essential features of steelhead critical habitat include adequate (1) substrate; (2) water quality; (3) water quantity; (4) water temperature; (5) water velocity; (6) cover/shelter; (7) food; (8) riparian vegetation; (9) space; and (10) safe passage conditions. Given the vast geographic range occupied by each of these steelhead ESUs and the diverse habitat types used by the various life stages, it is not practical to describe specific values or conditions for each of these essential habitat features. However, good summaries of these environmental parameters and freshwater factors that have contributed to the decline of this and other salmonids can be found in reviews by Barnhart (1986), Pauley *et al.* (1986), California Advisory Committee on Salmon and Steelhead Trout (CACSST) (1988), Bjornn and Reiser (1991), Nehlsen *et al.* (1991), California State Lands Commission (1993), Reynolds *et al.* (1993), Botkin *et al.* (1995), McEwan and Jackson (1996), NMFS (1996), and Spence *et al.* (1996).

An array of management issues encompasses these habitats and their features, and special management considerations will be needed, especially on lands and streams under Federal ownership (see Activities That May Affect Critical Habitat and Need for Special Management Considerations or Protection). While marine areas are also a critical link in the species' life cycle, NMFS has not yet concluded that special management considerations are needed to conserve the habitat features in these areas. Hence, only the freshwater and estuarine areas (and their adjacent riparian zones) are being proposed for critical habitat at this time.

Adjacent Riparian Zones

NMFS' past critical habitat designations for listed anadromous salmonids have included the adjacent riparian zone as part of the designation. In the final designations for Snake River spring/summer chinook, fall chinook, and sockeye (58 FR 68543, December 28, 1993), NMFS included the adjacent riparian zone as part of critical habitat and defined it in the regulation as those areas within a horizontal distance of 300 feet (91.4 meters) from the normal high water line. In the critical habitat designation for Sacramento River winter run chinook (58 FR 33212, June 16, 1993), NMFS included ''adjacent riparian zones'' as part of the critical habitat but did not define the extent of that zone in the regulation. The preamble to that rule stated that the adjacent riparian zone was limited to ''those areas that provide cover and shade.''

Streams and stream functioning are inextricably linked to adjacent riparian and upland (or upslope) areas. Streams regularly submerge portions of the riparian zone via floods and channel migration, and portions of the riparian zone may contain off-channel rearing habitats used by juvenile salmonids during periods of high flow. The riparian zone also provides an array of important watershed functions that directly benefit salmonids. Vegetation in the zone shades the stream, stabilizes banks, and provides organic litter and large woody debris. The riparian zone stores sediment, recycles nutrients and chemicals, mediates stream hydraulics, and controls microclimate. Healthy riparian zones help ensure water quality essential to salmonids as well as the forage species they depend on (Reiser and Bjornn, 1979; Meehan, 1991; FEMAT, 1993; and Spence *et al.*, 1996). Human activities in the adjacent riparian zone, or in upslope areas, can harm stream function and can harm salmonids, both directly and indirectly, by interfering with the watershed functions described here. For example, timber harvest, road-building, grazing, cultivation, and other activities can increase sediment, destabilize banks, reduce organic litter and woody debris, increase water temperatures, simplify stream channels, and increase peak flows. These adverse modifications reduce the value of habitat for salmon and, in many instances, may result in injury or mortality of fish. Because human activity may adversely affect these watershed functions and habitat features, NMFS concluded the adjacent riparian zone could require special management consideration, and, therefore, was appropriate for inclusion in critical habitat.

The Snake River salmon critical habitat designation relied on analyses and conclusions reached by the Forest Ecosystem Management Assessment Team (FEMAT, 1993) regarding interim riparian reserves for fish-bearing streams on Federal lands within the range of the northern spotted owl. The interim riparian reserve recommendations in the FEMAT report were based on a systematic review of the available literature, primarily for forested habitats, concerning riparian processes as a function of distance from stream channels. The interim riparian reserves identified in the FEMAT report for fish-bearing streams on Federal forest lands are intended to (1) provide protection to salmonids, as well as riparian-dependent and associated species, through the protection of riparian processes that influence stream function, and (2) provide a high level of fish habitat and riparian protection until

site-specific watershed and project analyses can be completed. The FEMAT report identified several alternative ways that interim riparian reserves providing a high level of protection could be defined, including the 300-foot (91.4 meter) slope distance, a distance equivalent to two site potential tree heights, the outer edges of riparian vegetation, the 100-year flood plain, or the area between the edge of the active stream channel to the top of the inner gorge, whichever is greatest. The U.S. Forest Service (USFS) and U.S. Bureau of Land Management (BLM) ultimately adopted these riparian reserve criteria as part of an Aquatic Conservation Strategy aimed at conserving fish, amphibians, and other aquatic- and riparian-dependent species in the Record of Decision for the Northwest Forest Plan (FEMAT ROD, 1994).

While NMFS has used the findings of the FEMAT report to guide its analyses in ESA section 7 consultations with the USFS and BLM regarding management of Federal lands, NMFS recognizes that the interim riparian reserves may be conservative with regard to the protection of adjacent riparian habitat for salmonids since they are designed to protect salmonids as well as terrestrial species that are riparian dependent or associated. Moreover, NMFS' analyses have focused more on the stream functions important to salmonids and on how proposed activities will affect the riparian area's contribution to properly functioning conditions for salmonid habitat.

Since the adoption of the Northwest Forest Plan, NMFS has gained experience working with Federal and non-Federal landowners to determine the likely effects of proposed land management actions on stream functions. In freshwater and estuarine areas, these activities include, but are not limited to agriculture; forestry; grazing; bank stabilization; construction/urbanization; dam construction/operation; dredging and dredged spoil disposal; habitat restoration projects; irrigation withdrawal, storage, and management; mineral mining; road building and maintenance; sand and gravel mining; wastewater/pollutant discharge; wetland and floodplain alteration; and woody debris/structure removal from rivers and estuaries. NMFS has developed numerous tools to assist Federal agencies in analyzing the likely impacts of their activities on anadromous fish habitat. With these tools, Federal agencies are better able to judge the impacts of their actions on salmonid habitat, taking into account the location and nature of their actions. NMFS' primary tool guiding Federal agencies is a document titled ''Making Endangered Species Act Determinations of Effect for Individual or Grouped Actions at the Watershed Scale'' (NMFS, 1996a). This document presents guidelines to facilitate and standardize determinations of ''effect'' under the ESA and includes a matrix for determining the condition of various habitat parameters. This matrix is being implemented in several northern California and Oregon coastal watersheds and is expected to help guide efforts to define salmonid risk factors and conservation strategies throughout the West Coast.

Several recent literature reviews have addressed the effectiveness of various riparian zone widths for maintaining specific riparian functions (e.g., sediment control, large woody debris recruitment) and overall watershed processes. These reviews provide additional useful information about riparian processes as a function of distance from stream channels. For example, Castelle *et al.* (1994) conducted a literature review of riparian zone functions and concluded that riparian widths in the range of 30 meters (98 feet) appear to be the minimum needed to maintain biological elements of streams. They also noted that site-specific conditions may warrant substantially larger or smaller riparian management zones. Similarly, Johnson and Reba (1992) summarized the technical literature and found that available information supported a minimum 30-meter riparian management zone for salmonid protection.

A recent assessment funded by NMFS and several other Federal agencies reviewed the technical basis for various riparian functions as they pertain to salmonid conservation (Spence *et al.*, 1996). These authors suggest that a functional approach to riparian protection requires a consistent definition of riparian ecosystems based on ''zones of influence'' for specific riparian processes. They noted that in constrained reaches where the active channel remains relatively stable through time, riparian zones of influences may be defined based on site-potential tree heights and distance from the active channel. In contrast, they note that, in unconstrained reaches (e.g., streams in broad valley floors) with braided or shifting channels, the riparian zone of influence is more difficult to define, but recommend that it is more appropriate to define the riparian zone based on some measure of the extent of the flood plain.

Spence *et al.* (1996) reviewed the functions of riparian zones that are essential to the development and maintenance of aquatic habitats favorable to salmonids and the available literature concerning the riparian distances that would protect these functional processes. Many of the studies reviewed indicate that riparian management widths designed to protect one function in particular, recruitment of large woody debris, are likely to be adequate to protect other key riparian functions. The reviewed studies concluded that the vast majority of large woody debris is obtained within one site-potential tree height from the stream channel (Murphy and Koski, 1989; McDade *et al.*, 1990; Robison and Beschta, 1990; Van Sickle and Gregory, 1990; FEMAT, 1993; and Cederholm, 1994). Based on the available literature, Spence *et al.* (1996) concluded that fully protected riparian management zones of one site potential tree would adequately maintain 90 to 100 percent of most key riparian functions of Pacific Northwest forests if the goal was to maintain instream processes over a time frame of years to decades.

Based on experience gained since the designation of critical habitat for Snake River salmon and after considering public comments and reviewing additional scientific information regarding riparian habitats, NMFS defines steelhead critical habitat based on key riparian functions. Specifically, the adjacent riparian area is defined as the area adjacent to a stream that provides the following functions: shade, sediment, nutrient or chemical regulation, streambank stability, and input of large woody debris or organic matter. Specific guidance on assessing the potential impacts of land use activities on riparian functions can be obtained by consulting with NMFS (see **ADDRESSES**), local foresters, conservation officers, fisheries biologists, or county extension agents.

The physical and biological features that create properly functioning salmonid habitat vary throughout the range of steelhead and the extent of the adjacent riparian zone may change accordingly depending on the landscape under consideration. While a site-potential tree height can serve as a reasonable benchmark in some cases, site-specific analyses provide the best means to characterize the adjacent riparian zone because such analyses are more likely to accurately capture the unique attributes of a particular landscape. Knowing what may be a limiting factor to the properly functioning condition of a stream channel on a land use or land type basis

and how that may or may not affect the function of the riparian zone will significantly assist Federal agencies in assessing the potential for impacts to listed steelhead. On Federal lands within the range of the northern spotted owl, Federal agencies should continue to rely on the Aquatic Conservation Strategy of the Northwest Forest Plan to guide their consultations with NMFS. Where there is a Federal action on non-Federal lands, Federal agencies should consider the potential effects of the activities they fund, permit, or authorize on the riparian zone adjacent to a stream that may influence the following functions: shade, sediment delivery to the stream, nutrient or chemical regulation, streambank stability, and the input of large woody debris or organic matter. In areas where the existing riparian zone is seriously diminished (e.g., in many urban settings and agricultural settings where flood control structures are prevalent), Federal agencies should focus on maintaining any existing riparian functions and restoring others where appropriate, for example, by cooperating with local watershed groups and landowners. NMFS acknowledges in its description of riparian habitat function that different land use types (e.g., timber, urban, and agricultural) will have varying degrees of impact and that activities requiring a Federal permit will be evaluated on the basis of disturbance to the riparian zone. In many cases the evaluation of an activity may focus on a particular limiting factor for a water course (e.g., temperature, stream bank erosion, sediment transport) and whether that activity may or may not contribute to improving or degrading the riparian habitat.

Finally, NMFS emphasizes that a designation of critical habitat does not prohibit landowners from conducting actions that modify streams or the adjacent terrestrial habitat. Critical habitat designation serves to identify important areas and essential features within those areas, thus alerting both Federal and non-Federal entities to the importance of the area for listed salmonids. Federal agencies are required by the ESA to consult with NMFS to ensure that any action they authorize, fund, or carry out is not likely to destroy or adversely modify critical habitat in a way that appreciably diminishes the value of critical habitat for both the survival and recovery of the listed species. The designation of critical habitat will assist Federal agencies in evaluating how their actions on Federal or non-Federal lands may affect listed steelhead and determining when they should consult with NMFS on the impacts of their actions. When a private landowner requires a Federal permit that may result in the modification of steelhead habitat, Federal permitting agencies will be required to ensure that the permitted action, regardless of whether it occurs in the stream channel, adjacent riparian zone, or upland areas, does not appreciably diminish the value of critical habitat for both the survival and recovery of the listed species or jeopardize the species' continued existence. For other actions, landowners should consider the needs of the listed fish and NMFS will assist them in assessing the impacts of actions.

Barriers Within the Species' Range

Within the range of all threatened or endangered ESUs, steelhead face a multitude of barriers that limit the access of juvenile and adult fish to essential freshwater habitats. In some cases these are natural barriers (e.g., waterfalls or high-gradient velocity barriers) that have been in existence for hundreds or thousands of years. Some pose an obvious physical barrier to any anadromous salmonids (e.g., Palouse Falls on the Palouse River, Washington) while others may only be surmountable during years when extreme river conditions (e.g., floods) provide passage.

An example of the latter has recently been brought to NMFS' attention via a petition from Meridian Gold Company (Meridian) to revise critical habitat for Snake River spring/summer chinook salmon in Napias Creek, a tributary to the Salmon River, located near Salmon, Idaho (U.S. Geological Survey Hydrologic Unit ''Middle Salmon-Panther, 17060203''). Like chinook salmon, steelhead do not presently occur in Napias Creek; therefore, conclusions regarding the nature of this barrier are difficult since such conclusions must rely on indirect modeling efforts and surveys, as well as historical sources on the presence of anadromous fish. While NMFS believes it is likely steelhead could migrate above the falls at certain streamflows (NMFS, 1998), it is difficult to determine the frequency that steelhead would migrate above the falls or whether steelhead would recolonize habitat areas above the falls. The presence of relict indicator species above the falls (e.g., rainbow trout) tends to indicate steelhead may have occurred above the falls over evolutionary time periods; however, recent historical information indicates steelhead have not occurred in this area in recent times.

After analyzing new information and analyses submitted by Meridian, NMFS concludes Napias Creek Falls may constitute a naturally impassable barrier for steelhead. While the falls may be passable to steelhead at certain flows, available evidence suggests this species would not do so with any regularity. Given the scientific uncertainty associated with this conclusion, NMFS specifically requests data and analyses concerning this and other potentially impassable natural barriers (see Public Comments Solicited).

Manmade barriers created in the past several decades can create significant problems for anadromous salmonids (California Department of Fish and Game (CDFG), 1965; CACSST, 1988; Forest Ecosystem Management Assessment Team (FEMAT), 1993; Botkin *et al.*, 1995; and Nuclear Regulatory Commission, 1996). The extent of such barriers as culverts and road crossing structures that impede or block fish passage appears to be substantial. For example, of 532 fish presence surveys conducted in Oregon coastal basins during the 1995 survey season, nearly 15 percent of the confirmed ''end of fish use'' were due to human barriers, principally road culverts (Oregon Coastal Salmon Restoration Initiative, 1997). Pushup dams/diversions and irrigation withdrawals also present significant barriers or lethal conditions (e.g., high water temperatures) to steelhead in nearly all ESUs. However, because these manmade barriers can, under certain flow conditions, be surmounted by fish or present only a temporary/seasonal barrier, NMFS does not consider them to delineate the upstream extent of critical habitat.

Since man-made impassable barriers are widely distributed throughout the range of each ESU, they can have a major downstream influence on steelhead. Such impacts may include (1) depletion and storage of natural flows which can drastically alter natural hydrological cycles; (2) increased juvenile and adult mortality due to migration delays resulting from insufficient flows or habitat blockages; (3) loss of sufficient habitat due to deterring and blockage; (4) stranding of fish resulting from rapid flow fluctuations; (5) entrainment of juveniles into poorly screened or unscreened diversions; and (6) increased mortality resulting from increased water temperatures (CACSST, 1988; Bergren and Filardo, 1991; CDFG, 1991; Reynolds *et al.*, 1993; Chapman *et al.*, 1994; Cramer *et al.*, 1995; and NMFS, 1996b). In addition to these factors, reduced flows negatively affect

fish habitats due to increased deposition of fine sediments in spawning gravels, decreased recruitment of large woody debris and spawning gravels, and encroachment of riparian and non-endemic vegetation into spawning and rearing areas resulting in reduced available habitat (CACSST, 1988; FEMAT, 1993; Botkin *et al.*, 1995; and NMFS, 1996b). These dam-related factors will be effectively addressed through ESA section 7 consultations and the recovery planning process.

Numerous hydropower and water storage projects have been built which either block access to areas used historically by steelhead or alter the hydrograph of downstream river reaches. NMFS has identified numerous dams within the range of steelhead ESUs listed or proposed for listing that currently have no fish passage facilities to allow steelhead access to former spawning and rearing habitats (Tables 18 through 26). In some ESUs, blocked habitat constitutes up to 95 percent of the historical range (CACSST, 1988; and Reynolds *et al.*, 1993). While these blocked areas are significant in certain basins (e.g., areas in California's Central Valley), NMFS believes that currently accessible habitat may be sufficient for the conservation of affected steelhead ESUs. NMFS has concluded that the potential for restoring access to former spawning and rearing habitat above currently impassable man-made barriers is a significant factor to be considered in determining whether such habitat is essential for the conservation of species. NMFS solicits comments and scientific information on this issue and will consider such information prior to issuing any final critical habitat designation. This may result in the inclusion of areas above some man-made impassable barriers in a future critical habitat designation.

Throughout the range of west coast steelhead, numerous hydropower dams are undergoing, or are scheduled for, relicensing by the Federal Energy Regulatory Commission (FERC). NMFS will evaluate information developed during the process of relicensing to determine whether fish passage facilities are needed at such dams to restore access to historically available habitat. Even though habitat above such barriers is not currently designated as critical, this conclusion does not foreclose the potential importance of restoring access to these areas. Therefore, NMFS will determine on a case-by-case basis during FERC relicensing proceedings whether fish passage facilities will be required to provide access to habitat that is essential for the conservation of affected steelhead ESUs.

Critical Habitat and Indian Lands

The unique and distinctive political relationship between the United States and Indian tribes is defined by treaties, statutes, executive orders, judicial decisions, and agreements, and differentiates tribes from the other entities that deal with, or are affected by, the Federal Government. This relationship has given rise to a special Federal trust responsibility, involving the legal responsibilities and obligations of the United States toward Indian tribes and the application of fiduciary standards of due care with respect to Indian lands, tribal trust resources, and the exercise of tribal rights.

Indian lands (Indian lands are defined in the Secretarial Order of June 5, 1997, as ''any lands title to which is either: (1) held in trust by the United States for the benefit of any Indian tribe or individual; or (2) held by any Indian tribe or individual subject to restrictions by the United States against alienation'') were retained by tribes or have been set aside for tribal use pursuant to treaties, statutes, judicial decisions, executive orders, or agreements. These lands are managed by Indian tribes in accordance with tribal goals and objectives, within the framework of applicable laws.

As a means of recognizing the responsibilities and relationship described here and implementing the Presidential Memorandum of April 24, 1994, Government-to-Government Relations with Native American Tribal Governments, the Secretary of Commerce, and the Secretary of the Interior issued the Secretarial Order entitled ''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act'' on June 5, 1997. The Secretarial Order clarifies the responsibilities of NMFS and the U.S. Fish and Wildlife Service (Services) when carrying out authorities under the ESA and requires that they consult with, and seek the participation of, the affected Indian tribes to the maximum extent practicable. The Secretarial Order further provides that the Services ''shall consult with the affected Indian tribe(s) when considering the designation of critical habitat in an area that may impact tribal trust resources, tribally owned fee lands, or the exercise of tribal rights. Critical habitat shall not be designated in such areas unless it is determined essential to conserve a listed species.''

NMFS has determined that the Indian Reservations containing Indian lands most likely to be affected by a critical habitat designation of listed or proposed steelhead ESUs are the Colville Indian Reservation (Upper Columbia River ESU); Nez Perce Indian Reservation (Snake River ESU); and the Umatilla, Warm Springs, and Yakama Indian Reservations (Middle Columbia River ESU). The major river basins containing reservation lands and listed or proposed steelhead ESUs are identified in Tables 24 through 26. NMFS has not yet identified tribally owned fee lands or other areas where designation of critical habitat may impact tribal trust resources or the exercise of tribal rights. NMFS will identify any such lands during government-to-government consultation with affected tribes.

Although NMFS notified the affected tribes of the proposed critical habitat designation, insufficient time was allotted for meaningful government-to-government consultation. NMFS will continue to consult with the tribes in accordance with the agency's trust responsibilities and the Secretarial Order concerning critical habitat designation in these ESUs. Therefore, NMFS is not proposing to designate critical habitat on the described reservation lands at this time. In addition, tribally owned fee lands and other areas where critical habitat designation may impact the exercise of tribal rights or trust resources may be identified and included or excluded from critical habitat designation in a subsequent action. If any such lands are determined to be essential to conserve listed steelhead, such lands may be designated critical habitat in a subsequent action.

Need for Special Management Considerations or Protection

In order to ensure that the essential habitat areas and features are maintained or restored, special management measures may be needed. Federal activities that may require special management considerations for freshwater and estuarine life stages of listed steelhead include, but are not limited to (1) land management; (2) timber harvest; (3) point and non-point water pollution; (4) livestock grazing; (5) habitat restoration; (6) irrigation water withdrawals and returns; (7) mining; (8) road construction; (9) dam operation and maintenance; and (10) dredge and fill activities. Not all of these activities are necessarily of current concern within every ESU; however, they indicate the potential types of activities that will require consultation in the future. Activities that are conducted on private or state lands that are not federally permitted or funded are not subject to any additional regulations under this rule. However, non-Federal

landowners should be aware that any significant habitat modifications that could adversely affect listed fish, could result in a ''taking'' (i.e., harming or killing) of the listed species, which is prohibited under section 9 of the ESA. No special management considerations have been identified for steelhead while they are residing in the ocean environment.

Activities That May Affect Critical Habitat

A wide range of activities may affect the essential habitat requirements of steelhead. More in-depth discussions are contained in the **Federal Register** documents announcing the listing determinations for each ESU (61 FR 41541, August 9, 1996; 62 FR 43937, August 18, 1997; 63 FR 11798, March 10, 1998; 63 FR 13347, March 19, 1998) as well as NMFS' document entitled ''Steelhead Factors for Decline: A Supplement to the Notice of Determination for West Coast Steelhead'' (NMFS, 1996b). These activities include water and land management actions of Federal agencies (i.e., U.S. Forest Service (USFS), U.S. Bureau of Land Management (BLM), U.S. Army Corps of Engineers (Corps), U.S. Bureau of Reclamation (BOR), Federal Highway Administration (FHA), U.S. Environmental Protection Agency (EPA), Natural Resource Conservation Service (NRCS), National Park Service (NPS), and FERC) and related or similar actions of other federally regulated projects and lands including livestock grazing allocations by USFS and BLM; hydropower sites licensed by FERC; dams built or operated by the Corps or BOR; timber sales conducted by the USFS and BLM; road building activities authorized by the FHA, USFS, BLM, and NPS; and mining and road building activities authorized by the states of Washington, Oregon, Idaho, and California. Other actions of concern include dredge and fill, mining, and bank stabilization activities authorized or conducted by the Corps and habitat modifications authorized by the Federal Emergency Management Agency (FEMA). Additionally, actions of concern could include approval of water quality standards and pesticide labeling and use restrictions administered by EPA.

The Federal agencies that will most likely be affected by this critical habitat designation include the USFS, BLM, BOR, Corps, FHA, NRCS, NPS, FEMA, and FERC. This designation will provide clear notification to these agencies, private entities, and the public of critical habitat designated for steelhead and of the boundaries of the habitat and protection provided for that habitat by the section 7 consultation process. This designation will also assist these agencies and others in evaluating the potential effects of their activities on steelhead and their critical habitat and in determining when consultation with NMFS is appropriate.

Expected Economic Impacts

The economic impacts to be considered in a critical habitat designation are the incremental effects of critical habitat designation above the economic impacts attributable to listing or attributable to authorities other than the ESA (see Consideration of Economic and Other Factors). Incremental impacts result from special management activities in those areas, if any, outside the present distribution of the listed species that NMFS has determined to be essential to the conservation of the species. For these steelhead ESUs, NMFS has determined that the present geographic extent of their freshwater and estuarine range is likely sufficient to provide for conservation of the species, although the quality of that habitat needs improvement on many fronts. Because NMFS is not designating any areas beyond the current range of these steelhead ESUs as critical habitat, the designation will result in few, if any, additional economic effects beyond those that may have been caused by listing and by other statutes.

USFS, BLM, BOR, and the Corps manage areas of proposed critical habitat for the steelhead ESUs. The Corps and other Federal agencies that may be involved with funding or permits for projects in critical habitat areas may also be affected by this designation. Because NMFS believes that virtually all ''adverse modification'' determinations pertaining to critical habitat would also result in ''jeopardy'' conclusions under ESA Section 7 consultations (i.e., as a result of the species being listed), the designation of critical habitat is not expected to result in significant incremental restrictions on Federal agency activities. Critical habitat designation will, therefore, result in few, if any, additional economic effects beyond those that may have been caused by the ESA listing and by other statutes.

Public Comments Solicited

To ensure that the final action resulting from this proposal will be as accurate and effective as possible, NMFS is soliciting comments and suggestions from the public, other governmental agencies, the scientific community, industry, and any other interested parties.

NMFS requests quantitative evaluations describing the quality and extent of marine, estuarine, and freshwater habitats (including adjacent riparian zones) for juvenile and adult steelhead as well as information on areas that may qualify as critical habitat in Washington, Oregon, Idaho, and California. Areas that include the physical and biological features essential to the recovery of the species should be identified. Essential features include, but are not limited to (1) habitat for individual and population growth and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for reproduction and rearing of offspring; and (5) habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of the species. NMFS is also requesting information regarding steelhead distribution and habitat requirements within the range of Indian lands identified in this proposal and whether these lands should be considered essential for the conservation of the listed species or whether recovery can be achieved by limiting the designation to other lands.

NMFS recognizes that there are areas within the proposed boundaries of these ESUs that historically constituted steelhead habitat but may not be currently occupied by steelhead. NMFS requests information about steelhead in these currently unoccupied areas and whether these habitats should be considered essential to the recovery of the species or excluded from designation.

For areas where natural barriers are believed to pose a migration barrier for steelhead (e.g., the Napias Creek Falls issue described earlier in this document), NMFS specifically requests data and analyses concerning the following: (1) Historic accounts indicating steelhead or other anadromous salmonids occurred above the barrier; (2) data or reports analyzing the likelihood steelhead or other anadromous salmonids would migrate above the barrier; and (3) other information indicating that a particular barrier is or is not naturally impassable to anadromous salmonid migration. NMFS will evaluate all new information received concerning this issue and will reconsider this issue in its final steelhead critical habitat designation.

For areas potentially qualifying as critical habitat, NMFS is requesting the following information: (1) The activities that affect the area or could be affected by the designation and (2) the economic

costs and benefits of additional requirements of management measures likely to result from the designation. The economic cost to be considered in the critical habitat designation under the ESA is the probable economic impact ''of the [critical habitat] designation upon proposed or ongoing activities'' (50 CFR 424.19). NMFS must consider the incremental costs resulting specifically from a critical habitat designation that are above the economic effects attributable to listing the species. Economic effects attributable to listing include actions resulting from section 7 consultations under the ESA to avoid jeopardy to the species and from the taking prohibitions under section 9 of the ESA. Comments concerning economic impacts should distinguish the costs of listing from the incremental costs that can be directly attributed to the designation of specific areas as critical habitat.

NMFS will review all public comments and any additional information regarding the status and critical habitat of the steelhead ESUs described herein and complete a final rule as soon as practicable. The availability of new information may cause NMFS to reassess the proposed critical habitat designation of steelhead ESUs.

Public Hearings

Joint Departments of Commerce and Interior ESA implementing regulations state that the Secretaries shall promptly hold at least one public hearing if any person so requests within 45 days of publication of a proposed regulation to list species or to designate critical habitat (50 CFR 424.16(c)(3)). NMFS will schedule public hearings on this proposed rule in the range of affected communities in a subsequent **Federal Register** document. Requests for specific locations or additional public hearings must be received by March 22, 1999. NMFS encourages the public's involvement in such ESA matters.

References

A complete list of all references cited herein and maps describing the range of listed or proposed steelhead ESUs are available upon request (see **ADDRESSES**).

Classification

NMFS has determined that Environmental Assessments or an Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared for this critical habitat designation. See *Douglas County* v. *Babbitt*, 48 F.3d 1495 (9th Cir. 1995), cert. denied, 116 S.Ct. 698 (1996).

NMFS proposes to designate only the current range of these steelhead ESUs as critical habitat. Areas excluded from this proposed designation include marine habitats in the Pacific Ocean and any historically occupied areas above impassable natural barriers (e.g., long-standing, natural waterfalls). NMFS concludes that the currently inhabited areas within the range of each ESU are the minimum habitat necessary to ensure the species' conservation and recovery.

Since NMFS is designating the current range of the listed species as critical habitat, this designation will not impose any additional requirements or economic effects upon small entities beyond those which may accrue from section 7 of the ESA. Section 7 requires Federal agencies to insure that any action they carry out, authorize, or fund is not likely to jeopardize the continued existence of any listed species or to result in the destruction or adverse modification of critical habitat (ESA section 7(a)(2)). The consultation requirements of section 7 are nondiscretionary and are effective at the time of species' listing. Therefore, Federal agencies must consult with NMFS and ensure that their actions do not jeopardize a listed species, regardless of whether critical habitat is designated.

In the future, should NMFS determine that designation of habitat areas outside the species' current range is necessary for conservation and recovery, NMFS will analyze the incremental costs of that action and assess its potential impacts on small entities, as required by the Regulatory Flexibility Act. Until that time, a more detailed analysis would be premature and would not reflect the true economic impacts of the proposed action on local businesses, organizations, and governments.

Accordingly, the Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed critical habitat designation, if adopted, would not have a significant economic impact on a substantial number of small entities, as described in the Regulatory Flexibility Act.

The Assistant Administrator for Fisheries, NOAA, has determined this rule is not significant for purposes of E.O. 12866.

This proposed rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 226

Endangered and threatened species, Incorporation by reference.

Dated: January 29, 1999.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 226 is proposed to be amended as follows:

PART 226—DESIGNATED CRITICAL HABITAT

1. The authority citation for part 226 continues to read as follows:

Authority: 16 U.S.C. 1533.

2. Section 226.29 is added to subpart C to read as follows:

§ 226.29 Lower Columbia River steelhead (Oncorhynchus mykiss), Upper Willamette River steelhead (Oncorhynchus mykiss), Central California Coast steelhead (Oncorhynchus mykiss), South-Central California Coast steelhead (Oncorhynchus mykiss), Southern California steelhead (Oncorhynchus mykiss), Central Valley steelhead (Oncorhynchus mykiss), Middle Columbia River steelhead (Oncorhynchus mykiss), Upper Columbia River steelhead (Oncorhynchus mykiss), Snake River Basin steelhead (Oncorhynchus mykiss).

Critical habitat is designated to include all river reaches accessible to listed steelhead within the range of the ESUs listed, except for reaches on Indian lands within Indian Reservations defined in Tables 24 through 26 to this part. Critical habitat consists of the water, substrate, and adjacent riparian zone of estuarine and riverine reaches in hydrologic units and counties identified in Tables 18 through 26 to this part for all of the steelhead ESUs listed in this section. Accessible reaches are those within the historical range of the ESUs that can still be occupied by any life stage of steelhead. Inaccessible reaches are those above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years) and specific dams within the historical range of each ESU identified in Tables 18 through 26 to this part. Hydrologic units are those defined by the Department of the Interior (DOI), U.S. Geological Survey (USGS) publication, ''Hydrologic Unit Maps, Water Supply Paper 2294, 1986, and by the following DOI, USGS, 1:500,000 scale hydrologic unit maps: State of California (1978), State of Idaho (1981), State of Oregon (1974), and State of Washington (1974) which are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C.

552(a) and 1 CFR part 51. Copies of the USGS publication and maps may be obtained from the USGS, Map Sales, Box 25286, Denver, CO 80225. Copies may be inspected at NMFS, Protected Resources Division, 525 NE Oregon St., Suite 500, Portland, OR 97232–2737, or NMFS, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910, or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(a) *Lower Columbia River steelhead (Oncorhynchus mykiss) geographic boundaries.* Critical habitat is designated to include all river reaches accessible to listed steelhead in Columbia River tributaries between the Cowlitz and Wind Rivers in Washington and the Willamette and Hood Rivers in Oregon, inclusive. Also included are river reaches and estuarine areas in the Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) upstream to the Hood River in Oregon. Excluded are areas above specific dams identified in Table 18 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(b) *Upper Willamette River steelhead (Oncorhynchus mykiss) geographic boundaries.* Critical habitat is designated to include all river reaches accessible to listed steelhead in the Willamette River and its tributaries above Willamette Falls. Also included are river reaches and estuarine areas in the Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) upstream to, and including, the Willamette River in Oregon. Excluded are areas above specific dams identified in Table 19 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(c) *Central California Coast steelhead (Oncorhynchus mykiss) geographic boundaries.* Critical habitat is designated to include all river reaches and estuarine areas accessible to listed steelhead in coastal river basins from the Russian River to Soquel Creek, California (inclusive), and the drainages of San Francisco and San Pablo Bays. Also included are all waters of San Pablo Bay westward of the Carquinez Bridge and all waters of San Francisco Bay (north of the San Francisco/Oakland Bay Bridge) from San Pablo Bay to the Golden Gate Bridge. Excluded is the Sacramento-San Joaquin River Basin of the California Central Valley as well as areas above specific dams identified in Table 20 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(d) *South-Central California Coast steelhead (Oncorhynchus mykiss) geographic boundaries.* Critical habitat is designated to include all river reaches and estuarine areas accessible to listed steelhead in coastal river basins from the Pajaro River (inclusive) to, but not including, the Santa Maria River, California. Excluded are areas above specific dams identified in Table 21 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(e) *Southern California steelhead (Oncorhynchus mykiss) geographic boundaries.* Critical habitat is designated to include all river reaches and estuarine areas accessible to listed steelhead in coastal river basins from the Santa Maria River to Malibu Creek, California (inclusive). Excluded are areas above specific dams identified in Table 22 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(f) *Central Valley steelhead (Oncorhynchus mykiss) geographic boundaries.* Critical habitat is designated to include all river reaches accessible to listed steelhead in the Sacramento and San Joaquin Rivers and their tributaries in California. Also included are river reaches and estuarine areas of the Sacramento-San Joaquin Delta, all waters from Chipps Island westward to Carquinez Bridge, including Honker Bay, Grizzly Bay, Suisun Bay, and Carquinez Strait, all waters of San Pablo Bay westward of the Carquinez Bridge, and all waters of San Francisco Bay (north of the San Francisco/Oakland Bay Bridge) from San Pablo Bay to the Golden Gate Bridge. Excluded are areas of the San Joaquin River upstream of the Merced River confluence and areas above specific dams identified in Table 23 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(g) *Middle Columbia River steelhead (Oncorhynchus mykiss) geographic boundaries.* Critical habitat is designated to include all river reaches accessible to listed steelhead in Columbia River tributaries (except the Snake River) between Mosier Creek in Oregon and the Yakima River in Washington (inclusive). Also included are river reaches and estuarine areas in the Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) upstream to the Yakima River in Washington. Excluded are areas above specific dams identified in Table 24 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(h) *Upper Columbia River steelhead (Oncorhynchus mykiss) geographic boundaries.* Critical habitat is designated to include all river reaches accessible to listed steelhead in Columbia River tributaries upstream of the Yakima River, Washington, and downstream of Chief Joseph Dam. Also included are river reaches and estuarine areas in the Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) upstream to Chief Joseph Dam in Washington. Excluded are areas above specific dams identified in Table 25 of this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(i) *Snake River Basin steelhead (Oncorhynchus mykiss) geographic boundaries.* Critical habitat is designated to include all river reaches accessible to listed steelhead in the Snake River and its tributaries in Idaho, Oregon, and Washington. Also included are river reaches and estuarine areas in the Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) upstream to the confluence with the Snake River. Excluded are areas above specific dams identified in Table 26 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

3. Tables 5 through 17 are added and reserved, and tables 18 through 26 are added to part 226 to read as follows:

TABLE 18 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR LOWER COLUMBIA RIVER STEELHEAD, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

Hydrologic unit name	Hydrologic unit No.	Counties contained in hydrologic unit and within range of ESU [1]	Dams
Middle Columbia-Hood	17070105	Hood River (OR), Skamania (WA).	
Lower Columbia-Sandy	17080001	Clackamas (OR), Multnomah (OR), Clark (WA), Skamania (WA)	Bull Run Dam #2.
Lewis	17080002	Clark (WA), Cowlitz (WA), Skamania (WA)	Merwin Dam.
Lower Columbia-Clatskanie	17080003	Clatsop (OR), Columbia (OR), Cowlitz (WA), Skamania (WA), Wahkiakum (WA).	
Lower Cowlitz	17080005	Cowlitz (WA), Lewis (WA)	Mayfield Dam.
Lower Columbia	17080006	Clatsop (OR), Pacific (WA), Wahkiakum (WA).	
Clackamas	17090011	Clackamas (OR), Marion (OR).	
Lower Willamette	17090012	Clackamas (OR), Columbia (OR), Multnomah (OR), Washington (OR).	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.
[2] Reserved.

TABLE 19 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR UPPER WILLAMETTE RIVER STEELHEAD, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

Hydrologic unit name	Hydrologic unit No.	Counties contained in hydrologic unit and within range of ESU [1]	Dams
Lower Columbia-Sandy	17080001	Clark (WA)	Bull Run Dam.
Lower Columbia-Clatskanie	17080003	Clatsop (OR), Columbia (WA), Cowlitz (WA), Wahkiakum (WA).	
Lower Columbia	17080006	Clatsop (OR), Pacific (WA), Wahkiakum (WA).	
Middle Fork Willamette	17090001	Lane (OR)	Dexter Dam.
Coast Fork Willamette	17090002	Douglas (OR), Lane (OR)	Dorena Dam.
Upper Willamette	17090003	Benton (OR), Lane (OR), Lincoln (OR), Linn (OR), Polk (OR)	Cougar Dam.
McKenzie	17090004	Lane (OR), Linn (OR)	Big Cliff Dam.
North Santiam	17090005	Linn (OR), Marion (OR).	
South Santiam	17090006	Linn (OR)	Green Peter Dam.
Middle Willamette	17090007	Clackamas (OR), Marion (OR), Polk (OR), Washington (OR), Yamhill (OR).	
Yamhill	17090008	Lincoln (OR), Polk (OR), Tillamook (OR), Washington (OR), Yamhill (OR).	
Molalla-Pudding	17090009	Clackamas (OR), Marion (OR).	
Tualatin	17090010	Clackamas (OR), Columbia (OR), Multnomah (OR), Tillamook (OR), Washington (OR), Yamhill (OR).	
Lower Willamette	17090012	Clackamas (OR), Columbia (OR), Multnomah (OR).	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.
[2] Reserved.

TABLE 20 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR CENTRAL CALIFORNIA COAST STEELHEAD, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

Hydrologic unit name	Hydrologic unit No.	Counties contained in hydrologic unit and within range of ESU [1]	Dams
Russian	18010110	Mendocino (CA), Sonoma (CA)	Coyote Dam, Warm Springs Dam.
Bodega Bay	18010111	Marin (CA), Sonoma (CA).	
Suisun Bay	18050001	Contra Costa (CA), Napa (CA), Solano (CA).	
San Pablo Bay	18050002	Marin (CA), Napa (CA)	San Pablo Reservoir.
Coyote	18050003	Alameda (CA), San Mateo (CA), Santa Clara (CA)	Calavera Reservoir.
San Francisco Bay	18050004	Alameda (CA), Contra Costa (CA), San Mateo (CA), Santa Clara (CA).	
Tomales-Drake Bays	18050005	Marin (CA), Sonoma (CA)	Nicasio Dam, Seeger Dam.
San Francisco Coastal South	18050006	San Mateo (CA).	
San Lorenzo-Soquel	18060001	San Mateo (CA), Santa Cruz (CA)	Newell Dam.

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.
[2] Reserved.

TABLE 21 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR SOUTH-CENTRAL CALIFORNIA COAST STEELHEAD, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

Hydrologic unit name	Hydrologic unit No.	Counties contained in hydrologic unit and within range of ESU [1]	Dams
Pajaro	18060002	Monterey (CA), San Benito (CA), Santa Clara (CA), Santa Cruz (CA).	
Estrella	18060004	Monterey (CA), San Luis Obispo (CA).	
Salinas	18060005	Monterey (CA), San Benito (CA), San Luis Obispo (CA)	Salinas Dam.
Central Coastal	18060006	Monterey (CA), San Luis Obispo (CA).	
Alisal-Elkhorn Sloughs	18060011		
Carmel	18060012		Los Padres Dam.

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.
[2] Reserved.

TABLE 22 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR SOUTHERN CALIFORNIA STEELHEAD, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

Hydrologic unit name	Hydrologic unit No.	Counties contained in hydrologic unit and within range of ESU [1]	Dams
Cuyama	18060007	San Luis Obispo (CA), Santa Barbara (CA)	Vaquero Dam.
Santa Maria	18060008	San Luis Obispo (CA), Santa Barbara (CA).	
San Antonio	18060009	Santa Barbara (CA).	
Santa Ynez	18060010	Santa Barbara (CA)	Bradbury Dam.
Santa Barbara Coastal	18060013	Santa Barbara (CA), Ventura (CA).	
Ventura	18070101	Santa Barbara (CA), Ventura (CA)	Casitas Dam, Robles Dam, Matilija Dam, Vern Freeman Diversion Dam.
Santa Clara	18070102	Los Angeles (CA), Santa Barbara (CA), Ventura (CA)	Santa Felicia Dam.
Calleguas	18070103	Los Angeles (CA), Ventura (CA).	
Santa Monica Bay	18070103	Los Angeles (CA), Ventura (CA)	Rindge Dam.

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.
[2] Reserved.

TABLE 23 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR CENTRAL VALLEY STEELHEAD, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

Hydrologic unit name	Hydrologic unit No.	Counties contained in hydrologic unit and within range of ESU [1]	Dams
Sacramento-Lower Cow-Lower Clear.	18020101	Shasta (CA), Tehama (CA).	
Lower Cottonwood	18020102	Shasta (CA), Tehama (CA).	
Sacramento-Lower Thomes	18020103	Butte (CA), Glenn (CA), Tehama (CA)	Black Butte Dam.
Sacramento-Stone Corral	18020104	Butte (CA), Colusa (CA), Glenn (CA), Sutter (CA), Yolo (CA).	
Lower Butte	18020105	Butte (CA), Colusa (CA), Glenn (CA), Sutter (CA).	
Lower Feather	18020106	Butte (CA), Sutter (CA), Yuba (CA)	Oroville Dam.
Lower Yuba	18020107	Yuba (CA).	
Lower Bear	18020108	Placer (CA), Sutter (CA), Yuba (CA)	Camp Far West Dam.
Lower Sacramento	18020109	Placer (CA), Sacramento (CA), Solano (CA), Sutter (CA), Yolo (CA).	
Lower American	18020111	Placer (CA), Sacramento (CA), Sutter (CA)	Nimbus Dam.
Sacramento-Upper Clear	18020112	Shasta (CA)	Keswick Dam.
Cottonwood Headwaters	18020113	Shasta (CA), Tehama (CA).	
Upper Elder-Upper Thomes	18020114	Tehama (CA).	
Upper Cow-Battle	18020118	Shasta (CA), Tehama (CA)	Whiskeytown Dam.
Mill-Big Chico	18020119	Butte (CA), Shasta (CA), Tehama (CA).	
Upper Butte	18020120	Butte (CA), Tehama (CA).	
Honcut Headwaters	18020124	Butte (CA), Yuba (CA).	
Upper Yuba	18020125	Yuba (CA), Nevada (CA)	Englebright Dam.
Upper Coon-Upper Auburn	18020127	Placer (CA).	
Middle San Joaquin-Lower Merced-Lower Stanislaus.	18040002	Calaveras (CA), Merced (CA), San Joaquin (CA), Stanislaus (CA)	Crocker Diversion Dam, La Grange Dam.
San Joaquin Delta	18040003	Alameda (CA), Contra Costa (CA), Sacramento (CA), San Joaquin (CA).	
Lower Calaveras-Mormon Slough.	18040004	Calaveras (CA), San Joaquin (CA), Stanislaus (CA).	
Lower Consumnes-Lower Mokelumne.	18040005	Amador (CA), Sacramento (CA), San Joaquin (CA)	Comanche Dam.
Upper Stanislaus	18040010	Calaveras (CA), San Joaquin (CA), Tuolumne (CA)	Goodwin Dam.

TABLE 23 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR CENTRAL VALLEY STEELHEAD, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT—Continued

Hydrologic unit name	Hydrologic unit No.	Counties contained in hydrologic unit and within range of ESU [1]	Dams
Upper Calaveras	18040011	Calaveras (CA)	New Hogan Dam.
Panoche-San Luis Reservoir	18040014	San Joaquin (CA), Stanislaus (CA).	
Suisun Bay	18050001	Contra Costa (CA), Solano (CA).	
San Pablo Bay	18050002	Contra Costa (CA), Marin (CA), San Francisco (CA), Solano (CA), Sonoma (CA).	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.
[2] Reserved.

TABLE 24 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR MIDDLE COLUMBIA RIVER STEELHEAD, TRIBAL LANDS WITHIN THE RANGE OF THE ESU, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

Hydrologic unit name	Hydrologic unit No.	Counties and tribal lands contained in hydrologic unit and within range of ESU [1 2]	Dams
Upper Columbia-Priest Rapids	17020016	Benton (WA), Franklin (WA).	
Upper Yakima	17030001	Kittitas (WA), Yakima (WA).	
Naches	17030002	Kittitas (WA), Yakima (WA).	
Lower Yakima	17030003	Benton (WA), Klickitat (WA), Yakima (WA), Yakima Indian Reservation.	
Middle Columbia-Lake Wallula	17070101	Gilliam (OR), Morrow (OR), Umatilla (OR), Benton (WA), Klickitat (WA), Walla Walla (WA), Yakima (WA).	
Walla Walla	17070102	Umatilla (OR), Wallowa (OR), Columbia (WA), Walla Walla (WA).	
Umatilla	17070103	Morrow (OR), Umatilla (OR), Union (OR), Umatilla Indian Reservation.	
Willow	17070104	Morrow (OR), Gilliam (OR).	
Middle Columbia-Hood	17070105	Hood River (OR), Sherman (OR), Wasco (OR), Klickitat (WA), Skamania (WA).	Condit Dam.
Klickitat	17070106	Klickitat (WA), Yakima (WA), Yakama Indian Reservation.	
Upper John Day	17070201	Crook (OR), Grant (OR), Harney (OR), Wheeler (OR).	
North Fork John Day	17070202	Grant (OR), Morrow (OR), Umatilla (OR), Union (OR), Wheeler (OR).	
Middle Fork John Day	17070203	Grant (OR).	
Lower John Day	17070204	Crook (OR), Gilliam (OR), Grant (OR), Jefferson (OR), Morrow (OR), Sherman (OR), Wasco (OR), Wheeler (OR).	
Lower Deschutes	17070306	Jefferson (OR), Sherman (OR), Wasco (OR), Warm Springs Indian Reservation.	Pelton Dam.
Trout	17070307	Crook (OR), Jefferson (OR), Wasco (OR).	
Lower Columbia-Sandy	17080001	Multnomah (OR), Clark (WA), Skamania (WA).	
Lower Columbia-Clatskanie	17080003	Clatsop (OR), Columbia (WA), Cowlitz (WA), Wahkiakum (WA).	
Lower Columbia	17080006	Clatsop (OR), Pacific (WA), Wahkiakum (WA).	
Lower Willamette	17090012	Columbia (OR), Multnomah (OR).	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.
[2] Tribal lands are specifically excluded from critical habitat for this ESU.

TABLE 25 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR UPPER COLUMBIA RIVER STEELHEAD, TRIBAL LANDS WITHIN THE RANGE OF THE ESU, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

Hydrologic unit name	Hydrologic unit No.	Counties and tribal lands contained in hydrologic unit and within range of ESU [1, 2]	Dams
Chief Joseph	17020005	Chelan (WA), Douglas (WA), Okanogan (WA), Colville Indian Reservation.	Chief Joseph Dam.
Okanogan	17020006	Okanogan (WA), Colville Indian Reservation.	
Similkameen	17020007	Okanogan (WA).	
Methow	17020008	Okanogan (WA).	
Upper Columbia-Entiat	17020010	Chelan (WA), Douglas (WA), Grant (WA), Kittitas (WA).	
Wenatchee	17020011	Chelan (WA).	
Moses Coulee	17020012	Douglas (WA), Grant (WA).	
Upper Columbia-Priest Rapids	17020016	Benton (WA), Franklin (WA), Grant (WA), Kittitas (WA), Yakima (WA).	
Middle Columbia-Lake Wallula	17070101	Gilliam (OR), Morrow (OR), Sherman (OR), Umatilla (OR), Benton (WA), Klickitat (WA), Walla Walla (WA).	
Middle Columbia-Hood	17070105	Hood River (OR), Sherman (OR), Wasco (OR), Klickitat (WA), Skamania (WA).	
Lower Columbia-Sandy	17080001	Multnomah (OR), Clark (WA), Skamania (WA).	
Lower Columbia-Clatskanie	17080003	Clatsop (OR), Columbia (WA), Cowlitz (WA), Wahkiakum (WA).	

TABLE 25 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR UPPER COLUMBIA RIVER STEELHEAD, TRIBAL LANDS WITHIN THE RANGE OF THE ESU, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT—Continued

Hydrologic unit name	Hydrologic unit No.	Counties and tribal lands contained in hydrologic unit and within range of ESU [1, 2]	Dams
Lower Columbia	17080006	Clatsop (OR), Pacific (WA), Wahkiakum (WA).	
Lower Willamette	17090012	Columbia (OR), Multnomah (OR).	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.
[2] Tribal lands are specifically excluded from critical habitat for this ESU.

TABLE 26 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR SNAKE RIVER BASIN STEELHEAD, TRIBAL LANDS WITHIN THE RANGE OF THE ESU, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

Hydrologic unit name	Hydrologic unit No.	Counties and tribal lands contained in hydrologic unit and within range of ESU [1, 2]	Dams
Hells Canyon	17060101	Adams (ID), Idaho (ID), Wallowa (OR)	Hells Canyon Dam.
Imnaha	17060102	Baker (OR), Union (OR), Wallowa (OR).	
Lower Snake-Asotin	17060103	Nez Perce (ID), Wallowa (OR), Asotin (WA), Garfield (WA).	
Upper Grande Ronde	17060104	Grant (OR), Umatilla (OR), Union (OR).	
Wallowa	17060105	Union (OR), Wallowa (OR).	
Lower Grande Ronde	17060106	Union (OR), Wallowa (OR), Asotin (WA), Columbia (WA), Garfield (WA).	
Lower Snake-Tucannon	17060107	Asotin (WA), Columbia (WA), Garfield (WA), Whitman (WA).	
Palouse	17060108	Benewah (ID), Latah (ID), Nez Perce (ID), Franklin (WA), Lincoln (WA), Spokane (WA), Whitman (WA) Nez Perce Indian Reservation.	
Lower Snake	17060110	Columbia (WA), Franklin (WA), Walla Walla (WA).	
Upper Salmon	17060201	Blaine (ID), Custer (ID), Lemhi (ID).	
Pahsimeroi	17060202	Custer (ID), Lemhi (ID).	
Middle Salmon-Panther	17060203	Custer (ID), Lemhi (ID).	
Lemhi	17060204	Lemhi (ID).	
Upper Middle Fork Salmon	17060205	Boise (ID), Custer (ID), Lemhi (ID), Valley (ID).	
Lower Middle Fork Salmon	17060206	Idaho (ID), Lemhi (ID), Valley (ID).	
Middle Salmon-Chamberlain	17060207	Idaho (ID), Lemhi (ID), Valley (ID).	
South Fork Salmon	17060208	Idaho (ID), Valley (ID).	
Lower Salmon	17060209	Idaho (ID), Lewis (ID), Nez Perce (ID).	
Little Salmon	17060210	Adams (ID), Idaho (ID).	
Upper Selway	17060301	Idaho (ID).	
Lower Selway	17060302	Idaho (ID).	
Lochsa	17060303	Clearwater (ID), Idaho (ID).	
Middle Fork Clearwater	17060304	Idaho (ID), Nez Perce Indian Reservation.	
South Fork Clearwater	17060305	Idaho (ID), Nez Perce Indian Reservation.	
Clearwater	17060306	Clearwater (ID), Idaho (ID), Latah (ID), Lewis (ID), Nez Perce (ID), Nez Perce Indian Reservation.	
Lower North Fork Clearwater	17060308	Clearwater (ID), Latah (ID), Shoshone (ID), Nez Perce Indian Reservation.	Dworshak Dam.
Middle Columbia-Lake Wallula	17070101	Gilliam (OR), Morrow (OR), Sherman (OR), Umatilla (OR), Benton (WA), Klickitat (WA), Walla Walla (WA).	
Middle Columbia-Hood	17070105	Hood River (OR), Sherman (OR), Wasco (OR), Klickitat (WA), Skamania (WA).	
Lower Columbia-Sandy	17080001	Multnomah (OR), Clark (WA), Skamania (WA).	
Lower Columbia-Clatskanie	17080003	Clatsop (OR), Columbia (WA), Cowlitz (WA), Wahkiakum (WA).	
Lower Columbia	17080006	Clatsop (OR), Pacific (WA), Wahkiakum (WA).	
Lower Willamette	17090012	Columbia (OR), Multnomah (OR).	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.
[2] Tribal lands are specifically excluded from critical habitat for this ESU.

[FR Doc. 99–2642 Filed 2–4–99; 8:45 am]
BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 990119022–9022–01; I.D. 111998B]

RIN 0648–AM13

Fisheries of the Northeastern United States; Amendment 1 to the Atlantic Salmon Fishery Management Plan

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 1 to the Atlantic Salmon Fishery Management Plan (FMP). Specifically, this proposed rule would establish a framework process to add or adjust Atlantic salmon aquaculture management measures, if necessary, to meet the goals and objectives of the Atlantic Salmon FMP. Amendment 1 to the FMP also proposes to add an Atlantic salmon overfishing definition.

DATES: Comments must be received on or before March 22, 1999.

ADDRESSES: Comments on this proposed rule should be sent to Jon C. Rittgers, Acting Regional Administrator, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on Proposed Rule for Amendment 1 to the Atlantic Salmon FMP.''

Copies of the Amendment, its regulatory impact review (RIR), environmental assessment (EA), and supporting documents are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036.

FOR FURTHER INFORMATION CONTACT: Bonnie L. Van Pelt, Fishery Management Specialist, 978–281–9244.

SUPPLEMENTARY INFORMATION: The Sustainable Fisheries Act of 1996 (SFA) requires the Regional Fishery Management Councils to identify and describe essential fish habitat (EFH) for the species managed. NMFS issued a notice of availability that invited public comments on Amendment 11 to the Northeast Multispecies FMP, Amendment 9 to the Atlantic Sea Scallop FMP, and Amendment 1 to the Atlantic Salmon FMP in the **Federal Register** on December 1, 1998 (63 FR 66110), with a comment period ending date for these amendments of February 1, 1999. These amendments are part of a larger document (omnibus amendment) submitted by the New England Fishery Management Council (NEFMC) for Secretarial review that includes Amendment 1 to the Monkfish FMP prepared jointly by NEFMC and the Mid-Atlantic Fishery Management Council (MAFMC). Because the MAFMC had not yet adopted Monkfish Amendment 1 at the time of the NEFMC's submission of the omnibus amendment to NMFS, the notice of availability published on December 1, 1998 did not invite public comments on Amendment 1 to the Monkfish FMP. Also, the omnibus amendment also includes the EFH components of the Atlantic Herring FMP that is being developed by the NEFMC. The EFH information for Atlantic Herring will be incorporated by reference into the Atlantic Herring FMP when that FMP is submitted for Secretarial approval; therefore, public comments were not invited on the EFH components for Atlantic herring in the aforementioned notice of availability published on December 1, 1998. On December 7, 1998, NMFS issued an amendment to the notice of availability (NOA) published on December 1, 1998, in the **Federal Register** (63 FR 67450), notifying the public that in addition to EFH components, Amendment 1 to the Atlantic Salmon FMP also contains a discussion of an overfishing definition and an aquaculture framework adjustment process for Atlantic salmon. The comment period ending date for those components for Amendment 1 to the Atlantic Salmon FMP is also February 1, 1999. Finally, NMFS issued another amendment to the notice of availability published on December 1, 1998, advising the public that a proposed rule would be published in the **Federal Register** soon, inviting public comments on the proposed framework adjustment process for possible aquaculture operations for Atlantic salmon. The only proposed implementing regulations contained in this omnibus amendment are those related to the Atlantic Salmon FMP.

Proposed Management Measures

Amendment 1 to the Atlantic Salmon FMP proposes to add a definition for Atlantic salmon overfishing and to add a mechanism to allow Atlantic salmon aquaculture management measures to be added or adjusted through a framework adjustment process.

Although salmon is overfished, no additional management measures are proposed by this amendment. Management measures currently in place prohibit harvesting of salmon from Federal waters. As a result, NMFS sent a letter to the NEFMC informing it that since everything within the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) has been done to rebuild this overfished stock, no further action was required to comply with the rebuilding provision of the Magnuson-Stevens Act (Section 304(c)).

This amendment includes a definition of overfishing which was certified with reservation by the Northeast Fisheries Science Center as follows:

> The overfishing definition is based on the assumption that the number of spawning salmon corresponding to MSY is 54,000 (a proxy for B_{MSY}), and that fishing mortality on the current stock of 200 fish should be zero. The stock size is currently well below ½ B_{msy} and B_{limit} (the biomass [or number of spawners] from which the stock could be rebuilt to B_{msy} in 10 years). The amendment does not specify a fishing mortality limit or threshold appropriate for a rebuilt stock, or the stock size above which the fishing mortality rate could be greater than zero. However, given the current status of the stock and protracted rebuilding period, we are unlikely to achieve these thresholds in the near future.
>
> We will continue to monitor stock conditions for Atlantic salmon and study life history. We will recommend adjustments if and when necessary.

In order to allow Atlantic salmon aquaculture projects to be conducted in the EEZ consistent with the goals and objectives of the Atlantic Salmon FMP, it may be necessary to add or adjust Atlantic salmon aquaculture management measures. For the sake of efficiency, this proposed rule would establish a framework process for adding or adjusting Atlantic salmon management measures which is consistent with the processes proposed under Amendment 9 to the Northeast Multispecies FMP and Amendment 7 for the Atlantic Sea Scallop FMP both of which were developed by the NEFMC to bring the applicable FMPs into compliance with the SFA requirements. Amendments 9 and 7, respectively, are currently under Secretarial review.

This action would allow the Council and NMFS to adjust or add one or more of the Atlantic salmon aquaculture management measures identified in Amendment 1, including, but not limited to: minimum fish sizes, gear restrictions, minimum mesh sizes, possession limits, tagging requirements, monitoring requirements, reporting requirements, permit restrictions, area

closures, and establishment of special management areas or zones.

Classification

At this time, NMFS has not determined that the amendment that this rule would implement is consistent with the Magnuson-Stevens Act and with other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. This rulemaking establishes a framework adjustment mechanism or process, but has no immediate economic or social impacts. Future actions taken to initiate Atlantic salmon aquaculture through this framework process would have their own supporting analyses of economic and social impacts. As a result, an initial regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 1, 1999.

Gary C. Matlock,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

2. Section 648.41 is added to read as follows:

§ 648.41 Framework specifications.

(a) *Within season management action.* The Council may, at any time, initiate action to add or adjust Atlantic salmon aquaculture management measures if it finds that action is necessary to meet or be consistent with the goals and objectives of the Atlantic Salmon FMP.

(b) *Adjustment process.* The Council shall develop and analyze appropriate aquaculture management measures over the span of at least two Council meetings. The Council shall provide the public with advance notice of the availability of both the proposals and the analysis and opportunity to comment on them prior to and at the second Council meeting. The Council's recommendation on adjustments or additions to aquaculture management measures, must come from one or more of the following categories: minimum fish sizes, gear restrictions, minimum mesh sizes, possession limits, tagging requirements, monitoring requirements, reporting requirements, permit restrictions, area closures, establishment of special management areas or zones and any other management measures currently included in the FMP.

(c) *NEFMC recommendation.* After developing aquaculture management actions and receiving public testimony, the NEFMC shall make a recommendation to the Regional Administrator. The NEFMC's recommendation must include supporting rationale and, if aquaculture management measures are recommended, an analysis of impacts and a recommendation to the Regional Administrator on whether to issue the aquaculture management measures as a final rule. If the NEFMC recommends that the aquaculture management measures should be issued as a final rule, the NEFMC must consider at least the following factors and provide support and analysis for each factor considered:

(1) Whether the availability of data on which the recommended aquaculture management measures are based allows for adequate time to publish a proposed rule, and whether regulations have to be in place for an entire harvest/fishing season.

(2) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the NEFMC's recommended aquaculture management measures.

(3) Whether there is an immediate need to protect the resource.

(4) Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.

(d) *Regional Administrator action.* If the NEFMC's recommendation includes adjustments or additions to aquaculture management measures and, after reviewing the NEFMC's recommendation and supporting information:

(1) If the Regional Administrator concurs with the NEFMC's recommended aquaculture management measures and determines that the recommended management measures should be issued as a final rule based on the factors specified in paragraph (b)(2) of this section, the measures will be issued as a final rule in the **Federal Register**.

(2) If the Regional Administrator concurs with the NEFMC's recommendation and determines that the recommended aquaculture management measures should be published first as a proposed rule, the measures will be published as a proposed rule in the Federal Register. After additional public comment, if the Regional Administrator concurs with the NEFMC recommendation, the measures will be issued as a final rule in the **Federal Register**.

(3) If the Regional Administrator does not concur, the NEFMC will be notified in writing of the reasons for the non-concurrence.

(e) *Emergency action.* Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson Act.

[FR Doc. 99–2797 Filed 2–4–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 64, No. 24
Friday, February 5, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Notice of FY 1999 Emerging Markets Program and Solicitation of Private Sector Proposals

AGENCY: Foreign Agricultural Service, USDA.

SUMMARY: The Foreign Agricultural Service (FAS) invites proposals for using technical assistance to promote the export of, and improve the market access for, U.S. agricultural products to emerging markets in fiscal year (FY) 1999 under the Emerging Markets Program (the Program). The Program is authorized by the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (the Act). Proposals will be considered under this announcement from any U.S. private agricultural or agribusiness organization, with certain restrictions as indicated below. Under the Act, up to $10 million are available to fund the Program. All agricultural products except tobacco are eligible for consideration. This notice complements a notice published February 1 announcing the Unified Export Strategy (UES) of FAS.

FAS published on February 1, a **Federal Register** notice on its FY 1999 UES. The UES will provide a means for interested applicants to apply for Program funds. Some applicants may wish to use the UES process and apply under that announcement or to apply under this announcement. The Program will consider all requests whether based on this announcement or the UES announcement. However, the deadline for all applications to the Program is the close of business Friday, March 26, without exception.

FOR FURTHER INFORMATION CONTACT: To ensure that proposals submitted to the Program under this announcement qualify for funding, it is strongly recommended that any organization considering applying to the Program for FY 1999 funding assistance first obtain a copy of the 1999 Program Guidelines. The Guidelines contain additional information, including eligibility for funding under the Program, details of project budgets, and certain funding limitations that must be taken into account in the preparation of proposals. Requests for Program Guidelines and additional information may be obtained from and applications submitted to: Emerging Markets Office, Foreign Agricultural Service, Room 6506 South Building, U.S. Department of Agriculture, Washington, D.C. 20250–1032, Fax: (202) 690–4369. The Guidelines are also available on the FAS Home Page on the Internet: http://www.fas.usda.gov/excredits/em-markets/em-markets.html.

SUPPLEMENTARY INFORMATION:

Program Definitions: The purpose of the Program is to assist U.S. organizations, public and private, to improve market access and to develop and promote U.S. agricultural products and/or processes in low- to middle-income countries that offer promise of emerging market opportunities in the near- to medium-term. This is to be accomplished by providing U.S. technical assistance through projects and activities in those emerging markets.

The Act defines an emerging market as any country that the Secretary of Agriculture determines:

(1) Is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

(2) Has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.

Because funds are limited and the range of potential emerging market countries is worldwide, proposals will be considered which focus on those countries with (1) per capita income less than $9,655 (the ceiling on upper middle income economies as determined by the World Bank [World Development Indicators 1998]); and (2) population greater than 1 million (may encompass suitable regional groupings, e.g., the islands of the Caribbean Basin).

Program Priorities and Determining Factors: The underlying premise of the Program is that there are distinctive characteristics of emerging agricultural markets that necessitate or benefit significantly from U.S. governmental assistance before the private sector moves to develop these markets through normal corporate or trade promotional activities. The emphasis is on marketing opportunities where there are risks that the private sector would not normally undertake alone, with funding provided for successful activities on a project-by-project basis. The Program complements the efforts of other FAS marketing programs. Once a market access issue has been addressed by this Program, further market development activities may be considered under other programs such as GSM–102 or GSM–103 credit guarantee programs, the Facilities Guarantee Program, the Suppliers' Guarantee Program, the Market Access Program (MAP), or the Foreign Market Development Program (FMD).

In general, priority consideration will be given to those proposals that identify and seek to address specific problems and/or constraints in rural business systems and/or food and agribusiness systems in emerging markets through technical assistance to expand or maintain U.S. agricultural exports.

The following will be used to determine the suitability of projects for funding by the Program:

1. Low U.S. market share and significant market potential.

- Is there a significant lag in U.S. market share of a specific commodity in a given country or countries?
- Is there an identifiable obstacle or competitive disadvantage facing U.S. exporters (e.g., competitor financing, subsidy, competitor market development activity) or systemic obstacle to imports of U.S. products (e.g., inadequate distribution, infrastructure impediments, insufficient information, lack of financing options or resources)?
- What is the potential of a project to generate a significant increase in U.S. agricultural exports in the near-to medium-term? (Estimates or projections of trade benefits to commodity exports, and the basis for evaluating such, must be included in proposals submitted to the Program.)

2. Recent change in a market.

- Is there, for example, a change in a sanitary or phytosanitary trade barrier; a change in an import regime or the lifting of a trade embargo; a shift in the

political or financial situation in a country?

In order to qualify for Program funding, proposals must also include cost-sharing, the willingness of private agribusiness to commit its own funds along with those of the Program to seek export business in an emerging market. No proposal will be considered without the element of cost-sharing. The Program is intended to complement, not supplant, the efforts of the U.S. private sector. The percentage of private funding proposed for a project will therefore be a critical factor in determining which proposals are funded under the Program. While no minimum or maximum is specified, the absolute amount of private sector funding proposed may also affect the decision to fund a proposal. The type of cost-sharing provided by private industry is also not specified; it may be professional time of staff assigned to the project or actual cash invested in the proposed project. However, proposals in which private industry is willing to commit actual funds, rather than contributing such in-kind items as staff resources, will be given priority consideration.

Subject areas for technical assistance activities which promote markets for U.S. agricultural product exports which will be given priority consideration for funding under the Program are:

—Projects and activities which use technical assistance designed specifically to improve market access in emerging foreign markets. Examples: activities intended to mitigate the impact of sudden political events or economic and currency crises in order to maintain U.S. market share; responses to time-sensitive market opportunities;

—Marketing and distribution of more value-added products, including new products or uses. Examples: food service development; market research on potential for consumer-ready foods or new uses of a product;

—Studies of food distribution channels in emerging markets, including infrastructural impediments to U.S. exports; such studies may include cross-commodity activities which focus on problems, e.g., distribution, which affect more than one industry. Examples: grain storage handling and inventory systems development; distribution infrastructure development;

—Projects that specifically address various constraints to U.S. exports, including sanitary and phytosanitary issues and other non-tariff barriers. Examples: seminars on U.S. food safety standards and regulations; assessing and addressing pest and disease problems that inhibit U.S. product exports;

—Assessments and follow up activities designed to improve country-wide food and business systems, to reduce trade barriers, to increase prospects for U.S. trade and investment in emerging markets, and to determine the potential use for general export credit guarantees, including especially the Facilities Guarantee Program, for commodities, facilities and services. Examples: product needs assessments and market analysis; assessments for using facilities credits to address infrastructural impediments;

—Projects that help foreign governments to collect and use market information and to develop free trade policies that benefit American exporters as well as the target country or countries. Examples: agricultural statistical analysis; development of market information systems; policy analysis;

—Short-term training in broad aspects of agriculture and agribusiness trade that will benefit U.S. exporters, including seminars and training at trade shows designed to expand the potential for U.S. agricultural exports by focusing on the trading system. Examples: marketing seminars; transportation seminars; training keyed to opening new or expanding existing markets.

Ineligible activities include in-store promotions, restaurant promotions, branded product promotions (including labeling), advertising for any of these activities and for the preparation and printing of brochures, flyers, posters, etc. Administrative and operational expenses for trade shows are also ineligible. There are other, related items precluded from Program funding detailed in the FY 1999 Program Guidelines.

All agricultural products except tobacco, but including multi-commodities, are eligible for consideration.

Additional criteria to be considered in approving projects are outlined under ''Applications'' below.

Funding of Proposals: Funding for technical assistance projects is made on the basis of proposals to the Emerging Markets Office. In general, each proposal submitted in response to this announcement will compete against all such proposals received under the same announcement. Proposals will be judged not only on their ability to provide benefits to the organization receiving Program funds, but which also represent the broader interests of the industry which that organization represents.

The limited funds of the Program and the range of emerging markets worldwide in which the funds may be used preclude EMO from approving large budgets for single projects. The Program is intended to provide appropriate USDA assistance to projects which also have a significant amount of financial contributions from other sources, especially U.S. private industry. There is no minimum or maximum amount set for EMO-funded projects; however, most are funded at the level of less than $500,000 and for a duration of one year or less. Funding is normally made available on a cost-reimbursable basis. The EMO may consider proposals on an accelerated basis depending on the technical and time requirements of the proposal. These would be covered through the Technical Issues Resolution Fund, and the Quick Response Market Fund. For details concerning these funds, see the Program Guidelines.

Multi-year Proposals. These may be considered in the context of a strategic plan and detailed plan of implementation. Funding in such cases is normally provided one year at a time, with commitments beyond the first year subject to interim evaluations.

Projects Already in Progress. Funding may be considered for technical assistance projects that have already begun with the support and financial assistance of a private entity, and for which government funding for continuation of the project is requested. Such proposals must meet the criteria of the Program, including cost-sharing for the portion of the project for which government funding is requested.

Project Reports: Results of all projects supported financially by the Program must be reported in a performance report to EMO. Because public funds are used to support the project, these reports will be made available to the public by the EMO.

Eligible Organizations, Activities: Any United States agricultural and/or agribusiness organization, university, or state department of agriculture, is eligible to participate in the Program. Priority will be given to those proposals that include significant support and involvement by private industry.

Proposals from research and consulting organizations will be considered if they provide evidence of substantial participation by U.S. industry.

U.S. market development cooperators may seek funding to address priority, market-specific issues and to undertake activities not already serviced by or

unsuitable for funding under other FAS marketing programs, e.g., FMD and MAP.

Applications: To assist FAS in making determinations under the Program, FAS recommends that all applications contain complete information about the proposed project and that the applications not be longer than ten (10) pages. The recommended information includes: name of person/organization submitting proposal; date of proposal; organization affiliation and address; telephone and fax numbers; full title of proposal; precis of the proposal, including objectives, proposed activities, benefits to U.S. agricultural exports, target country/countries for proposed activities, projected starting date for project, and funding amount requested; summary and detailed description of proposed project; statement of problem (specific trade constraint) to be addressed through the proposed project; benefits to U.S. agricultural exports as a result of the proposed project; supporting market analysis of the target market(s)—brief economic analysis for each commodity and country, including current market conditions and relevant trade data—and existing percentage of U.S. export market share, and the basis or source(s) for this data; information on whether similar activities are or have previously been funded in target country/countries (e.g., under MAP and/or FMD programs); a clearly stated explanation as to why participating organization(s) are unlikely to carry out activities without Federal financial assistance; time line(s) for project implementation; detailed project budget, including other sources of funding for the project and contributions from participating organizations (additional requirements are contained in the Program Guidelines); and Federal tax ID number of the responsible organization. Qualifications of applicant(s) should be included, as an attachment. Applications must be submitted in both printed form and on computer diskette, preferably using Word or WordPerfect, or a compatible format.

Signed at Washington, D.C. on February 2, 1999.

Tim Galvin,

Administrator, Foreign Agricultural Service.

[FR Doc. 99–2914 Filed 2–4–99; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

Utah Northern Goshawk Habitat Management

AGENCY: Forest Service, USDA.

ACTION: Proposal to prepare management direction for Northern Goshawk Habitat Management on the Ashley, Dixie, Fishlake, Manti-LaSal, Uinta and Wasatch-Cache National Forests in the Intermountain Region (R4), USDA Forest Service.

SUMMARY: Notice is hereby given that the Intermountain Region is proposing to amend management direction in specific Forest Plans and/or the Intermountain Regional Guide.

This notice describes the proposed management direction (in the form of goals, standards and guidelines, and monitoring requirements), a desired habitat condition statement giving a portrayal of land conditions expected to result from the implementation of the proposed management direction over time, information concerning public participation, and the name and address of the agency official who can provide additional information. The purpose of this notice is to begin the scoping phase of public involvement in this process.

DATES: Written comments should be sent to the Utah Northern Goshawk Project by March 8, 1999.

ADDRESSES: Send written comments to: USDA Forest Service, Utah Northen Goshawk Project Team, c/o Uinta NF, PO Box 1428, Provo, UT, 84601, *or* on-line at: www.fs.fed.us/r4/goshawk, *or* e-mail to: goshawk3/r4__uinta@fs.fed.us.

FOR FURTHER INFORMATION CONTACT: Randall Hayman, 801/342–5100 or 435/865–3700; e-mail: goshawk3/r4__uinta@fs.fed.us.

RESPONSIBLE OFFICIAL: Jack Blackwell, Intermountain Region Forester, 324 25th Street, Ogden, UT 84401.

SUPPLEMENTARY INFORMATION: The Intermountain Region of the Forest Service filed a notice in the **Federal Register** (Vol. 63, No. 172, pages 47224–47225) on September 4, 1998 stating that the Forest Service, in cooperation with the Bureau of Land Management and the USDI, Fish and Wildlife Service (FWS), was reviewing the latest Utah state-wide information relating to the sustainability of habitat for the northern goshawk (Northern Goshawk in Utah: Habitat Assessment and Recommendations (Graham et al. 1999, in press)) and the USDI, FWS 12-month finding on a petition to list the northern goshawk (FR, June 29, 1998, Vol. 63, No. 124, pages 35183–35184). This notice stated that the Intermountain Region was proposing to amend regional direction, Regional Guide, and/or Forest Plans to incorporate interim direction in the form of goals and objectives, desired habitat conditions, standards and guidelines, and monitoring requirements developed in response to new scientific information concerning the management of forested habitat for the northern goshawk and its prey in Utah. At that time, the Forest Service expected the determination of proposed management direction to be completed and available for public review by November 30, 1998. Due to unforeseen delays in the development of this direction, the determination of proposed management direction was not completed until now. The comments received in response to the prior **Federal Register** notice were considered in the development of the proposed management direction that follows.

The Forest Service, in accordance with 36 CFR § 219.19, develops land and resource management plans that, in part, manage fish and wildlife habitat to maintain viable populations of existing native and desired non-native vertebrate species in the particular planning area. Forest Plans describe the long-term direction for managing National Forests. Among other things, decisions in Forest Plans establish multiple-use goals and objectives and establish forest-wide management requirements (standards and guidelines). In compliance with their own laws and regulations, and in accordance with the Council on Environmental Quality (CEQ) regulations, the Forest Service proposes to amend specific Forest Plans and/or Intermountain Regional Guide.

The purpose and need for this new or revised management direction is:

Purpose

The purpose of this action is to provide management direction that maintains or restores functioning forested habitats for the northern goshawk and its prey on National Forest system lands within the Ashley, Dixie, Fishlake, Manti-LaSal, Uinta, and Wasatch-Cache National Forests. Functioning forested habitats are important in sustaining viable populations of northern goshawk in Utah.

Need

A habitat assessment and management recommendations for the northern goshawk and subsequent habitat conservation strategy were developed for the State of Utah in response to suspected downward trends

in goshawk habitat and/or populations. Because of the important role National Forest System lands will play in restoring or maintaining forested habitat for the northern goshawk, there is an immediate need to incorporate the principles and recommendations in these documents into management direction, for the reasons described below.

Changes in forest structure, especially large tree removal, and other forest management activities singly or in combination may negatively affect goshawk populations (Crocker-Bedford 1990). Perhaps one of the greatest influences on habitat is fire exclusion from forest and woodland ecosystems. Successful fire exclusion has altered native successional pathways, resulting in the ingrowth of shade-tolerant tree species throughout Utah. With these changes in habitat came suspected declines in goshawk populations in much of the western United States (Bloom and others 1986, Herron and others 1985, Kennedy 1989). [Graham et al. 1999, in press]

In 1991, the goshawk was designated as a sensitive species in the USDA Forest Service Intermountain Region (Region 4). In March 1997, the Utah Division of Wildlife Resources classified the goshawk as a sensitive species. This designation identifies species in the State that are most vulnerable to population declines or habitat loss and stimulates management actions for the conservation of the species. To address the issue of declining goshawk habitat in Utah, a Northern Goshawk Interagency Technical Team was created. This team was charged with completing an assessment for the State of Utah.

The habitat assessment (Graham et al. 1999, in press) provided a detailed description of current habitat conditions and capabilities and found them adequate to support nesting goshawks at the current time and at the scale analyzed. However, the scientists were not able to predict future habitat conditions because of the great latitude in management allowed by current land management plans and policies on state and federal lands. Current management plans and policies are flexible enough to both permit activities that address habitat needs for the goshawk as well as allow those that do not.

In response to the findings in the habitat assessment, a team of Forest Service biologists, supported by Utah Division of Wildlife Resources, USDI, Fish and Wildlife Service and USDI, Bureau of Land Management biologists, began the development of a Habitat Conservation Strategy (HCS) for the northern goshawk. This strategy, completed in September 1998, recommends additional site specific measures that, if implemented, will ensure that habitat for the goshawk is managed consistently across federal and state lands in Utah. By incorporating the principles recommended in the HCS ''agencies will contribute to sustaining short and long term habitat for goshawks which is important to their overall viability across the state. * * * Consistency in management of habitat is key to providing a reasonable probability of goshawk persistence.'' [HCS, 1998]

All forested habitats in Utah are potentially suitable habitat for the goshawk. This includes coniferous and aspen forests, but does not include woodlands (e.g., pinyon/juniper). The assessment (Graham et al. 1999, in press) found that 84 percent of the medium and high valued nesting habitat, and 81 percent of the optimum and high valued habitat for the northern goshawk in Utah are found on National Forest System lands. Due to the important role National Forest System lands will play in restoring or maintaining habitat for the northern goshawk in Utah, the Forest Service elected to take immediate action to determine how to incorporate principles recommended in the HCS into management actions proposed in the future.

To aid in this determination, each of the six National Forests in Utah completed Supplemental Information Reports (SIRs). The SIRs analyzed if the HCS represented significant new information or changed conditions bearing on their current Land and Resource Management Plan (Forest Plan) management direction or effects identified in the accompanying Final Environment Impact Statement. Preliminary findings in the SIRs indicated that amendments to current Forest Plans and/or the Intermountain Regional Guide will be required to implement some elements of the strategy.

This action will amend management direction in Forest Plans and/or the Intermountain Regional Guide. When forest plans for the affected National Forests are revised or suitably amended (estimated to be 2–4 years out), the management direction will be reviewed and updated as needed. This immediate action will maintain habitat quantity, quality, and distribution on National Forest System lands important to supporting viable populations of goshawks in Utah for the remainder of the current planning period. It will also provide consistency in project design, implementation and monitoring where habitat for the goshawk and its prey is involved within the Ashley, Dixie, Fishlake, Manti-LaSal, Uinta, and Wasatch-Cache National Forests. By taking action now, options for future management direction that these National Forests may want to consider during forest plan revision or amendment efforts will be retained.

It is recognized that the northern goshawk ranges throughout much of the western United States; however, this project only addresses National Forest System lands for the six National Forests stated above. The scope of this project is limited to this area because the Conservation Strategy and Agreement, and the scientific assessment supporting the strategy, only addressed northern goshawk habitat in the State of Utah, ''Utah was the largest geographic area used for assessing goshawk habitat. It would have been useful to look at a regional scale to set the Utah assessment in context to explore how the habitat in Utah is related to habitat in adjacent states. But, time, budget, and personnel constraints, did not permit the wider analysis. Only recommendations and inferences on the status of goshawk habitat within Utah were requested by the involved and cooperating agencies.'' (Graham et al. 1999 (in press)).

Benefits of viewing habitat at larger scales were recognized. However, the biologists involved in the development of the assessment and strategy stated ''It is our belief that the use of the state scale (i.e., its aggregation of landscapes) to conduct a habitat based analysis for PVA'' [population viability analysis] ''will provide us with the information needed to understand the different ecological processes that influence the life histories of this far ranging, broadly distributed species.'' [HCS]

The Intermountain Regional Forester (Region 4) assembled an interdisciplinary team in October 1998 to begin the development of proposed management direction that responded to the identified purpose and need. The Team Leader is Peter Karp, Forest Supervisor, Uinta National Forest. To help guide the development of the proposed management direction, the team first generated a desired habitat condition statement (DHC). The DHC is a portrayal of land conditions expected to result from implementing the proposed management direction. It describes the desired habitat quantity, quality and distribution for the northern goshawk and its prey that the agency intends to continuously strive for over time.

Desired Habitat Condition

The habitat assessment by Graham et al. (1999, in press) states that all forested landscapes in Utah are potentially suitable as goshawk habitat for some portion of their life cycle (Conservation Strategy and Agreement for the Management of Northern Goshawk Habitat in Utah (HCS), page 4). Forested landscapes include those areas dominated by coniferous and aspen forest; but not woodlands such as pinyon-juniper.

In general, when forested landscapes of Utah are in a properly functioning condition they will provide excellent habitat for the goshawk and its prey (Graham et al. 1999, in press). Desired habitat attributes important to the home range of the goshawk and its prey, as stated in the HCS, include:

1. Diverse forest cover types with strong representation of early seral tree species dominate the landscape.
2. High quality habitat patches that are no more than 60 miles apart, preferably less than 20 miles apart, exist throughout landscapes (connected habitat).
3. Forested landscapes have 40% of the coniferous land area and 30% of the aspen land area dominated by large trees, well distributed. Large trees are defined based on the average size of trees found in the area and by the site potential.
4. Habitats for prey and other associated species are present to meet their needs as described by Reynolds et al. 1992 and Graham et al. 1999, in press (i.e., snags, down woody, cover, etc).
5. A variety of structural stages as recommended by Reynolds et al. (1992) are present.

A balance of structural stages across the landscape is needed to ensure that the larger structural stages are sustained over time. Trees densities in the smaller structural stages should promote accelerated tree growth into the larger structural stages and maintain crown development important to meeting desired canopy closures in the larger stages. Outside of nest areas, it is desired to have open understories in the larger structural stages with trees irregularly spaced (Reynolds et al. 1992; Graham et al. 1999, in press).

An essential component of goshawk home range is goshawk nesting habitat. Nesting habitat and the associated post-fledgling family are an important component in contributing to habitat connectivity across landscapes. This habitat is also important for the continuous recruitment of individuals (goshawks) into the population. Both habitat connectivity and continuous recruitment are important components for sustaining viable populations of the northern goshawk in Utah. Thus, it is desirable to have nesting habitat and the associated post-fledgling areas well-distributed within and across forested landscapes. Desired nest area habitat varies from the overall home range habitat in that it typically occurs in older-aged stands that have a higher density of large trees, high tree canopy cover, and higher understory tree density.

To understand relationships of these desired habitat conditions they must be viewed in scales at tens of thousands of acres or larger. Scales greater than hundreds of thousands of acres are too large to ensure that desired habitat connectivity attributes are sufficiently distributed.

Achieving desired habitat conditions requires the restoration and protection of degraded habitats, protection of native processes (Graham et al. 1999, in press), and maintenance of habitats already in desired conditions. Vegetative management should emphasize managing forest landscapes within their bio-physical limits and understanding how disturbances influence the resulting stand composition and structures (Graham et al. 1999, in press). Native species should be emphasized in forest management activities. Their persistence in landscapes gives the best indication of ecosystem sustainability because native species evolved with the disturbance events of the preceding several thousand years (USDA Forest Service, PFC, 1997).

The habitat outlook should be favorable for the goshawk and its prey when forest management emphasizes properly functioning condition, importance of large trees, maintenance and restoration of native processes, adaptive management, and the role of fire (Graham et al, 1999, in press).

Where the Proposed Management Direction Will and Will Not Be Applied

The proposed management direction will apply to National Forest System lands within the Ashley, Dixie, Fishlake, Manti-LaSal, Uinta, and Wasatch-Cache National Forests found in Utah, Wyoming and Colorado. This direction will apply to forested habitats across these National Forests except in the following areas:

(1) Designated wilderness areas;

(2) Administratively or Congressionally designated areas with a defined purpose (e.g., Research Natural Areas, National Recreation Areas, etc.);

(3) Areas currently managed or allocated for concentrated recreation use and development;

(4) National Forest System lands that are significantly influenced by lands in other ownership (e.g., high use urban interface areas); or,

(5) Areas currently managed or allocated for mining, special use permits allowing vegetative disturbance or treatments (vegetation will be managed to meet the intent of the permit), or administrative site uses and development.

In these areas, current forest plan direction will still apply. In addition, any valid, prior existing rights on National Forest System lands will not be affected by this proposal.

The proposed direction will not apply in areas described above because:

(a) The forested habitats in these areas are managed for other purposes as defined by current policy and regulations; or,

(b) The use permitted under the existing forest plan would not allow for the management of habitat as outlined in the proposed management direction; or

(c) The degree of influence resulting from adjacent lands in other ownership precludes application of this direction.

The agency believes that managing these areas consistent with current management direction is important to meeting other goals and objectives in the forest plan and that doing so would not result in the loss of habitat needed to maintain viable populations of goshawks in the State of Utah. A full disclosure of the effects of these exclusions will be clearly articulated and documented during the environmental analysis process.

While the proposed direction will not apply in these areas, their contribution to sustaining habitat components for the goshawk and its prey is still important and will need to be analyzed through the landscape assessment process, and their influence evaluated. For example, areas such as wilderness may provide suitable goshawk habitat which may influence how habitat attributes in areas outside the wilderness are managed through time. However, vegetation in the wilderness is managed to meet the goals of the wilderness resource which may or may not be contrary to suitable goshawk habitat.

Proposed Management Direction for Habitat of the Northern Goshawk (Ashley, Dixie, Fishlake, Manti-LaSal, Uinta, Wassatch-Cache National Forests)

Note: (S)=Standard; (G)=Guideline

Home Range (Foraging, Nest and Post-Fledgling Areas)

Native Processes

Goal: Restore or emulate natural disturbance regimes and other

ecological processes to maintain or restore ecosystem integrity within landscapes important to sustaining habitat for the northern goshawk and its prey.

(G) Management actions should be designed to encourage conditions that are within the historic range of variation (HRV), remaining within the variability of size, intensity, and frequency of native disturbance regimes characteristic of the subject landscape and ecological processes.

(G) Within disturbed ecosystems, management action should be designed to be consistent with restoration objectives.

Composition

Goal: Maintain or restore the native characteristics of ecosystem composition important to sustaining habitat for the northern goshawk and its prey.

(G) Native plant species from locally adapted seed sources are preferred for use in all management activities. Non-native plant species have the potential to cause systems to move outside of historic range of variation (HRV), therefore the use of non-native species should be justified to indicate how their use is important to maintain or restore a cover type to functioning conditions.

(G) When initiating vegetative management treatments in forested cover types, provide for a full range of seral stages, by forested cover type, that achieve a mosaic of habitat conditions and diversity. Each seral stage should contain a strong representation of early seral tree species. Recruitment and sustainability of early seral tree species in the landscape is needed to maintain ecosystem resilience to perturbations. While species composition may vary by location, an expected species mix is as follows:

Cover type	Early seral	Mid seral	Late seral
Ponderosa Pine	PP=AS	PP>AS	PP>AS
Mixed Conifer (montane)	PP=AS>DF>BS>TF	PP=AS=DF>BS>TF	DF>BS>TF=PP>AS
Mixed Conifer (boreal)	LP>ES≥TF	LP=ES>TF	ES>LP>TF
Spruce/Fir	AS>ES>TF	AS>ES>TF	ES=TF>AS
Aspen	AS	AS	AS
Lodgepole Pine	LP	LP	LP>TF
Aspen/Lodgepole	AS>LP	LP=AS	LP>AS=TF

PP = ponderosa pine; AS = aspen; DF = Douglas-fir, TF = white or subalpine fir; LP = lodgepole pine; BS = blue spruce; ES = Engelmann spruce.

Equal sign (=): both species may be expected to be found within the cover type. Depending on site, either species may dominate or both may co-dominate the site.

Greater than (>): the first species would normally be expected to be more prevalent than the second species.

Structure

Goal: Maintain or restore the mix of forest vegetative structural stages needed to sustain the desired mature and old forest stages in a landscape. The desired amount of mature and of is 40% in the portion of the landscape covered by conifers and 30% in the portion covered by aspen, well distributed. This is necessary to sustain habitat and habitat connectively for the goshawk and its prey.

(G) Assess landscapes at the 5th-6th order Hydrologic Unit Code (HUC) or equivalent ecological scale (tens of hundreds of thousands of acres), to determine distribution of forest vegetative structural classes. Use the best existing available information to complete this assessment. These assessments should be used to describe the existing structural conditions and then determine opportunities to move the existing conditions toward the desired structural habitat conditions.

(G) Planned vegetative management treatments (excluding unplanned and unwanted wildland fire) in the mature and/or old structural stages in a landscape that is at or below the desired percentage of land area in mature and old structural stages (40% conifer, 30% aspen), should be designed to maintain or enhance the characteristics of these structural stages. The percentage of land area in mature and old structural stages treated should not move out of the mature and old structural stage. Planned treatments may vary from this guideline if the action was assessed through the biological evaluation (BE) process, and the BE concluded that the action is consistent with the intent of the Conservation Strategy and Agreement for Management of the Northern Goshawk in Utah.

Goal: Manage forested cover types within landscapes to retain, and sustain over time, standing dead trees (snags) and their distribution important to the habitat needs of goshawk prey species and characteristic of healthy, functioning ecosystems.

(G) When initiating vegetative management treatments in forested cover types, leave the following minimum number and size of snags. If the minimum number of snags is unavailable, green trees should be substituted. If the minimum size is unavailable, then use largest trees available on site. It is desirable to have snags represented in all size classes above the minimum available on the site. The number of snags should be present at the stand level on average and, where they are available, distributed over each treated 100 acres. This distribution is needed to meet the needs of prey species that utilize this habitat.

Cover type	Minimum snags (per 100 acres)	Minimum preferred size
Ponderosa Pine	200	18″dbh/30′ht.
Mixed Conifer	300	18″dbh/30′ht.
Spruce/Fir	300	18″dbh/30′ht.
Aspen	200	8″dbh/15′ht.
Lodgepole Pine and Aspen/Lodgepole Pine	300	8″dbh/15′ht.

Goal: Manage cover types within landscapes to retain down logs and woody debris and their distribution characteristic of healthy, functioning ecosystems. These habitat components are important to the habitat needs of goshawk prey species.

(G) When initiating vegetative management treatments, prescriptions should be designed to retain the following minimum amount and size of down logs and woody debris. These habitat components should be present at the stand level on average and, where they are available, distributed over each treated 10 acres. This distribution is needed to meet the needs of prey species that utilize this habitat.

Cover type	Minimum down logs (per 10 acres) (down logs take precedence over tons of coarse woody debris)	Minimum log size (diameter/length) (mid-point diameter; or if minimum size not available, largest available on the site)	Minimum coarse woody debris, ≥3″ diameter (tons per 10 acres, inclusive of down logs)
Ponderosa Pine	30	12″/8′	50
Mixed Conifer	50	12″/8′	100
Spruce/Fir	50	12′/8′	100
Aspen	50	6′/8′	30
Lodgepole Pine and Aspen/Lodgepole Pine	50	8″/8′	50

Goal: In land areas dominated by mid-aged, mature, and old structural stages (VSS 4,5,6) within a landscape, maintain or restore canopy closure to provide habitat for the goshawk and its prey.

(G) When initiating vegetative management treatments in land areas dominated by mid-aged, mature, and old structural stages (VSS 4,5,6) within a landscape, treatments should be designed to maintain or restore an average of ≥40% canopy closure. If 40% canopy closure is not within the historic range of variation, manage for canopy closures that are consistent with HRV.

Home Range (Nest and Post-Fledgling Areas Only)

Goal: Provide well distributed habitat for successful goshawk nesting and brood rearing (post-fledgling area) within and across landscapes (5th–6th order HUC or equivalent ecological scale). This will provide for habitat connectivity across the state and continuous recruitment of individuals into the population, both of which are important to sustaining viable populations of goshawks.

(G) If a historic nest is not associated with an active nest area, management direction for home range habitat should be applied.

(S) When an active nest area has been identified, identify 2 alternate nest areas and 3 replacement nest areas. The next two guidelines provide recommended direction for implementation of this standard.

(G) Each nest area (active, alternate and replacement) should be approximately 30 acres (total of approximately 180 acres) in size when sufficient suitable habitat exists. If sufficient amounts of suitable habitat are not present, use existing suitable habitat that is available.

(G) Alternate nest areas should be identified in suitable habitat with similar vegetative structures as the active nest areas. Replacement nest areas should be identified in habitat which will develop similar vegetative structures as the active nest area at the time the active and alternate nest areas are projected to no longer provide adequate nesting habitat.

(S) Prohibit forest vegetative manipulation within active nest areas during the active nesting period. The active nesting period will normally occur between March 1st and September 30th.

(G) Restrict management activities and permitted human use (i.e., those activities for which a written permit is issued) in active nest areas during the active nesting period unless it is determined that the disturbance is not likely to result in nest abandonment. If the disturbance is likely to result in abandonment, a biological evaluation (BE) must be completed. To implement the action the BE must conclude that the action is consistent with the intent of the Conservation Strategy and Agreement for Management of the Northern Goshawk in Utah.

(G) Forest vegetative manipulation within active, alternate and replacement nest areas should be designed to maintain or improve desired nest area habitat. Use the active nest area habitat characteristics as an indicator of the desired nest area habitat, and as the best available information for nest area habitat for that cover type.

(G) Identify a Post-Fledgling Area (PFA) which encompasses the active, alternate and replacement nest areas and additional habitat needed to raise fledglings. A PFA should be approximately 420 acres in size (exclusive of nest area acres) when sufficient suitable habitat exists. If sufficient amounts of suitable habitat are not present, use existing suitable habitat that is available.

(G) Forest vegetative manipulation within the PFAs should be designed to maintain or improve the same habitat features as discussed for the goshawk home range (i.e., stand structure, snags, down logs, nest trees important in the life histories of the goshawk and its prey species common to the geographic location), except:

(a) In VSS 4,5,6, provide canopy closure in excess of 50% when available. If 50% canopy closure is not within the historic range of variation, manage for canopy closures that are consistent with HRV.

(b) Openings created as a result of mechanical vegetative treatments should not exceed the following by cover type:

Cover type	Maximum created opening size
Ponderosa pine and Mixed conifer	2 acres.
Spruce/fir	1 acre.
Aspen and Lodgepole pine.	Follow current management direction.

(c) Management activities should be restricted during the active nesting period. The active nesting period will normally occur between March 1st and September 30th.

(d) Where timber harvest is prescribed, plan a transportation system to minimize disturbance.

PROPOSED MONITORING REQUIREMENTS

Activities, effects and resources to be measured	Monitoring method	Precision/reliability	Measurement frequency	Reporting period	Variation which would cause further evaluation and/or change in management direction
Goshawk territory occupancy	Forest Level: Whichever is greater: Random sample of at least 20 territories or 50% of all known territories	Moderate/High	Annually	Every 3 years	If monitoring reveals a 20% decline in territory occupancy over a 3 year period.
Goshawk habitat connectivity and Habitat diversity	Forest Scale: Use GIS to track the spatial location and size of the mature and old forest structure	Moderate/High	Completion or update of a landscape assessment	5 years	Forest Scale: If a landscape scale assessment finds that less than 40% of the coniferous or 30% aspen forested area are dominated by mature and old structure patches.
Goshawk habitat diversity Snag Management	Project Scale: Monitor snag requirements for timber harvest and prescribed fire projects affecting forested habitat. Random sampling of 100 acres blocks which cover 10% or more of a project area	Moderate/Moderate	Annually sample 25% of completed projects	5 years	If 25% of the blocks sampled do not meet guideline requirements.
Goshawk habitat diversity Down Woody Material	Project Scale: Monitor down woody requirements for timber harvest and prescribed fire projects affecting forested habitat. Random sampling of 10 acres blocks which cover 5% or more of the project area	Moderate/Moderate	Annually sample 10% of complete projects	5 years	If 25% of the blocks sampled do not meet guideline requirements.

Alternatives

A range of alternatives will be considered. One of these will be the ''no-action'' alternative, which would continue current management under the current forest plans. Other alternatives will examine the effects of varying approaches that would maintain or restore functioning forested habitats across the aforementioned National Forests that are important to sustaining a viable population of the northern goshawk in Utah.

Scope and Longevity

The proposed management direction will only apply to National Forest System lands within the Ashley, Dixie, Fishlake, Manti-LaSal, Uinta, and Wasatch-Cache National Forests. New or revised management direction will apply until forest plans for the aforementioned National Forests are revised or suitably amended (projected to be 2–4 years). The proposed direction will not apply to projects that have been approved prior to the effective date of the amendments.

Involving the Public

During the scoping process, the Forest Service is seeking information and comments from Tribal Governments, Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. Please note, comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered. Pursuant to 7 CFR § 1.27(d), any person may request the agency to withhold submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted only in limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and when the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address.

A series of open houses will be held across Utah in February, 1999, to gain a better understanding of public issues and concerns, as follows:

2/16/99	Provo	12:00–2:00 pm	Historic County Courthouse, Room 319, 51 S. University Ave.
2/16/99	Richfield	6:00–8:00 pm	Quality Inn, 540 South Main.
2/17/99	Panguitch	12:00–2:00 pm	Courthouse, Jeep Posse Room, 55 East Center.
2/17/99	Cedar City	6:00–8:00 pm	Sharwan Smith Ctr, Cedar Breaks Room, Southern Utah University.
2/23/99	Vernal	12:00–2:00 pm	Forest Supervisor's Office, 355 N. Vernal Ave.
2/24/99	Moab	12:00–2:00 pm	Moab Information Center, Center and Main.
2/24/99	Price	6:00–8:00 pm	Prehistoric Museum, Classroom, 155 East Main.
2/25/99	Salt Lake City	12:00–2:00 pm 6:00–8:00 pm	Dept. of Natural Resources, Conference Room A–B, 1594 West North Temple.

Release and Review of Environmental Document

It is anticipated that the environmental analysis will be completed and available for public comment in May, 1999. The Forest Service will publish a legal notice in the Utah papers of record announcing its availability as well as a Notice of Availability in the **Federal Register**. The comment period is expected to be 30 days. A final decision is expected by late July, 1999. The decision on what management direction will be implemented, and reasons for the decision, will be documented in the decision document.

Information and updates concerning this proposal will be available electronically on the Project's website at www.fs.fed.us/r4/goshawk.

Dated: January 28, 1999.

Jack G. Troyer,

Deputy Regional Forester, Intermountain Region.

[FR Doc. 99–2634 Filed 2–4–99; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to 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.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 8, 1999.

ADDRESS: 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.

If the Committee approves the proposed addition, 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

Cap, Combat Camouflage

8415–01–134–3175
8415–01–134–3176
8415–01–134–3177
8415–01–134–3178
8415–01–134–3179
8415–01–134–3180
8415–01–084–1683
8415–01–084–1684
8415–01–084–1685
8415–01–084–1686
8415–01–084–1687
8415–01–084–1688

(Remaining Government Requirements)

NPA: Southeastern Kentucky Rehabilitation Industries, Inc., Corbin, Kentucky.

Services

Janitorial/Custodial

Department of Veterans Affairs Lompoc Clinic, 1111 East Ocean Avenue, Lompoc, California, *NPA:* Life Options, Vocational and Resource Center, Lompoc, California.

Janitorial/Custodial

Veterans Affairs Primary Care Clinic, 145 Falmouth Road, Hyannis, Massachusetts, *NPA:* Nauset, Inc., Hyannis, Massachusetts.

Janitorial/Grounds Maintenance

VA Northern California Health Care System, Mare Island Outpatient Clinic, Vallejo, California, *NPA:* Easter Seal Society of Superior California, Sacramento, California.

G. John Heyer,

General Counsel.

[FR Doc. 99–2810 Filed 2–4–99; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Proposed Addition to the Procurement List; Correction

In the document appearing on page 47227, F.R. 98–23956, in the issue of September 4, 1998, in the first column, the listing for Battleboard Kit, ID, NSN 2590–01–399–1935 should have been 2590–01–399–2935.

G. John Heyer,

General Counsel.

[FR Doc. 99–2811 Filed 2–4–99; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1017]

Termination of Foreign-Trade Subzone 18 A; San Jose, California

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board has adopted the following order:

Whereas, on October 13, 1983, the Foreign-Trade Zones Board issued a grant of authority to the City of San Jose, California, authorizing the establishment of Foreign-Trade Subzone 18A at the Olympus America plant in San Jose, California (Board Order 228, 48 FR 48486, 10/19/83);

Whereas, the City advised the Board on May 1, 1998 (FTZ Docket 26–98), that zone procedures were no longer needed at the facility and requested voluntary termination of Subzone 18A;

Whereas, the request has been reviewed by the FTZ Staff and the Customs Service, and approval has been recommended;

Now, therefore, the Foreign-Trade Zones Board terminates the subzone status of Subzone No. 18A, effective this date.

Signed at Washington, DC, this 20th day of January 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–2819 Filed 2–4–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1018]

Approval for Manufacturing Authority (Industrial and Commercial Pumps) Within Foreign-Trade Zone 226, Grundfos Manufacturing Corporation (Inc.), Fresno, CA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board of Commissioners of the County of Merced, California, grantee of FTZ 226, has requested authority on behalf of Grundfos Manufacturing Corporation (Inc.) (GMC), to manufacture industrial and commercial pumps under FTZ procedures within FTZ 226, subject to restriction on stainless and alloy steel products (FTZ Doc. 21–98, filed 4–14–98);

Whereas, notice inviting public comment was given in the **Federal Register** (63 FR 19707, 4–21–98);

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby approves the request subject to the FTZ Act and the Board's regulations, including § 400.28, and further subject to a restriction requiring that all foreign-origin stainless and alloy steel products must be admitted to FTZ 226 for the GMC activity in domestic (duty paid) status (19 CFR § 146.43).

Signed at Washington, DC, this 20th day of January 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–2820 Filed 2–4–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1014]

Approval for Expanded Manufacturing Authority (Small, Internal-Combustion Engines) Within Foreign—Trade Subzone 15E; Kawasaki Motors Manufacturing Corp., U.S.A., Maryville, MO

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Greater Kansas City Foreign-Trade Zone, Inc., grantee of FTZ 15, has requested authority on behalf of Kawasaki Motors Manufacturing Corp., U.S.A. (KMM), operator of FTZ Subzone 15E, located in Maryville, Missouri, to expand the scope of FTZ authority to include the manufacture of certain small, internal-combustion engines under FTZ procedures (FTZ Doc. 41–97, filed 5–14–97);

Whereas, notice inviting public comment was given in the **Federal Register** (62 FR 29103, 5–29–97);

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now Therefore, the Board hereby approves the request subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 20th day of January 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–2818 Filed 2–4–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1020]

Expansion of Foreign-Trade Zone 7; Puerto Rico

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Puerto Rico Industrial Development Company, grantee of Foreign-Trade Zone 7, submitted an application to the Board for authority to expand FTZ 7 to include multiple sites in Puerto Rico (FTZ Docket 18–98; filed 4/3/98);

Whereas, notice inviting public comment was given in **Federal Register** (63 FR 17982, 4/13/98) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 7 is approved, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 20th day of January 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–2822 Filed 2–4–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1019]

Expansion of Foreign-Trade Zone 68; El Paso, TX

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the City of El Paso, Texas, grantee of Foreign-Trade Zone No. 68, submitted an application to the Board

for authority to expand FTZ 68-Sites 2 and 3 in El Paso, Texas, within the El Paso Customs port of entry (FTZ Docket 4–98, filed 1/20/98);

Whereas, notice inviting public comment was given in the **Federal Register** (63 FR 6891, 2/11/98) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 68-Sites 2 and 3 is approved, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 20th day of January 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–2821 Filed 2–4–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–701]

Brass Sheet and Strip From The Netherlands: Notice of Extension of Time Limits for Sixth Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 5, 1999.

FOR FURTHER INFORMATION CONTACT: Jarrod Goldfeder or John Brinkmann, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone (202) 482–1784 and (202) 482–5288, respectively.

SUPPLEMENTARY INFORMATION:

Postponement of Preliminary Results

On September 29, 1998, the Department initiated the sixth administrative review of the antidumping duty order on brass sheet and strip from The Netherlands, covering the period August 1, 1997 through July 31, 1998 (63 FR 51893). The current deadline for the preliminary results of this review is May 3, 1999. Section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (''the Act''), requires the Department to make a preliminary determination in an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) allows the Department to extend this time period to up to 365 days. Because of several complex issues unique to this review, it is not practicable to complete the review within the current time frame. Therefore, the Department is extending the time limit for completion of the preliminary results of this administrative review by 120 days, or until August 31, 1999. We plan to issue the final results of this administrative review within 120 days after publication of the preliminary results.

Submission of New Factual Information

In response to OBV's request for revocation of this order, the Department is allowing parties to submit information regarding the likelihood of future dumping. Pursuant to section 351.222(b)(2) of the Department's regulations (1998), the Department may revoke an order in part ''if the Secretary concludes that: (1) One or more exporters or producers covered by the order have sold the merchandise at not less than normal value for a period of at least three consecutive years; (2) It is not likely that those persons will in the future sell the subject merchandise at less than normal value; and (3) The exporter or producer agrees to immediate reinstatement of the order if the Secretary concludes that dumping has resumed.

In past reviews the Department has established a process for the submission of factual information on the issue of whether likelihood of future dumping exists (see Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Order: Dynamic Random Access Memory Semiconductors of One Megabit or Above from the Republic of Korea, 62 FR 12794 (March 18, 1997)). Thus, at this time, we are providing all interested parties the opportunity to submit any such information which they believe the Department should consider when determining the likelihood of future dumping.

The deadline for submission of this information for consideration in the preliminary results is April 1, 1999. Additionally, parties will be allowed until April 15, 1999, to submit rebuttal comments.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: February 2, 1999.

Richard W. Moreland,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 99–2816 Filed 2–4–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–808]

Chrome-Plated Lug Nuts From the People's Republic of China: Notice of Recission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of recission of antidumping duty administrative review.

EFFECTIVE DATE: February 5, 1999.

SUMMARY: On October 29, 1998, the Department of Commerce (the Department) published in the **Federal Register** (63 FR 58009) a notice announcing the initiation of an administrative review of the antidumping duty order on chrome-plated lug nuts (lug nuts) from the People's Republic of China (PRC), covering the period September 1, 1997 through August 30, 1998. This review has now been rescinded as a result of the withdrawal of request for an administrative review by Jiangsu Su Huanghai Auto Parts Co., Ltd. (Rudong).

FOR FURTHER INFORMATION CONTACT: Thomas Gilgunn, Office of AD/CVD Enforcement, Group III, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–0648.

SUPPLEMENTARY INFORMATION:

Background

On September 30, 1998, Rudong, a manufacturer/exporter of the subject merchandise, requested an administrative review of the antidumping duty order on lug nuts from the PRC in accordance with 19 CFR 351.213(b). On October 29, 1998, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an

administrative review of this order for the period September 1, 1997 through August 31, 1998. On November 30, 1998, Rudong withdrew its request for this review.

Recission of Review

The Department's regulations at 19 CFR 351.213(d)(1) provide that a party may withdraw its request for review within 90 days of the date of publication of the notice of initiation of the requested review, or at a later date if the Department determines that such an extended time is reasonable. Rudong withdrew its request for review within the 90-day period. No other party requested a review for the September 1, 1997 through August 31, 1998 period. Therefore, we are rescinding this review. This determination is issued and published in accordance with section 751 of the Tariff Act of 1930, as amended (19 U.S.C. 1675) and 19 CFR 351.213(d)(4).

Dated: January 27, 1999.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for AD/CVD Enforcement III.

[FR Doc. 99–2817 Filed 2–4–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–605]

Frozen Concentrated Orange Juice From Brazil; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is conducting an administrative review of the antidumping duty order on frozen concentrated orange juice from Brazil in response to a timely request from the petitioners to review six manufacturers/exporters of the subject merchandise. This review covers the U.S. sales and/or entries of only four manufacturers/exporters because we are rescinding this review with respect to two companies. This is the eleventh period of review, covering May 1, 1997, through April 30, 1998.

We have preliminarily determined that sales have been made below normal value by each of the companies subject to this review. If these preliminary results are adopted in the final results of this administrative review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries.

We invite interested parties to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument: (1) A statement of the issue; and (2) a brief summary of the argument.

EFFECTIVE DATE: February 5, 1999.

FOR FURTHER INFORMATION CONTACT: Sergio Gonzalez or Shawn Thompson, Office of AD/CVD Enforcement, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–1779 or (202) 482–1776, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), 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 (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (1998).

SUPPLEMENTARY INFORMATION:

Background

On May 12, 1998, the Department of Commerce (the Department) published in the **Federal Register** a notice of ''Opportunity to Request an Administrative Review'' of the antidumping duty order on frozen concentrated orange juice (FCOJ) from Brazil (63 FR 26143).

In accordance with 19 CFR 351.213(b)(1), on May 29, 1998, Florida Citrus Mutual, Caulkins Indiantown Citrus Co., Citrus Belle, Citrus World, Inc., Orange-Co of Florida, Inc., Peace River Citrus Products, Inc., and Southern Gardens Citrus Processors Corp. (collectively ''the petitioners'') requested an administrative review of the antidumping order covering the period May 1, 1997, through April 30, 1998, for the following producers and exporters of FCOJ: Branco Peres Citrus, S.A. (Branco Peres), Cambuhy Citrus Comercial e Exportadora Ltd. (Cambuhy), Citrovita Agro Industrial S.A. (Citrovita), CTM Citrus S.A. (CTM), Frutax Industria e Comercio Ltda. (Frutax), and Sucorrico S.A. (Sucorrico). On June 12, 1998, the Department issued questionnaires to each of these companies. On June 29, 1998, the Department published in the **Federal Register** a notice of initiation of administrative review for Branco Peres, Cambuhy, Citrovita, CTM, Frutax, and Sucorrico (63 FR 35188).

In July 1998, Cambuhy, CTM, and Sucorrico informed the Department that they had no shipments of subject merchandise to the United States during the period of review (POR). We have confirmed this with information from the Customs Service with regard to CTM and Sucorrico. Therefore, in accordance with § 351.213(d)(3) of the Department's regulations and consistent with the Department's practice, we are rescinding our review for CTM and Sucorrico. For further discussion, see the ''Partial Rescission of Review'' section of this notice, below.

Regarding Cambuhy, we were informed by the Customs Service that this company exported FCOJ to Puerto Rico during the POR. Consequently, on August 17, 1998, we issued a supplemental questionnaire to Cambuhy in which we again requested that it provide sales information. On September 2, 1998, Cambuhy acknowledged that it had exported to Puerto Rico, but declined to participate further in the administrative review. Because Cambuhy did not respond to the questionnaire, we have preliminarily assigned it a margin based on adverse facts available. For further discussion, see the ''Facts Available'' section of this notice, below.

In August 1998, we received responses from Branco Peres and Citrovita. We received no response from Frutax. Because Frutax did not respond to the questionnaire, we have also preliminarily assigned a margin to this company based on adverse facts available. For further discussion, see the ''Facts Available'' section, below.

Also in August 1998, we issued a supplemental questionnaire to Branco Peres. We received a response to this questionnaire in September 1998.

In August and September 1998, the petitioners alleged that Branco Peres and Citrovita were selling at prices below the cost of production (COP) in their third country and home markets, respectively. Based on information submitted by the petitioners, the Department found reasonable grounds to believe or suspect that sales in the foreign markets were made at prices below the cost of producing the merchandise, in accordance with section 773(b)(1) of the Act. As a result, the Department initiated investigations to determine whether Branco Peres and Citrovita made foreign market sales during the POR at prices below their respective COPs within the meaning of section 773(b) of the Act. For further discussion, see the memorandum to Louis Apple from the team entitled

''Initiation of Sales Below the Cost of Production Investigations in the Antidumping Duty Administrative Review of Frozen Concentrated Orange Juice from Brazil,'' dated October 14, 1998.

In October 1998, we issued a supplemental sales questionnaire to Citrovita.

In November 1998, both Branco Peres and Citrovita informed the Department that they did not intend to submit additional sales or cost information. Consequently, because these companies did not respond to the COP questionnaires, and in the case of Citrovita the supplemental sales questionnaire, we have also assigned them a margin based on adverse facts available. For further discussion, see the ''Facts Available'' section, below.

Scope of the Review

The merchandise covered by this review is FCOJ from Brazil. The merchandise is currently classifiable under item 2009.11.00 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS item number is provided for convenience and for U.S. Customs purposes. The Department's written description remains dispositive.

Partial Rescission of Review

As noted above, in July 1998, CTM and Sucorrico informed the Department that they had no shipments of subject merchandise to the United States during the POR. We have confirmed this with information received from the Customs Service. Therefore, in accordance with 19 CFR 351.213(d)(3) and consistent with the Department's practice, we are rescinding our review with respect to CTM and Sucorrico (see, e.g., Certain Welded Carbon Steel Pipe and Tube from Turkey; Final Results and Partial Rescission of Antidumping Administrative Review, 63 FR 35190, 35191 (June 29, 1998); and Certain Fresh Cut Flowers From Colombia; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 62 FR 53287, 53288 (Oct. 14, 1997)).

Facts Available

A. Use of Facts Available for Branco Peres, Cambuhy, Citrovita, and Frutax

In accordance with section 776(a)(2)(A) of the Act, we preliminarily determine that the use of facts available is appropriate as the basis for the dumping margin for Branco Peres, Cambuhy, Citrovita, and Frutax. Section 776(a)(2) of the Act provides that if an interested party: (1) Withholds information that has been requested by the Department; (2) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act; (3) significantly impedes a determination under the antidumping statute; or (4) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination. Specifically, both Cambuhy and Frutax failed to respond to the Department's questionnaire, issued in June 1998, while Branco Peres and Citrovita failed to respond to the COP questionnaire. Moreover, Citrovita also failed to respond to a supplemental questionnaire regarding sales information.

Because all four respondents have failed to respond to certain questionnaires and have refused to participate fully in this administrative review, we preliminarily determine that, in accordance with sections 776(a) and 782(e) of the Act, the use of total facts available is appropriate. See, e.g., Certain Grain-Oriented Electrical Steel From Italy: Final Results of Antidumping Duty Administrative Review, 62 FR 2655 (Jan. 17, 1997).

Section 776(b) of the Act provides that adverse inferences may be used with respect to a party that has failed to cooperate by not acting to the best of its ability to comply with requests for information. See Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 316, 103rd Cong., 2d Sess. at 870. The failure of each of the four respondents to participate in the review and to respond to the Department's questionnaires demonstrates that each has failed to act to the best of its ability in this review and, therefore, an adverse inference is warranted. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars From Turkey, 62 FR 9737 (Mar. 4, 1997); and Extruded Rubber Thread From Malaysia; Final Results of Antidumping Duty Administrative Review, 63 FR 12752 (Mar. 16, 1998).

In situations involving non-cooperating respondents of this type, it is the Department's normal practice to select as adverse facts available the highest margin from the current or any prior segment of the same proceeding. (See, e.g., Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada; Final Results of Antidumping Duty Administrative Review and Determination to Revoke in Part, 64 FR 2173, 2175 (Jan. 13, 1999); and Brass Sheet and Strip from Germany; Final Results of Antidumping Duty Administrative Review, 63 FR 42823 (Aug. 11, 1998).) In this case, however, use of this margin, 2.52 percent, would not be appropriate because it is apparent that the respondents would benefit from their lack of cooperation, given that 2.52 percent is much lower than the margins actually calculated based on information submitted by respondents in this segment of the proceeding (*see* below). Therefore, we do not believe this rate is high enough to encourage participation in future segments of this proceeding.

Consequently, in accordance with section 776(b)(4) of the Act, we have used the data on the record of this proceeding as adverse facts available. Specifically, we used the data supplied by the petitioners in the cost allegation, as well as the sales data provided by the two respondents that submitted partial questionnaire responses (*i.e.*, Branco Peres and Citrovita), to calculate sales-specific dumping margins. We then selected as the facts available rate for each of the four non-cooperating respondents the highest transaction-specific margin calculated in this manner. This rate is 65.20 percent. For the procedures used to determine this rate, see the ''Calculation of the Facts Available Rate'' section, below.

We find that the methodology described above is appropriate given the particular facts of this case. Specifically, we note that, unlike in many cases, the publicly available cost data submitted by the petitioners in the cost allegation was complete. The petitioners provided cost data for 100 percent of the products sold by Branco Peres and Citrovita. Moreover, this data was contemporaneous with the POR and specific to Brazil. Finally, this methodology results in a facts available rate that is sufficiently high to effectuate the purpose of the facts available rule—which is to encourage the participation of these companies in future segments of this proceeding.

B. Calculation of the Facts Available Rate

As noted above, we used the data in the cost allegation to perform the cost test for Branco Peres and Citrovita. The COP information in the cost allegation was obtained from two sources: (1) A U.S. Department of Agriculture Attache Report, dated November 1997, which showed the price and quantity of oranges needed to produce one metric ton of FCOJ; and (2) a study by a University of Florida professor

published in Citrus & Vegetable Magazine in December 1997, which showed FCOJ processing and general and administrative costs.

We compared the COP figures derived from the cost allegation to home market/third country prices of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. We compared product-specific COPs to product-specific foreign market prices, less any applicable movement charges.

In determining whether to disregard foreign market sales made at prices below the COP, we examined whether such sales were made: (1) In substantial quantities within an extended period of time; and (2) at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. See section 773(b)(1) of the Act.

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product were at prices below the COP, we found that sales of that product were made in ''substantial quantities'' within an extended period of time (as defined in section 773(b)(2)(B) of the Act), in accordance with section 773(b)(2)(C)(i) of the Act. In such cases, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales.

We found that more than 20 percent of Branco Peres' and Citrovita's foreign market sales within an extended period of time were at prices less than COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We therefore disregarded the below-cost sales and, where available, used the remaining above-cost sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. For those U.S. sales of FCOJ for which there were no comparable foreign market sales in the ordinary course of trade, we compared export price (EP) and constructed export price (CEP) to CV, in accordance with section 773(a)(4) of the Act.

In accordance with section 773(e) of the Act, we calculated CV using the COP data referenced above. In accordance with section 773(e)(2)(A) of the Act, we based profit for Branco Peres on the amounts incurred and realized by this company in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. Regarding Citrovita, because: (1) This company made no sales at prices above the COP; and (2) there was no publicly available profit rate on the record of this proceeding, we used a profit rate which was derived from the public financial statements of the sole respondent who participated in the most recent prior administrative review. For further discussion, see the memorandum to the file from Sergio Gonzalez entitled ''Calculations Performed for Citrovita for the Preliminary Results,'' dated February 1, 1999 (the Citrovita Calculation Memorandum).

In accordance with the results of the cost test, we disregarded all foreign market sales made at prices below the COP.

We made currency conversions into U.S. dollars, in accordance with section 773A of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. Company-specific calculations are discussed below.

1. Branco Peres

We calculated EP using the data submitted by Branco Peres in its September 18, 1998, supplemental questionnaire response. We based EP on the gross unit price to the first unaffiliated purchaser in the United States. We made deductions from gross unit price, where appropriate, for foreign inland freight, foreign inland insurance, warehousing costs, and port charges, in accordance with section 772(c)(2)(A) of the Act.

We also calculated NV using the data submitted on September 18, 1998. Based on the results of the cost test described above, we found that Branco Peres made certain third country sales during the POR at prices above the COP. Consequently, where a contemporaneous comparison existed, we based NV on these above-cost sales. Where no contemporaneous comparison existed, we based NV on CV.

Where NV was based on third country sales, we based NV on the gross unit price to unaffiliated customers. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, warehousing costs, and port charges, in accordance with section 773(a)(6)(B) of the Act. Pursuant to section 773(a)(6)(C)(iii) of the Act, we made circumstance-of-sale adjustments, where appropriate, for differences in commissions and credit expenses.

Where NV was based on CV, we made circumstance-of-sale adjustments, where appropriate, for commissions and credit expenses, in accordance with section 773(a)(6)(C)(iii) and (a)(8) of the Act.

2. Citrovita

We calculated CEP using the data submitted by Citrovita on August 17, 1998. We calculated CEP based on the gross unit price to the first unaffiliated customer in the United States. We made deductions from gross unit price, where appropriate, for foreign inland freight, ocean freight, marine insurance, U.S. brokerage and handling expenses, U.S. customs duties, U.S. inland freight, and U.S. warehousing expenses, in accordance with section 772(c)(2)(A) of the Act. We made additional deductions, where appropriate, for commissions, credit, U.S. indirect selling expenses, and U.S. inventory carrying costs, in accordance with section 772(d)(1) of the Act.

Because Citrovita did not respond to the supplemental sales questionnaire, we adjusted its U.S. sales data to account for certain discrepancies in its response. Specifically, where the data shown on Citrovita's calculation worksheets differed from the data contained in the U.S. sales listing, we used the highest figure reported as facts available. See the Citrovita Calculation Memorandum.

Pursuant to section 772(d)(3) of the Act, we further reduced gross unit price by an amount for profit, to arrive at CEP. Because there was no publicly available profit rate on the record of this proceeding, we used a profit rate which was derived from the public financial statements of the sole respondent who participated in the most recent prior administrative review. See the Citrovita Calculation Memorandum.

Based on the results of the cost test described above, we found that Citrovita made no home market sales during the POR at prices above the COP. Consequently, we based NV on CV.

For CEP-to-CV comparisons, we made circumstance-of-sale adjustments, where appropriate, for commissions and credit expenses (offset by interest revenue received by Citrovita), in accordance with section 773(a)(6)(C)(iii) and (a)(8) of the Act. We computed the CV profit rate using the same financial statements referenced above. Furthermore, we recalculated home market credit expenses on the basis of home market price net of Brazilian taxes, in accordance with our practice. See, e.g., Ferrosilicon from Brazil; Final Results of Antidumping Duty Administrative

Review, 61 FR 59407 (Nov. 22, 1996). For further discussion, see the Citrovita Calculation Memorandum.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following margins exist for the period May 1, 1997, through April 30, 1998:

Manufacturer/exporter	Margin percent
Branco Peres Citrus, S.A	65.20
Cambuhy Citrus Comercial e Exportadora Ltda	65.20
Citrovita Agro Industrial S.A	65.20
Frutax Industria e Comercio Ltda	65.20

Interested parties may request a hearing within 30 days of the publication of this notice. Any hearing, if requested, will be held 37 days after the date of publication, or the first workday thereafter. Interested parties may submit case briefs within 30 days of publication. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such case briefs, within 120 days from the date of publication of this notice.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The duty assessment rates for importers of subject merchandise will be those rates listed above. These rates will be assessed uniformly on all entries of FCOJ made during the POR. The Department will issue appraisement instructions directly to the Customs Service.

Further, the following deposit requirements will be effective for all shipments of FCOJ from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for Branco Peres, Cambuhy, Citrovita, and Frutax will be the rates established in the final results of this review; (2) for any previously reviewed or investigated company not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and 4) the cash deposit rate for all other manufacturers or exporters will continue to be 1.96 percent, the all others rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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 administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 351.213.

Dated: February 1, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–2823 Filed 2–4–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–803]

Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China; Preliminary Results and Partial Recission of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results and partial recission of antidumping duty administrative reviews.

SUMMARY: We preliminarily determine that sales of heavy forged hand tools, finished or unfinished, with or without handles, from the People's Republic of China were made below normal value during the period February 1, 1997 through January 31, 1998. Interested parties are invited to comment on these preliminary results. Parties who submit arguments are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: February 5, 1999.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or James Terpstra, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482–4474 or 482–3965, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's regulations are to 19 CFR Part 351 (1998).

Background

On February 19, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 6622) the antidumping duty orders on heavy forged hand tools, finished or unfinished, with or without handles (certain heavy forged hand tools or HFHTs), from the People's Republic of China (PRC). On February 5, 1998, the Department published in the **Federal Register** (63 FR 5929) a notice of opportunity to request administrative reviews of these antidumping duty orders. On February 24, 1998, three exporters of the subject merchandise requested that the Department conduct administrative reviews of their exports of the subject merchandise. Specifically, Fujian Machinery & Equipment Import & Export Corporation (FMEC) requested that the Department conduct an administrative review of its exports of axes/adzes; hammers/sledges; and picks/mattocks. Shandong Huarong General Group Corporation (Shandong Huarong) and Liaoning Machinery Import & Export Corporation (LMC) requested that the Department conduct administrative reviews of their exports of bars/wedges. On February 27, 1998, another exporter, Shandong Machinery Import & Export Corporation (SMC), requested that the Department conduct an administrative review of its exports of axes/adzes; bars/wedges; hammers/sledges; and picks/mattocks. Also on February 27, 1998, the petitioner, O. Ames Co., requested administrative reviews of FMEC's, Shandong Huarong's, LMC's, SMC's, and Tianjin Machinery Import & Export Corporation's (TMC's) exports of axes/adzes; bars/wedges; hammers/sledges; and picks/mattocks.

We published the notice of initiation of these reviews on March 23, 1998 (63 FR 13837). In its June 23, 1998, Sections C and D questionnaire response,

Shandong Huarong stated that, of the subject merchandise, it exported only bars/wedges during the POR and requested that the Department terminate its review with respect to other HFHTs. Pending confirmation of this claim from the Customs Service, we are thus preliminarily rescinding our review of other HFHTs with respect to Shandong Huarong. In its June 23, 1998, Sections C and D questionnaire response, LMC stated that, of the subject merchandise, it exported only bars/wedges during the POR and requested that the Department terminate its review with respect to other HFHTs. Pending confirmation of this claim from the Customs Service, we are thus preliminarily rescinding our review of other HFHTs with respect to LMC. In its September 3, 1998, response to the Department's supplemental questionnaire, TMC stated that, of the subject merchandise, it exported only hammers and picks during the POR. Pending confirmation of this claim from the Customs Service, we are thus preliminarily rescinding our review of other HFHTs with respect to TMC. In its June 24, 1998, Sections C and D questionnaire response, FMEC stated that, of the subject merchandise, it exported only axes/adzes; hammers/sledges; and picks/mattocks, and requested that the Department terminate its review with respect to bars/wedges. Pending confirmation of this claim from the Customs Service, we are thus preliminarily rescinding our review of bars/wedges with respect to FMEC. In its June 25, 1998, Sections C and D questionnaire response, SMC stated that, of the subject merchandise, it exported only axes/adzes; hammers/sledges; and picks/mattocks, and requested that the Department terminate its review with respect to bars/wedges. Pending confirmation of this claim from the Customs Service, we are thus preliminarily rescinding our review of bars/wedges with respect to SMC.

On September 28, 1998, the Department extended the time limits for completion of the preliminary results in these proceedings until January 29, 1999 (See 63 FR 51563). The Department is conducting these administrative reviews in accordance with Section 751 of the Act.

Scope of Reviews

Imports covered by these reviews are shipments of HFHTs from the PRC comprising the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg (3.33 pounds) (hammers/sledges); (2) bars over 18 inches in length, track tools and wedges (bars/wedges); (3) picks/mattocks; and (4) axes/adzes.

HFHTs include heads for drilling, hammers, sledges, axes, mauls, picks, and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel wood splitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot-blasting, grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded are hammers and sledges with heads 1.5 kg (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of these orders is dispositive.

Verification

As provided in section 782(i) of the Act, we conducted a verification of information provided by SMC and its supplying factories, and by FMEC and its supplying factories by using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and the selection of original documentation containing relevant information. The findings at verification are detailed in the verification reports dated January 6, 1999, the public versions of which are on file in the Central Records Unit, Room B099 of the Main Commerce building (CRU-Public File).

Verification Failures of SMC and FMEC

On October 5 and 6, 1998, the Department conducted a verification of SMC's questionnaire response at its sales offices, and on October 12 and 13 at its suppliers' factories in the PRC. At SMC, we encountered serious problems such that we could not confirm that U.S. sales were properly reported. Because no accounting records were available as to one of SMC's departments that handles subject merchandise, we were unable to determine the sales volume from that Department. Additionally, with respect to another department for which accounting records were available, these records could not be reconciled with the company's overall financial statements. Finally, SMC was unable to provide substantiating documentation in response to several other requests by the Department. For further explanation of verification failures, see Determination of Adverse Facts Available Based on Verification Failure in the Administrative Review of Heavy Forged Hand Tools from the People's Republic of China (Adverse Facts Available Memorandum), dated January 29, 1999. Taken together, these failures resulted in our inability to determine whether U.S. sales were properly reported.

We also encountered serious difficulties when attempting to verify SMC's supplier factories' information. Specifically, one factory was unable to provide any documentary link between the factor utilization figures reported and the overall company accounting records. Moreover, the incomplete records that were available revealed that: (1) The reported figures were often inaccurate (in varying degrees); and (2) other factors of production existed that were not reported in the original questionnaire response. Based upon these significant failures, we find that the reported factors of production (''FOP'') information is unreliable. Taken together, the problems are in fact so significant as to constitute a total failure of verification.

On October 8 and 9, 1999, the Department conducted a verification of FMEC's questionnaire response at its sales offices. Additionally, on October 14 and 15 the Department conducted verification of FMEC's supplier factories in the PRC. At FMEC, we encountered serious problems such that we could not confirm that U.S. sales were properly reported. FMEC failed to provide accounting records for a large portion of the POR, which made it impossible to determine whether U.S. sales for that period, and possibly earlier or later periods, were properly reported. FMEC also failed to produce the financial records of two of its branches, which precluded us from verifying the volume of U.S. sales, if any, by those branches. Additionally, FMEC was unable to provide substantiating documentation in response to several other requests by the Department. For a further explanation of specific verification failures, see the Adverse Facts Available Memorandum, January 29, 1999. Taken together, these problems resulted in our inability to establish that U.S. sales were properly reported.

We also encountered serious problems when verifying information at one of FMEC's supplier's factory. For

certain products, the factory was unable to reconcile the factor utilization figures reported with company accounting records. Moreover, with respect to the data that we were able to examine, the reported figures contained many errors. We also found that certain factor inputs had not been reported in the original response. These problems indicate that the reported FOP information is unreliable, and are so significant as to constitute a total failure of verification.

Separate Rates Determination

To establish whether a company operating in a state-controlled economy is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China, 56 FR 20588 (May 6, 1991) (Sparklers), as amplified by the Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994) (Silicon Carbide). Under this policy, exporters in non-market economies (NMEs) are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to export activities. Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and, (3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control over exports is based on four factors: (1) Whether each exporter sets its own export prices independently of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and, (4) whether each exporter has autonomy from the government regarding the selection of management. See Silicon Carbide, 59 FR at 22587 and Sparklers, 56 FR at 20589.

In the final results of the 1996–1997 reviews of HFHTs, the Department granted separate rates to FMEC, Shandong Huarong, LMC, SMC and TMC. See Heavy Forged Hand Tools From the People's Republic of China; Final Results of Antidumping Duty Administrative Reviews (63 FR 16758, April 6, 1998). While all five companies have received separate rates in several previous segments of these proceedings, it is the Department's policy that separate rates questionnaire responses must be evaluated each time a respondent makes a separate rate claim, regardless of any separate rate the respondent received in the past. See Manganese Metal from the People's Republic of China, Final Results and Partial Recission of Antidumping Duty Administrative Review, 63 FR 12441 (March 13, 1998). In the instant reviews, these companies submitted complete responses to the separate rates section of the Department's questionnaire. The evidence submitted in these reviews by Shandong Huarong, LMC, and TMC, which is consistent with the Department's findings in previous reviews, is sufficient on its own merits in demonstrating independence from the government entity. We therefore preliminarily determine that these companies continue to be entitled to separate rates.

With respect to SMC and FMEC, we preliminarily determine that, due to the nature of the verification failures of both companies and the inadequacy of their cooperation, the integrity of these companies' reported data on the whole is compromised. See Verification Failures of SMC and FMEC above. Therefore, we determine that SMC and FMEC did not adequately establish entitlement to rates separate from the government entity.

Adverse Facts Available

On April 23, 1998, the Department sent a questionnaire to the Ministry of Foreign Trade and Economic Cooperation (''MOFTEC'') in order to collect information relevant to the calculation of the PRC-wide rate. MOFTEC did not respond. SMC and FMEC likewise did not provide a consolidated response representing all non-independent exporters of HFHTs. In addition, as discussed above in the section entitled ''Verification Failures,'' the accuracy of SMC's and FMEC's individual responses could not be substantiated at verification. The verification failures resulted from these companies' repeated failure to supply a wide variety of requested information. Therefore, the Department finds that, pursuant to sections 776(a)(2)(D) and 776(b), the use of an adverse inference is appropriate in determining a dumping margin, as the PRC entity has not acted ''to the best of its ability to comply with [our] request for information.'' As explained in the section entitled ''Separate Rates,'' the PRC entity includes both SMC and FMEC.

Furthermore, section 776(b) of the Act authorizes the Department to use adverse facts available (FA) whenever it finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. Because MOFTEC did not respond and because SMC and FMEC failed to substantiate large portions of their questionnaire responses, we determine that the PRC-wide entity did not cooperate to the best of its ability with our requests for information. See the Adverse Facts Available Memorandum, January 29, 1999. Therefore, pursuant to section 776(b) of the Act, we are relying on adverse FA to determine the margin for the PRC-wide entity, which includes SMC and FMEC. As outlined in section 776(b) of the Act, adverse facts available may include reliance on information derived from: (1) The petition, (2) a final determination in the investigation, (3) any previous review under section 751 of the Act or determination under section 753 of the Act, or (4) any other information placed on the record.

For each of these proceedings, we have used as adverse FA for the PRC-wide rate the highest rate from this or previous segments of the proceeding. In this case, we have used the PRC-wide rates from the most recent review, which are also the highest rates from any segment of the respective proceedings. Specifically, the PRC-wide rates are: 21.93 percent for axes/adzes; 66.32 percent for bars/wedges; 44.41 percent for hammers/sledges; and 108.2 percent for picks/mattocks. The margins selected are calculated rates that have been used consistently in recent segments of these proceedings. See Adverse Facts Available Memorandum, January 29, 1999. We have determined that these margins are appropriate to use as FA.

Section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action, H.R. Doc. 316, Vol. 1, 103d Cong., 2d Sess. 870 (1994) (SAA) provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value. See Statement of Administrative Action, at 870.

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as surrogate values,

there are no independent sources for calculated dumping margins. The only source for calculated margins is an administrative determination. Thus, in an administrative review, if the Department chooses as adverse FA a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as adverse FA, the Department will disregard the margin and determine an appropriate margin. See, e.g., Fresh Cut Flowers from Mexico; Preliminary Results of Antidumping Duty Administrative Review, 60 FR 49567, 49568 (September 26, 1995) (the Department disregarded the highest margin as best information available because that margin was based on an extraordinarily high business expense resulting from uncharacteristic investment activities, which resulted in the high margin). Because the selected margin has been consistently applied in previous segments of these proceedings, and because there is no evidence to suggest that the margin is not relevant, the Department finds no need to disregard such information as appropriate FA.

Export Price

In accordance with section 772(a) of the Act, the Department calculated an export price (EP) on sales to the United States, because use of constructed export price was not warranted. We made deductions from the selling price to unaffiliated parties, where appropriate, for ocean freight, marine insurance, foreign brokerage and handling, and foreign inland freight. Each of these services, with one exception, was either provided by a NME vendor or paid for using a NME currency. Thus, we based the deduction for these movement charges on surrogate values. See the discussion regarding companies located in NME countries and the Department's surrogate country selection in the *Normal Value* section of this notice. The one exception concerns Shandong Huarong, which reported ocean freight that was provided by a market economy vendor and paid for using a market economy currency. The affected transactions accounted for a small portion of its U.S. sales. Therefore, we used the market economy ocean freight rate only for those sales.

For Shandong Huarong's other sales and for the other respondents, we valued ocean freight using the official tariff rates published for hand tools by the Federal Maritime Commission. Where possible we used the rates for 20 and 40 foot container shipments between the ports reported in the respondents' Bills of Lading. If port-specific rates were not available, we used the regional rates calculated in the Final Determination of Sales at Less Than Fair Value: Brake Drums and Brake Rotors From the People's Republic of China (Brake Drums and Brake Rotors), 62 FR 9160 (February 28, 1997). We converted per container rates by dividing the container rate by 18 metric tons. This conversion was used in the previous two HFHTs reviews. We valued marine insurance using the average rate in effect during the period of review. This rate was reported in the public version of the questionnaire response placed on the record in Stainless Steel Wire Rod From India, 63 FR 48184 (September 9,1998).

For foreign brokerage and handling, we used the average of the rates reported in the questionnaire response in the antidumping duty investigation of Stainless Steel Wire Rod From India, 63 FR 48184 (September 9, 1998). These rates were in effect between February 1997 and January 1998.

The sources used to value foreign inland freight are identified below in the *Normal Value* section of this notice. To account for price changes between the time period that the freight, brokerage, and insurance rates were in effect and the period of review (POR), we inflated the rates using the wholesale price indices (WPI) for India as published in the International Monetary Fund's (IMF) publication, International Financial Statistics. For further discussion of the surrogate values used in these reviews see the File Memorandum From the Team, Surrogate Values Used for the Preliminary Results of the Seventh Administrative Reviews of Certain Heavy Forged Hand Tools From the People's Republic of China (''Surrogate Value Memorandum''), (January 29, 1999), which is on file in the CRU—Public File.

Normal Value

For companies located in NME countries, section 773(c)(1) of the Act provides that the Department shall determine normal value (NV) using a factors of production methodology if (1) the subject merchandise is exported from an NME country, and (2) available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value, in accordance with section 773(a) of the Act. Section 351.408 of the Department's regulations sets forth the Department's methodology for calculating the NV of merchandise from NME countries.

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Since none of the parties to these proceedings contested such treatment in these reviews, we calculated NV in accordance with section 773(c) of the Act and § 351.408 of the Department's regulations.

In accordance with section 773(c)(3) of the Act, the FOP utilized in producing HFHTs include, but are not limited to—(A) hours of labor required, (B) quantities of raw materials employed, (C) amounts of energy and other utilities consumed, and (D) representative capital cost, including depreciation. In accordance with section 773(c)(4) of the Act, the Department valued the FOP, to the extent possible, using the cost of the FOP in a market economy that is—(A) at a level of economic development comparable to the PRC, and (B) a significant producer of comparable merchandise. We determined that India is comparable to the PRC in terms of per capita gross national product, the growth rate in per capita income, and the national distribution of labor. Furthermore, India is a significant producer of comparable merchandise. For a further discussion of the Department's selection of India as the surrogate country, see the Memorandum From Jeff May, Director, Office of Policy, to Holly Kuga, Senior Office Director, AD/CVD Enforcement Group II, dated June 23, 1998, ''Certain Heavy Forged Hand Tools (''Hand Tools'') from the People's Republic of China: Nonmarket Economy Status and Surrogate Country Selection'' which is on file in the CRU—Public File.

In accordance with section 773(c)(1) of the Act, for purposes of calculating NV, we valued PRC FOP based on data for the POR. Surrogate values that were in effect during periods other than the POR were inflated or deflated, as appropriate, to account for price changes between the effective period and the POR. We calculated the inflation or deflation adjustments for all factor values, except labor, using the wholesale price indices for India that were reported in the IMF's publication, International Financial Statistics. We valued PRC FOP as follows:

(1) We valued direct materials used to produce HFHTs (*i.e.*, steel, steel scrap, wood, paint, paint thinner (dilution), and anti-rust oil) and the steel scrap

generated from the production of HFHT's using the rupee per metric ton, per kilogram, or per cubic meter value of India imports between February 1997 through September 1997. We used imports into India between April 1995 and March 1996 to value steel bars used to produce HFHTs because the HTS subheading that we selected for the steel surrogate value, HTS 7214.50, does not appear in the Indian import statistics for February 1997 and September 1997.

In the prior reviews of HFHTs, the Department used the HTS category 7214.50 as a surrogate value for steel. This category was for ''Forged Bars and Rods Containing 0.25% or Greater But Less Than 0.6% Carbon.'' The use of this category was based on the fact that it was the closest HTS category known to the Department in terms of carbon content and other input material. However, this HTS category is for steel purchased in finished rod and bars. In our search for the best possible surrogate value in this review we uncovered an HTS category for unfinished steel, 7207.20.09. We found that this steel has the same carbon content as 7214.50, but is unfinished. For further discussion regarding the HTS category used to value steel, see Decision Memorandum to Holly A. Kuga, Senior Director, Enforcement Group II, dated January 29, 1999, ''Issues Concerning Surrogate Values for Steel: 1997/1998 Antidumping Duty Administrative Review of Certain Heavy Forged Hand Tools From the People's Republic of China,'' which is on file in the CRU. We used import statistics in our valuations that were published in the Monthly Statistics of the Foreign Trade of India, Volume II—Imports (Indian Import Statistics).

(2) We valued labor based on a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3).

(3) We derived ratios for factory overhead, selling, general and administrative (SG&A) expenses, and profit using information reported for 1995–1996 in the Reserve Bank of India Bulletin. From this information, we were able to calculate factory overhead as a percentage of direct material, labor, and energy expenses; SG&A as a percentage of the total cost of manufacturing; and profit as a percentage of the sum of the total cost of manufacturing and SG&A.

(4) We valued packing materials, including cartons, pallets, anti-rust paper, anti-damp paper, plastic straps, plastic bags, iron buttons and knots, and iron wire, using the rupee per metric ton, per kilogram, or per cubic meter value of imports into India between February 1997 and September 1997. The import values were sourced from the Monthly Statistics of the Foreign Trade of India, Volume II—Imports (Indian Import Statistics). We used the Indian Import data for February 1995 to value pallets because the HTS subheading that we selected for pallets, HTS 4415.20, was not available in kilograms.

(5) We valued coal using the price of steam coal in India in 1996 as reported in the International Atomic Energy Agency's publication, Energy Prices and Taxes, Second Quarter 1998 (EPT).

(6) We valued electricity using the 1995 Indian electricity prices for industrial use as reported in the EPT.

(7) We used the following sources to value truck and rail freight services incurred to transport direct materials, packing materials, and coal from the suppliers of the inputs to the factories producing HFHTs:

Truck Freight—If a respondent used its own trucks to transport material or subject merchandise, we valued freight services using the average cost of operating a truck, which we calculated from information published in the Times of India on April 24, 1994. If a respondent did not use its own trucks or the respondent did not state that it used its own trucks, we valued freight services using the rates reported in an August 1993 cable from the U.S. Embassy in India to the Department. See Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the People's Republic of China, 58 FR 48833 (September 20, 1993).

Rail Freight—We valued rail freight services using the April 1, 1995 rates published by the Indian Railway Conference Association. These rates were recently used in Brake Drums and Brake Rotors. For further discussion of the surrogate values used in these reviews, see the Surrogate Value Memorandum, January 29, 1999, which is on file in the CRU—Public File.

Preliminary Results of the Reviews

As a result of our reviews, we preliminarily determine that the following margins exist for the period February 1, 1997 through January 31, 1998:

Manufacturer/exporter	Time period	Margin (percent)
Shandong Huarong General Group Corporation, Bars/Wedges	2/1/97–1/31/98	3.48
Liaoning Machinery Import & Export Corporation, Bars/Wedges	2/1/97–1/31/98	0.00
Tianjin Machinery Import & Export Corporation:		
Hammers/Sledges	2/1/97–1/31/98	2.78
Picks/Mattocks	2/1/97–1/31/98	0.00
PRC-wide rates:		
Axes/Adzes	2/1/97–1/31/98	21.93
Bars/Wedges	2/1/97–1/31/98	66.32
Hammers/Sledges	2/1/97–1/31/98	44.41
Picks/Mattocks	2/1/97–1/31/98	108.2

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice, in accordance with 19 CFR 351.224. Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the publication of this notice, or the first workday thereafter. Interested parties may submit written comments (case briefs) within 30 days of the date of publication of this notice in accordance with 19 CFR 351.309(c)(2). Rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication. The Department will publish a notice of the final results of these administrative reviews, which will include the results of its analysis of issues raised by the parties, within 120 days of publication of these preliminary results.

The final results of these reviews shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties.

Duty Assessment Rates

The Department shall determine, and the Customs Service shall assess,

antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we have calculated an importer-specific *ad valorem* duty assessment rate based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. In order to estimate the entered value, we subtracted international movement expenses from the gross sales value. This rate will be assessed uniformly on all entries of that specific importer made during the POR. In accordance with 19 CFR 351.106 (c)(2), we will instruct the Customs Service to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis, i.e.*, less than 0.5 percent. The Department will issue appraisement instructions directly to the Customs Service.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the final results of these administrative reviews for all shipments of HFHTs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies named above which have separate rates (Shandong Huarong, LMC, and TMC) will be the rates for those firms established in the final results of these administrative reviews for the classes or kinds listed above; (2) for any previously reviewed PRC and non-PRC exporter with a separate rate, the cash deposit rate will be the company-specific rate established for the most recent period; (3) for all other PRC exporters, the cash deposit rates will be the PRC-wide rates established in the final results of these reviews; and (4) the cash deposit rates for non-PRC exporters of subject merchandise from the PRC will be the rates applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

Notification of Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under § 351.402 of the Department's regulations 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.

These administrative reviews and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 1677f(i)(1)).

Dated: January 29, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–2815 Filed 2–4–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[I.D. 012299C]

Notice of Intent to Prepare an Environmental Impact Statement Regarding Proposed Issuance of an Incidental Take Permit to Crown Pacific for Forest Management and Timber Harvest in Whatcom and Skagit Counties, Washington

AGENCIES: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce; Fish and Wildlife Service (FWS), Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to the National Environmental Policy Act, this notice advises the public that NMFS and FWS (the Services) intend to prepare an Environmental Impact Statement (EIS) related to the proposed approval of a Habitat Conservation Plan (Plan) and an issuance of an incidental take permit (Permit) to take endangered and threatened species in accordance with the Endangered Species Act of 1973, as amended (Act). The Permit applicant is Crown Pacific, Ltd., and the application is related to forest management and timber harvest on a portion of the Hamilton Tree Farm located in Whatcom and Skagit Counties, Washington.

Crown Pacific intends to request a Permit for the northern spotted owl (*Strix occidentalis*), marbled murrelet (*Brachyramphus marmoratus*), gray wolf (*Canis lupus*), peregrine falcon (*Falco peregrinus*), bald eagle (*Haliaeetus leucocephalus*), and the grizzly bear (*Ursus arctos*). It may also request a permit for 22 currently unlisted species of concern (including anadromous and resident fish), should these species be listed under the Act in the future.

The Services are furnishing this notice in order to advise other agencies and the public of our intentions and to announce that a draft EIS is expected to be available for public review and comment during the first quarter of 1999.

ADDRESSES: Address comments and requests for information to: Brian Bogaczyk, Fish and Wildlife Service, 510 Desmond Drive, SE, Suite 102, Lacey, Washington 98503, telephone (360) 753–5824; or Matt Longenbaugh, National Marine Fisheries Service, 510 Desmond Drive, SE, Suite 103, Lacey, Washington 98503, telephone (360) 753–7761.

SUPPLEMENTARY INFORMATION: Crown Pacific, Ltd., owns and manages the Hamilton Tree Farm, located in Whatcom and Skagit Counties, Washington. The proposed Plan area is composed of several parcels of the Hamilton Tree Farm, totaling 84,664 acres, and is located north and south of State Highway 20, roughly between Sedro-Woolley and Marblemount, Washington. Management activities on the tree farm include forest management and timber harvest. A portion of the proposed Plan area, Arlecho Creek, is in the process of being transferred to the Nature Conservancy and the Lummi Indian Nation, with the understanding that the property will be managed indefinitely as a natural and cultural area. The transfer is expected to be completed in late 1999.

Some timber management activities have the potential to impact species subject to protection under the Act. Section 10 of the Act contains provisions for the issuance of Permits to non-Federal land owners for the take of endangered and threatened species, provided the take is incidental to otherwise lawful activities and will not appreciably reduce the likelihood of the survival and recovery of the species in the wild. In order to receive a Permit, the applicant must prepare and submit to the Services for approval a Plan containing a strategy for minimizing, monitoring, and mitigating all take associated with the proposed activities to the maximum extent practicable. The applicant must also ensure that adequate funding for the Plan will be provided. If approved, the Permit and Plan would be in effect for 100 years.

Activities proposed for Permit coverage include the following: Tree site preparation; tree planting; harvesting and yarding of timber; construction, maintenance and use of logging roads and landings; quarrying of stone and

gravel for use in those roads and landings; and cellular phone and radio repeater tower sites.

Previous announcements relating to this project indicated that an environmental review (EIS or Environmental Assessment) would be conducted. The Services have now concluded that an EIS should be prepared. The EIS will analyze the proposal and the reasonable alternatives, as well as the associated impacts of each. Development of initial alternatives involved internal and public scoping. Public input into the environmental review of this proposal was obtained during a public scoping period conducted from August 20 to September 21, 1998, and was announced in a previous **Federal Register** notice (63 FR 44634, August 20, 1998). That public scoping period will be used to fulfill scoping requirements under 40 CFR 1501.7, consistent with 46 FR 18026 (March 23, 1981), as amended by 51 FR 15618 (April 25, 1985).

Four alternatives have been proposed thus far and will be considered for detailed analysis in the EIS. Under Alternative A (no-action alternative) no Permit would be issued and take would be avoided for any and all threatened and endangered species on the property. Alternative B (preferred alternative) involves issuing a Permit for six threatened and endangered species on the property with provisions for approximately 22 unlisted species (covered species). The Plan would have minimization and mitigation measures for each of the covered species on the property. Alternative C involves issuing a Permit for northern spotted owl and marbled murrelet only, with provisions for approximately 9 unlisted species (covered species). The Plan would have minimization and mitigation measures for each covered species. Alternative D involves a Candidate Conservation Agreement with minimization and mitigation measures for anadromous salmonids and bull trout and take avoidance for all threatened and endangered species.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and implementing regulations (40 CFR parts 1500 through 1508), other appropriate Federal laws and regulations, and policies and procedures of the Services for compliance with those regulations. It is estimated that the draft EIS will be available for public review and comment during the first quarter of 1999.

Date: January 19, 1999.

Thomas J. Dwyer,

Acting Regional Director, Region 1, Fish and Wildlife Service, Portland, Oregon.

Date: February 1, 1999.

Kevin Collins,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–2795 Filed 2–4–99; 8:45 am]

BILLING CODE 3510–22–F, 4310–55–F

COMMODITY FUTURES TRADING COMMISSION

Public Information Collection Requirement

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of intent to renew information collection 3038–0007: Rules Related to Risk Disclosure Concerning Exchange Traded Commodity Futures and Options.

SUMMARY: The Commodity Futures Trading Commission is planning to renew information collection 3038–0007, Rules Related to Risk Disclosure Concerning Exchange Traded Commodity Futures and Options, which is due to expire June 30, 1999. The rules require futures commission merchants and introducing brokers to provide their customers with standard risk disclosure statements concerning the risk of trading commodity interests. The purpose of these rules is to ensure that customers are advised of the risks of trading commodity interests and to avoid fraud and misrepresentation. This information collection contains the recordkeeping and reporting requirements needed to ensure regulatory compliance with Commission rules relating to this issue.

In compliance with the Paperwork Reduction Act of 1995, the Commission solicits comments to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and assumptions used;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of the 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 response.

DATES: Comments must be received on or before April 6, 1999.

ADDRESSES: Persons wishing to comment on this information collection should contact the CFTC Clearance Officer, 1155 21st Street NW, Washington, DC 20581, (202) 418–5160.

Title: Rules Related to Risk Disclosure Concerning Exchange Traded Commodity Futures and Options.

Control Number: 3038–0007.

Action: Extension.

Respondents: Futures commission merchants and introducing brokers.

Estimated Annual Burden: 40,897.

Respondents	Regulation (17 CFR)	Estimated number of respondents	Annual responses	Est. avg. hours per response
Futures commission merchants and introducing brokers.	33.7, 190.10(c), and 30.6	190,422	224,659	50.57

Issued in Washington, D.C. on February 1, 1999.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–2753 Filed 2–4–99; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Proposed Amendments to the Chicago Board of Trade Soybean Oil Futures Contract; Extension of Comment Period

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of extension of public comment period for the proposed amendments.

SUMMARY: The Chicago Board of Trade (CBT or Exchange) has proposed amendments to the Chicago Board of Trade soybean oil futures contract. On January 11, 1999, the Commission published a request for public comment on the proposed amendments for a 30-day comment period ending on February 10, 1999. The Acting Director of the Division of Economic Analysis (Division), acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that extension of the comment period for an additional fifteen (15) days is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before February 25, 1999.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street, NW Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to the proposed amendments to the CBT soybean oil futures contract.

FOR FURTHER INFORMATION CONTACT: Please contact John Bird of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW, Washington, DC 20581, telephone (202) 418–5274. Facsimile number: (202) 418–5527. Electronic mail: jbird@cftc.gov.

SUPPLEMENTARY INFORMATION: The Acting Director, acting on behalf of the Commission, has determined to extend the public comment period for the subject notice. The Division believes that an extension of the comment period until February 25, 1999 would permit interested parties to fully evaluate the proposal and to submit comments thereon to the Commission.

Issued in Washington, DC, on January 29, 1999.

John R. Mielke,

Acting Director.

[FR Doc. 99–2754 Filed 2–4–99; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Prepare an Environmental Impact Statement for the Pope Air Force Base Runway Extension

The United States Air Force is issuing this notice to advise the public of its intent to prepare an Environmental Impact Statement (EIS) assessing the potential environmental impacts of extending the runway at Pope Air Force Base, North Carolina. The present runway is too short to accommodate fully loaded, fully fueled C–5, C–17, and C–141 aircraft. An extended runway will accommodate fully loaded and fueled planes and increase the efficiency of Pope's operations. The Air Mobility Command (AMC) proposes lengthening the runway in order to support Pope's strategic airlift mission better. Four alternatives are being considered—extending the northeast end, extending the southwest end, extending both ends, and leaving the runway as is (''no action''). All alternatives but the ''no action'' alternative involve extending the runway and adjacent taxiways, constructing a satellite fire station and various air navigation structures, rerouting of various utilities, and obtaining additional property for an end of runway clear zone and to mitigate potentially impacted wetlands.

The Air Force will hold a public scoping meeting, in compliance with the National Environmental Policy Act, to request public involvement to identify environmental concerns that need to be addressed in the EIS. The schedule for the scoping meeting follows:

Date	Location	Time
25 February 1999	Spring Lake Town Hall Assembly Room, 300 Ruth St., Spring Lake, NC 28390.	7:00–10:00 p.m.

This meeting is the first step in soliciting public and government agency comments on the proposed action. Comments provided at this meeting and throughout the scoping process should focus on the nature and scope of the environmental issues and other concerns that need to be assessed in the EIS. During the meeting the Air Force will describe the proposed action and alternatives, define the process involved in preparing an EIS, and outline the opportunities for public involvement in the process. AMC will evaluate any reasonable alternatives identified during the scoping process and address them in the Draft EIS. The Draft EIS will be made available to the public and comments on it will be addressed during a public hearing. The information presented in the Draft EIS along with public comments will be included in the Final EIS. The Final EIS together with economic and technical data will be considered in making a final decision regarding the proposed runway extension. The final decision will then be documented in a Record of Decision that will be made public by the Air Force. To assure the Air Force will have sufficient time to fully consider public inputs on the proposed action and alternatives, written comments should be mailed no later than March 11, 1999.

Please direct written comments or requests for further information concerning the Pope AFB Runway Extension EIS to: Mr. Jonathan D. Farthing, HQ AFCEE/ECA, 3207 North Road, Brooks AFB, TX 78235–5363, (210) 536–4203.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–2857 Filed 2–4–99; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare an Environmental Impact Statement To Consider Policies, Guidance, and Processes To Minimize the Environmental Impacts of Mountaintop Mining and Valley Fills in the Appalachian Coalfields

AGENCIES: Army Corps of Engineers, DoD.

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

PURPOSE: The U.S. Army Corps of Engineers (Corps), U.S. Environmental Protection Agency (EPA), Office of Surface Mining (OSM), and U.S. Fish and Wildlife Service (FWS), in accordance with section 102(2)(c) of the National Environmental Policy Act, with the State of West Virginia, will prepare an Environmental Impact Statement (EIS) on a proposal to consider developing agency policies, guidance, and coordinated agency decision-making processes to minimize, to the maximum extent practicable, the adverse environmental effects to waters of the United States and to fish and wildlife resources from mountaintop mining operations, and to environmental resources that could be affected by the size and location of fill material in valley fill sites.

DATES: The agencies invite comments and suggestions on the scope of the analysis, including the regulatory issues and significant environmental effects to be addressed in the EIS. Written comments from the public regarding the environmental and regulatory issues and alternatives to be addressed in the EIS should be received in writing by March 31, 1999. The agencies will hold public meetings on February 23, 1999, in Summersville, West Virginia; February 24, 1999, in Charleston, West Virginia; and February 25, 1999, in Logan, West Virginia, to receive public input, either verbal or written, on relevant environmental and regulatory issues that should be addressed in the EIS. The locations and starting times of the public meetings are as follows: in Summersville, the meeting will be held at the Nicholas County Veteran's Memorial Park beginning at 6:30 p.m.; in Charleston, the meeting will be held at the rotunda at Riggleman Hall, University of Charleston in the afternoon from 2 to 4 p.m. and in the evening beginning at 6:30 p.m.; and in Logan, the meeting will be held at the Chief Logan State Park beginning at 6:30 p.m. Other public meetings may also be held and will be announced at a later date.

ADDRESSES: Send written comments and suggestions concerning this proposal to William Hoffman, Environmental Protection Agency, 3ES30, 1650 Arch Street, Philadelphia, Pennsylvania, 19103–2029; e-mail address, hoffman.william@ epamail.epa.gov; telephone: 215–814–2995. Requests to be placed on the mailing list should also be sent to this address.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and EIS are to be directed to William Hoffman, Environmental Protection Agency, 215–814–2995. Coordinators for each of the Federal and State agencies are as follows:

William Hoffman, U.S. Environmental Protection Agency, 215–814–2995
David G. Hartos, Office of Surface Mining, 412–937–2909
Andy Gallagher, WV Division of Environmental Protection, 304–759–0515
Michael D. Gheen, U.S. Army Corps of Engineers, 304–529–5487
David Densmore, U.S. Fish and Wildlife Service, 814–234–4090

SUPPLEMENTARY INFORMATION: The agencies undertaking preparation of this voluntary EIS implement Federal and State laws with which mountaintop mining operations and associated discharges to waters of the United States must comply. OSM is responsible for national administration of the Surface Mining Control and Reclamation Act (SMCRA); it has delegated the authority for the SMCRA programs for surface mining operations in West Virginia to the State of West Virginia. Other Appalachian coalfield states (except Tennessee) also implement delegated SMCRA authority. Discharge of fill material into United States waters is regulated under section 404 of the Clean Water Act, with permit responsibility administered by the Corps and applicable 404 regulations issued by the Corps and EPA. Other discharges to United States waters are subject to section 402 of the Clean Water Act, which is administered nationally by EPA with authority for the program delegated to West Virginia and other Appalachian coalfield States. Mountaintop mining operations must also comply with the Endangered Species Act, which is administered by FWS. In addition, the Fish and Wildlife Coordination Act (FWCA) pertains to federally-permitted, constructed, or licensed water development projects and land development projects that affect any water body. Whenever OSM, Corps, or EPA authorize an action within the scope of the FWCA, they are required to consult with the FWS, and similar State agencies, to obtain recommendations on ways to mitigate adverse effects on fish and wildlife resources.

The number of mountaintop mining operations that utilize valley fills, as well as the scale of individual operations, have increased in recent years in West Virginia. This EIS will evaluate significant environmental impacts associated with these operations on water quality, streams, aquatic and terrestrial habitat, habitat fragmentation, the hydrological balance, and other individual and cumulative effects. Federal and state agencies are increasingly concerned over the lack of comprehensive data regarding valley fill operations, and have initiated a number of studies to address these data gaps. Accurately describing and quantifying the extent and nature of direct, secondary, and cumulative impacts related to valley fills and associated mining practices is difficult.

This EIS will complement recent efforts to address the issues of mountaintop mining and valley fills. The OSM recently completed and issued a draft oversight report entitled ''An Evaluation of Approximate Original Contour and Postmining Land Use in West Virginia''. During 1998, the Governor of West Virginia established a Governor's Task Force, which held public inquiries and evaluated the impacts of mountaintop mining operations on the economy, the environment, and the people of that State. Its report was issued in December 1998.

To address the concerns about mountaintop mining and valley fills, the agencies will consider potential revisions to relevant regulations, policies, and guidance that would minimize the potential for adverse individual and cumulative impacts of mining operations. The EIS will provide information that will help the agencies improve the permitting process to protect water quality and minimize impacts to other environmental resources. The EIS will also examine how regulations of the agencies can be better coordinated. The EIS may consider information on the following: The cumulative environmental impacts of mountaintop mining; the efficacy of stream restoration; the viability of reclaimed streams compared to natural waters; the impact that filled valleys have on aquatic life, wildlife and nearby residents; biological and habitat analyses that should be done before mining begins; practicable alternatives for in-stream placement of excess

overburden; measures to minimize stream filling to the maximum extent practicable; and the effectiveness of mitigation and reclamation measures. The EIS is expected to take two years to complete.

Dated: February 2, 1999.

Charles M. Hess,

Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 99–2825 Filed 2–4–99; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 99–03

Environmental Meteorology Program—Vertical Transport and Mixing; Correction

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of extension of application due date; correction.

In the **Federal Register** notice of February 1, 1999, in FR Doc. 99–2309, on page 4850, in the second column, correct the **FOR FURTHER INFORMATION CONTACT** caption to read: ''Peter Lunn, telephone (301) 903–4819.''

Dated: February 2, 1999.

Clara R. Barley,

Federal Register Liaison Officer, Department of Energy.

[FR Doc. 99–2761 Filed 2–4–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES99–24–000]

Minnesota Power Inc., Notice of Application

February 1, 1999.

Take notice that on January 22, 1999, Minnesota Power Inc. submitted an application, under Section 204 of the Federal Power Act, for authorization to issue additional shares of common stock, in connection with a two-for-one common stock split.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, 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 385.214). All such motions and protests should be filed on or before February 11, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 99–2802 Filed 2–4–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–67–003]

Mississippi River Transmission Corporation; Notice of Compliance Filing

February 1, 1999.

Take notice that on January 27, 1999, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its Gas Tariff, Third Revised Volume No. 1, First Substitute Original Sheet No. 120B and Substitute First revised Sheet No. 144 to become effective November 1, 1998.

MRT states that the purpose of this filng is to comply with the Commission's letter order, issued January 12, 1999 in Docket No. RP99–67–002. Such letter order accepted certain tariff sheets, subject to MRT making certain corrections to typographical errors in its Order 587–H compliance filing of November 16, 1998.

MRT states that a copy of this filing is being mailed to each of MRT's customers, active parties to the proceeding and to the state commissions of Arkansas, Illinois and Missouri.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 99–2808 Filed 2–4–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–160–000]

National Fuel Gas Supply Corporation; Notice of Application

February 1, 1999.

Take notice that on January 19, 1999, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed an application pursuant to sections 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing National Fuel to uprate a compressor unit at its Ellisburg Compressor Station to provide additional firm transportation service from Ellisburg, Pennsylvania to Leidy, Pennsylvania (1999 Ellisburg to Leidy Expansion Project), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, National Fuel proposes to uprate compressor unit 1A, which was authorized as part of National Fuel's 1997 Niagara Expansion Project—Phase II in Docket No. CP98–94–000, from 3,200 horsepower (hp) to 4,445 hp, an increase of 1,245 hp. National Fuel states that the expansion of unit 1A will be accomplished through software modifications to the engine control panel, which will be performed by the engine manufacture. National Fuel estimates the cost of the uprating to be approximately $101,600.

National Fuel states that its 1999 Ellisburg to Leidy Expansion Project will provide an additional 60,919 Dth per day of firm capacity from Ellisburg, Pennsylvania to the interconnection between the facilities of National Fuel and Transcontinental Gas Pipe Line Corporation (Transco) at Leidy, Pennsylvania. National Fuel explains that it conducted an open season from September 9, 1998, to October 16, 1998, for the additional Ellisburg to Leidy capacity. National Fuel claims that of the additional capacity, 55,919 Dth per day is subscribed by three shippers, El Paso Energy Marketing Co., Florida Power & Light Company, and Aquila Energy Marketing Corporation. National Fuel indicates that it is currently soliciting service requests for the

remaining 5,000 per day of firm transportation capacity.

Naitonal Fuel states that it does not seek a pre-determination of rolled-in rate treatment in this application, but intends to seek rolled-in rate treatment of the cost associated with this project in its next general rate case.

National Fuel requests that the Commission issue all necessary authorizations for its 1999 Ellisburg to Leidy Expansion by June 1, 1999, in order for National Fuel to meet the firm transportation requirements of the project shipper.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should be on or before February 22, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is 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.

David P. Boergers,

Secretary.

[FR Doc. 99–2799 Filed 2–4–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–180–001]

National Fuel Gas Supply Corporation; Notice of Compliance Filing

February 1, 1999.

Take notice that on January 19, 1999, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Sub. First Revised Sheet No. 389 and Alt. Sub. First Revised Sheet No. 389, with an effective date of January 1, 1999.

National Fuel states that this filing is being made in compliance with the Commission's letter order issued on December 30, 1998, in the above-reference docket. National Fuel further states that the revised tariff language on its primary tariff sheet provides that cash-out of imbalance volumes will be accomplished by using the index price for the month in which the imbalance was incurred. National Fuel's filing also includes an alternate tariff sheet that provides that cash-out of imbalance volumes will be accomplished by using the index price applicable to the month that includes the time period for which the Shipper last made a nomination for service.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 99–2809 Filed 2–4–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–173–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

February 1, 1999.

Take notice that on January 25, 1999, Northern Natural Gas Company (Northern), 111 South 103rd Street, Omaha, Nebraska 68124, filed in Docket No. CP99–173–000 a request pursuant to Sections 157.205, 157.212 and 157.216 of the Commission's Regulations for authorization to convert an existing receipt point to a delivery point, to accommodate interruptible gas deliveries to GPM Gas Corporation (GPM) under Northern's blanket certificate issued in Docket No. CP82–401–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern states that it requests authority to abandon certain receipt point facilities and operate the existing tap as a new delivery point to accommodate interruptible gas service to GPM under Northern's currently effective throughput service agreement(s). Northern explains that the delivery point was requested by GPM in order to provide compressor fuel to its facilities in Hemphill County, Texas.

Northern estimates that the peak day and annual volumes that would be delivered at the subject delivery point would be 800 MMBtu and 292,000 MMBtu, respectively. Northern states that the conversion would be accomplished at no cost to Northern.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–2801 Filed 2–4–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–171–000]

Northwest Pipeline Corporation; Notice of Request Under Blanket Authorization

February 1, 1999.

Take notice that on January 22, 1999, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP99–171–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations (18 CFR 157.205 and 157.216) under the Natural Gas Act (NGA) for authorization to abandon a farm tap in Douglas County, Oregon, under Northwest's blanket certificate authorized in Docket No. CP82–433–000, pursuant to Section 7 of the NGA, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northwest proposes to abandon the Markillie No. 2 Farm Tap located on Northwest's Grants Pass Lateral. It is stated that the tap was installed in 1964 for service to a single end-user, the predecessor of the Avista Corporation. It is asserted that Northwest has no current contractual obligations to provide service through the tap, which has not been used since 1976. It is further asserted that the end-user has consented to the abandonment. Northwest estimates the cost of abandoning the tap at $2,300.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–2800 Filed 2–4–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–415–002]

Overthrust Pipeline Company; Notice of Compliance Filing

February 1, 1999.

Take notice that on January 27, 1999, Overthrust Pipeline Company (Overthrust) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, Second Substitute Third Revised Sheet No. 67B, to be effective November 2, 1998.

Overthrust states that the filing is being filed in compliance with the Commission's letter order issued January 15, 1999, (January 15 Order) in Docket No. RP98–415–001.

The January 15 Order directed Overthrust to revise its November 13,1998, filing that was made in compliance with the Commission's October 30, 1998, letter order. These filings revised Overthrust's FERC Gas Tariff, First Revised Volume No. 1–A to incorporate requirements set forth in 18 CFR 284.10(c)(1)(i) by the Commission's Order No. 587–H issued July 15, 1998.

Overthrust stated that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 99–2807 Filed 2–4–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT99–5–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Change in FERC Gas Tariff

February 1, 1999.

Take notice that on January 21, 1999, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to become effective February 20, 1999:

Second Revised Sheet No. 342
First Revised Sheet No. 343
Seventh Revised Sheet No. 344

Transco states that the purpose of the filing is to update Transco's tariff to reflect changes that have occurred with respect to the listing of Transco's marketing affiliates and shared officers and directors, and to update Transco's tariff regarding the limited sharing of facilities with certain of Transco's marketing affiliates and regarding the identity of the responsible individual under Transco's internal procedures to examine third party complaints concerning conduct involving Transco and its marketing affiliates.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the

Commission's Regulations. Protests will be considered by the Commission's in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 99–2803 Filed 2–4–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–69–000, et al.]

Elwood Energy LLC, et al.; Electric Rate and Corporate Regulation Filings

January 28, 1999.

Take notice that the following filings have been made with the Commission:

1. Elwood Energy LLC

[Docket No. EG99–69–000]

Take notice that on January 26, 1999, Elwood Energy LLC (Elwood) filed with the Federal Energy Regulatory Commission, an Application for Determination of Exempt Wholesale Generator Status pursuant to Part 365 of the Commission's regulations.

Elwood is owned by Dominion Elwood, Inc., a Delaware corporation, and Peoples Elwood LLC, a Delaware limited liability company. Dominion Elwood, Inc., is a wholly-owned subsidiary of Dominion Energy, Inc., which in turn is a wholly-owned subsidiary of Dominion Resources, Inc. Peoples Elwood, LLC is a wholly-owned subsidiary of PERC Power, Inc., which in turn is a wholly-owned subsidiary of Peoples Energy Resources, Corp.

Elwood will own and operate a generating facility with a nominal capacity of 600 MW located near Elwood Illinois, consisting of four 150 GE turbine generator sets, an approximately 0.3 mile long 345 kV transmission line, four 18/345 kV step up transformers, four 18kV/4160v auxiliary transformers, and associated circuit breakers. The facility will be interconnected with the transmission system of Commonwealth Edison Company.

Comment date: February 16, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. JPower Inc.; Northeast Energy Services, Inc.; Tennessee Power Company; Equitable Power Services Co.; Brooklyn Navy Yard Cogeneration Partners, L.P.; Illinova Energy Partners, Inc.; Power-Link Systems, Ltd.

[Docket Nos. ER95–1421–011; ER97–4347–005; ER95–581–015; ER94–1539–019; ER97–886–004; ER94–1475–015; and ER98–2181–001]

Take notice that on January 21, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are 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. MEG Marketing, LLC; TexPar Energy, Inc.; Wolverine Power Supply Cooperative, Inc.; Rainbow Energy Marketing Corporation; Peak Energy, Inc.; Yankee Energy Marketing Company; Howard/Avista Energy, LLC

[Docket Nos. ER98–2284–002; ER95–62–016; ER98–411–007; ER94–1061–019; ER95–379–014 and ER95–379–015; ER96–146–009; and ER98–181–004]

Take notice that on January 22, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are 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.

4. Equitable Energy, LLC

[Docket No. ER99–682–000]

Take notice that on January 25, 1999, Equitable Energy, L.L.C., tendered for filing an amendment to its ''Notice of Succession In Ownership Or Operation By Equitable Energy, LLC,'' filed on November 23, 1998. The amendment provides additional information sought by Commission Staff.

Comment date: February 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Southern Indiana Gas and Electric Company

[Docket No. ER99–1402–000]

Take notice that on January 19, 1999, Southern Indiana Gas and Electric Company (SIGECO) tendered for filing summary information on transactions that occurred during the period October 1, 1998 through December 31, 1998, pursuant to its Market Based Rate Sales Tariff accepted by the Commission in Docket No. ER96–2734–000.

Comment date: February 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Strategy, Inc.

[Docket No. ER99–1410–000]

Take notice that on January 21, 1999, Strategy, Inc., a power marketer organized under the laws of Massachusetts, petitioned the Commission for acceptance of its market-based rate schedule, waiver of the 60-day notice requirement, and waiver of certain requirements under Subparts B and C of Part 35 of the Commission's Regulations.

Comment date: February 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Central Illinois Light Company

[Docket No. ER99–1420–000]

Take notice that on January 21, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois, 61602, tendered for filing with the Commission, a report for the quarter ending December 31, 1998 for sales under its Market Rate Power Sales Tariff.

Comment date: February 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Atlantic City Electric Company

[Docket No. ER99–1421–000]

Take notice that on January 21, 1999, Atlantic City Electric Company (Atlantic) submitted a quarterly report under Atlantic's Market-Based Sales Tariff. The report is for the period October 1, 1998 through December 31, 1998.

Comment date: February 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Rochester Gas and Electric Corporation

[Docket No. ER99–1425–000]

Take notice that on January 22, 1999, Rochester Gas and Electric Corporation (RG&E) tendered for filing a summary of their quarterly report of transactions under their market-based rate tariff for the period of October 1, 1998 to December 31, 1998, pursuant to the Commission's Order issued September 12, 1997, in Docket No. ER97–3553–000.

Comment date: February 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Wisconsin Electric Power Company

[Docket No. ER99–1430–000]

Take notice that on January 22, 1999, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing pursuant to the Federal Energy Regulatory Commission's January 29,1998 Order issued in Docket No. ER98–855–000 accepting Wisconsin Electric's tariff for market-based power sales and reassignment of transmission capacity, FERC Electric Tariff, Original Volume No. 8, is the quarterly transaction report for the calendar quarter ending December 31, 1998.

Comment Date: February 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Avista Corporation

[Docket No. ER99–1435–000]

Take notice that on January 25, 1999, Avista Corporation, tendered for filing a Notice of Succession pursuant to 18 CFR 35.16 of the Federal Energy Regulatory Commission's Regulations in order to reflect its name change from Washington Water Power Company.

Comment date: February 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Consolidated Edison Company of New York, Inc.

[Docket No. ER99–1436–000]

Take notice that on January 25, 1999, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide firm transmission service pursuant to its Open Access Transmission Tariff to the New York Power Authority (NYPA).

Con Edison states that a copy of this filing has been served by mail upon NYPA.

Comment date: February 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Consolidated Edison Company of New York, Inc.

[Docket No. ER99–1437–000]

Take notice that on January 25, 1999, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to Select Energy, Inc., (SE).

Con Edison states that a copy of this filing has been served by mail upon SE.

Comment date: February 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Consolidated Edison Company of New York, Inc.

[Docket No. ER99–1438–000]

Take notice that on January 25, 1999, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to PP&L Energy Co., (PP&L).

Con Edison states that a copy of this filing has been served by mail upon PP&L.

Comment date: February 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Public Service Company of New Mexico

[Docket No. ER99–1439–000]

Take notice that on January 25, 1999, 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 British Columbia Power Exchange Corporation (dated January 7, 1999). PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to British Columbia Power Exchange Corporation and to the New Mexico Public Regulation Commission.

Comment date: February 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Ameren Services Company

[Docket No. ER99–1440–000]

Take notice that on January 25, 1999, Ameren Services Company (ASC) as Agent for Union Electric Company (UE), tendered for filing a Service Agreement for Market Based Rate Power Sales between UE and the City of Linneus (the City), Missouri. ASC asserts that the purpose of the Agreement is to permit ASC to make sales of capacity and energy at market based rates to the City pursuant to ASC's Market Based Rate Power Sales Tariff filed in Docket No. ER98–3285–000.

ASC requests that as directed to the Commission's Order No. 888, the Service Agreement be allowed to become effective on January 1, 1999.

Comment date: February 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Ameren Services Company

[Docket No. ER99–1441–000]

Take notice that on January 25, 1999, Ameren Services Company (Ameren Services), tendered for filing a Network Operating Agreement and a Service Agreement for Network Integration Transmission Service between Ameren Services and the City of Linneus, Missouri (the City). Ameren Services asserts that the purpose of the Agreement is to permit Ameren Services to provide transmission service to the City pursuant to Ameren's Open Access Tariff.

Comment date: February 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Orange and Rockland Utilities, Inc.

[Docket No. ER99–1442–000]

Take notice that on January 25, 1999, Orange and Rockland Utilities, Inc. (Orange and Rockland), tendered for filing pursuant to Section 205 of the Federal Power Act, and Part 35 of the Commission's Regulations, proposed amendments to the Form of Service Agreement of its Open Access Transmission Tariff on file in Docket No. OA96–210–000 to implement retail access to its system as required by orders of the New York Public Service Commission. The details of the proposed amendments are more fully described in Orange and Rockland's filing.

Orange and Rockland requests waiver of the Commission's sixty-day notice requirements and an effective date of May 1, 1999, for the Service Agreement.

Orange and Rockland has served copies of the filing on The New York State Public Service Commission and on the parties to Docket No. OA96–210–000.

Comment date: February 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Northeast Utilities Service Company

[Docket No. ER99–1443–000]

Take notice that on January 25, 1999, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement with Metromedia Energy Inc. (Metromedia), under the NU System Companies' Sale for Resale Tariff No. 7, Market Based Rates.

NUSCO states that a copy of this filing has been mailed to Metromedia.

NUSCO requests that the Service Agreement become effective January 1, 1999.

Comment date: February 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Southern California Edison Company

[Docket No. ER99–1444–000]

Take notice that on January 25, 1999, Southern California Edison Company (SCE), tendered for filing the Eldorado

Substation Additional Facilities and Interconnection Agreement (Agreement) between SCE and El Dorado Energy, L.L.C. (EDE).

The Agreement specifies the terms and conditions under which SCE will interconnect EDE's 492W generating facility with the Eldorado 230kV Substation located in southern Nevada pursuant to SCE's Transmission Owners Tariff.

Comment date: February 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. PacifiCorp

[Docket No. ER99–1445–000]

Take notice that on January 25, 1999, PacifiCorp tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, Mutual Netting/Closeout Agreements between PacifiCorp and Arizona Public Service Company, Colorado Springs Utilities, Electrical District #2, Pinal County, Eugene Water & Electric Board, Morgan Stanley Capital Group Inc., Nebraska Public Power District, PECO Energy Company, Portland General Electric Company, Sacramento Municipal Utility District, Sierra Pacific Power Company, Texas-New Mexico Power Company and UtiliCorp West Plains Energy.

Copies of this filing were supplied the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: February 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Minnesota Power, Inc.

[Docket No. ER99–1447–000]

Take notice that on January 21, 1999, Minnesota Power, Inc. (MP) tendered for filing a report of short-term transactions that occurred during the quarter ending December 31, 1998, under MP's WCS–2 Tariff which was accepted for filing by the Commission in Docket No. ER96–1823–000.

Comment date: February 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Doswell Limited Partnership

[Docket No. ER99–1451–000]

Take notice that on January 25, 1999, Doswell Limited Partnership (Doswell), tendered for filing with the Federal Energy Regulatory Commission a Letter Agreement and accompanying Term Sheet, which supplements the Power Purchase and Operating Agreement between Doswell and Virginia Electric and Power Company.

Comment date: February 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Wisconsin Electric Power Company

[Docket No. ER99–1452–000]

Take notice that on January 25, 1999, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a short-term firm and a non-firm transmission service agreement between itself and New Centuries Energies. The agreement allows New Century Energies to become a point-to-point customer under Wisconsin Energy Corporation Operating Companies' transmission service tariff (FERC Electric Tariff, Original Volume No. 1).

Wisconsin Electric respectfully requests an effective date sixty days after filing. Wisconsin Electric is authorized to state that New Centuries Energies joins in the requested effective date.

Copies of the filing have been served on New Century Energies, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: February 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. San Diego Gas & Electric Company

[Docket No. ER99–1453–000]

Take notice that on January 25, 1999, San Diego Gas and Electric Company (SDG&E), tendered for filing an unexecuted Service Agreement between SDG&E and the City of San Diego (the City) for service under SDG&E Open Access Distribution Tariff (OATD). SDG&E states that the City has been unable to sign this Service Agreement due to the required approval process not having been completed. SDG&E further states that it tenders the Service Agreement to assure that service under the OATD is available to the City should it be needed, after March 15, 1999.

Copies of this filing have been served upon the California Public Utilities Commission and the City.

Comment date: February 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Pacific Northwest Generating

[Docket No. ER99–1454–000]

Take notice that on January 25, 1999, Pacific Northwest Generating Cooperative tendered for filing with the Federal Energy Regulatory Commission a Transaction Report for quarter ending December 31, 1998, pursuant to the Commission's order issued January 13, 1997 in Docket Nos. ER97–504–000 and OA97–32–000.

Comment date: February 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. Southwood 2000, Inc.

[Docket No. ER99–1455–000]

Take notice that on January 25, 1999, Southwood 2000, Inc. tendered for filing with the Federal Energy Regulatory Commission, a transaction report for quarter ending December 31, 1998, pursuant to the Commission's order issued June 12, 1998 in Docket No. ER98–2603–000.

Comment date: February 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. Northeast Empire Limited Partnership #2

[Docket No. ER99–1456–000]

Take notice that on January 25, 1999, Northeast Empire Limited Partnership #2 tendered for filing with the Federal Energy Regulatory Commission a summary of activity for quarter ending December 31, 1998 pursuant to the Commission's order issued February 12, 1998 in Docket No. ER98–1125–000.

Comment date: February 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

29. Northern Indiana Public Service Company

[Docket No. ER99–1457–000]

Take notice that on January 25, 1999, Northern Indiana Public Service Company tendered for filing its Transaction Report for short-term transactions for the fourth quarter of 1998 pursuant to the Commission's order issued January 10, 1997 in *Northern Indiana Public Service Company,* 78 FERC ¶ 61,015 (1997).

Comment date: February 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

30. Niagara Mohawk Power Corporation

[Docket No. ER99–1458–000]

Take notice that January 25, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing Service Agreements for transmission and wholesale requirements services in conjunction with an electric retail access pilot program that was established by the New York Public Service Commission effective November 1, 1997. The Service Agreements for transmission services are under Niagara Mohawk's FERC Electric Tariff, Original Volume No. 3; as modified by an Order of the Commission in this proceeding dated November 7, 1997. The Service Agreements for wholesale requirements

services are under Niagara Mohawk's FERC Electric Tariff, Original Volume No. 4; as modified by an Order of the Commission in this proceeding dated November 7, 1997. Niagara Mohawk's customer is Select Energy, Inc.

Comment date: February 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

31. Tampa Electric Company

[Docket No. ER99–1460–000]

Take notice that on January 26, 1999, Tampa Electric Company (Tampa Electric), tendered for filing service agreements with the Reedy Creek Improvement District (RCID) and Florida Power Corporation (FPC) for firm point-to-point transmission service, and a service agreement with FPC for non-firm point-to-point transmission service, under Tampa Electric's open access transmission tariff.

Tampa Electric proposes an effective date of January 1, 1999, for the service agreements, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on RCID, FPC, and the Florida Public Service Commission.

Comment date: February 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

32. Indeck Pepperell Power Associates, Inc.

[Docket No. ER99–1462–000]

Take notice that on January 16, 1999, Indeck Pepperell Power Associates, Inc. (Indeck Pepperell), tendered for filing with the Federal Energy Regulatory Commission a Power Purchase and Sale Agreement (Service Agreement) between Indeck Pepperell and Great Bay Power Corporation (Great Bay), dated December 11, 1998, for service under Indeck Pepperell's Rate Schedule FERC No. 1. Indeck Pepperell requests that the Service Agreement be made effective as of December 11, 1998.

Comment date: February 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

33. New Century Services, Inc.

[Docket No. ER99–1463–000]

Take notice that on January 25, 1999, 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 Cielo Power Market, LP.

Comment date: February 12, 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.

David P. Boergers,

Secretary.

[FR Doc. 99–2705 Filed 2–4–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

February 1, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Preliminary Permit.

b. Project No.: 11660–000.

c. Date Filed: January 14, 1999.

d. Applicant: Universal Electric Power Corporation.

e. Name of Project: Union City Dam Hydroelectric Project.

f. Location: On the French River near Union City, Erie County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Applicant Contact: Ronald S. Feltenberger, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. FERC Contact: Any questions on this notice should be addressed to Tom Dean, E-mail address, thomas.dean@ferc.fed.us, or telephone 202–219–2778.

j. Deadline for filing comments, motions to intervene, and protests: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedures require all intervenors filing documents with the Commission to serve a copy of the document on each person whose name appears on the official service list for the project.

Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Description of the Project: The project would be located at the existing U.S. Army Corps of Engineers Union City Dam and would consist of the following proposed facilities: (1) a penstock and discharge works; (2) a powerhouse on the tailrace side of the dam with a total installed capacity of 360 kW; (3) a transmission line; and (4) other appurtenances.

Applicant estimates that the average annual generation would be 1,200 MWh and that the cost of the studies under the permit would be $250,000.

l. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a

specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments —Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–2804 Filed 2–4–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

February 1, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Preliminary Permit.

b. Project No.: 11661–000.

c. Date Filed: January 14, 1999.

d. Applicant: Universal Electric Power Corporation.

e. Name of Project: Gathright Dam Hydroelecrtric Project.

f. Location: On the Jackson River near the town of Covington, Alleghany County, Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Applicant Contact: Ronald S. Feltenberger, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. FERC Contact: Any questions on this notice should be addressed to Tom Dean, E-mail address, thomas.dean@ferc.fed.us, or telephone 202–219–2778.

j. Deadline for filing comments, motions to intervene, and protests: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedures require all intervenors filing documents with the Commission to serve a copy of the document on each person whose name appears on the official service list for the project.

Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Description of the Project: The project would be located at the existing U.S. Army Corps of Engineers Gathright Dam and would consist of the following proposed facilities: (1) a penstock and discharge works; (2) a powerhouse on the tailrace side of the dam with a total installed capacity of 4,540 kW; (3) a transmission line; and (4) other appurtenances.

Applicant estimates that the average annual generation would be 17,000 MWh and that the cost of the studies under the permit would be $1,250,000.

l. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing

development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent— A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests of other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–2805 Filed 2–4–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

February 1, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Preliminary Permit.

b. Project No.: 11662–000.

c. Date Filed: January 14, 1999.

d. Applicant: Universal Electric Power Corporation.

e. Name of Project: Shenango Dam Hydroelectric Project.

f. Location: On the Shenango River near the town of Sharpsville, Mercer County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Applicant Contact: Ronald S. Feltenberger, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. FERC Contact: Any questions on this notice should be addressed to Tom Dean, E-mail address, thomas.dean@ferc.fed.us, or telephone 202–219–2778.

j. Deadline for filing comments, motions to intervene, and protests: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

The Commission's Rules of Practice and Procedures require all intervenors filing documents with the Commission to serve a copy of the document on each person whose name appears on the official service list for the project.

Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Description of the Project: The project would be located at the existing U.S. Army Corps of Engineers Shenango Dam and would consist of the following proposed facilities: (1) a penstock and discharge works; (2) a powerhouse on the tailrace side of the dam with a total installed capacity of 1,510 kW; (3) a transmission line; and (4) other appurtenances.

Applicant estimates that the average annual generation would be 5,800 MWh and that the cost of the studies under the permit would be $650,000.

l. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–2806 Filed 2–4–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6230–9]

Request for Nominations to the National Advisory Council for Environmental Policy and Technology, New Standing Committee on Sectors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for nominations.

SUMMARY: The Environmental Protection Agency (EPA) is inviting nominations for membership on its National Advisory Council for Environmental Policy and Technology (NACEPT), new Standing Committee on Sectors. The Agency is seeking qualified senior level decision makers from diverse stakeholder groups throughout the U.S. to be considered for appointments. Nominations will be accepted until close of business February 12, 1999, and must include a resume and short biography describing the educational and professional qualifications of the nominee and the nominee's current business address and daytime telephone number.

DATES: Nominations will be accepted until close of business on February 12, 1999.

ADDRESSES: Submit nominations to Ms. Kathleen Bailey, Designated Federal Officer, Office of Reinvention, U.S. Environmental Protection Agency, MC 1802, 401 M Street, SW, Washington, D.C. 20460. You may also E-mail nominations to bailey.kathleen@epa.gov.

SUPPLEMENTARY INFORMATION: NACEPT is a federal advisory committee under the Federal Advisory Committee Act, Pub. L. 92463. NACEPT provides advice and recommendations to the Administrator and other EPA officials on a broad range of domestic and international environmental policy issues. NACEPT consists of a representative cross-section of EPA's partners and principle constituents who provide advice and recommendations on policy issues and serve as a sounding board for new strategies that the Agency is developing. Maintaining a balance and diversity of experience, knowledge, and judgment is an important consideration in the selection of members.

In follow-up to completion of work by EPA's Common Sense Initiative (CSI) Council, the Administrator has asked NACEPT to create a new Standing Committee on Sectors. This will provide a continuing Federal Advisory Committee forum from which the Agency can continue to receive valuable multi-stakeholder advise and recommendations on sector approaches.

Based on the lessons learned in CSI and many other sector based programs, the Agency has developed a Sector Based Environmental Protection Action Plan to reinforce and expand sector based approaches to achieving environmental results. The Standing Committee on Sectors will, through NACEPT (the Council): (1) continue to support the on-going CSI work, (2) support the implementation of the Action Plan, as noted above, and (3) serve as a vehicle to get stakeholder reaction and input on sector based issues in a timely way. (The Sector Based Environmental Protection Action Plan and draft Charge for the Standing Committee on Sectors is available on EPA's web site at http://www.epa.gov/sectors)

We are accepting nominations for approximately15–18 members. Criteria for selection of nominees will include the following:

—Representation from the former CSI Council and three CSI Sector Subcommittees that are continuing as

workgroups, i.e. Printing, Petroleum, and Metal Finishing.
—Representation from our partners in actions outlined in the Sector Based Environmental Protection Action Plan.
—Representation from a broad range of EPA stakeholder groups which have interest and experience in dealing with sector issues, including but not limited to business/industry, state/local/tribal governments, national and local environmental, environmental justice, and labor groups.
—Senior level representatives with decision-making authority for their organization.
—Representatives with experience working collaboratively with stakeholder groups in addition to their own.

Nominations for membership must include a resume and short biography describing the educational and professional qualifications of the nominee and the nominee's current business address and daytime telephone number. Nominees invited to participate will receive an invitation from EPA's Deputy Administrator.

For further information, please contact Ms. Kathleen Bailey, Designated Federal Officer, Office of Reinvention, U.S. Environmental Protection Agency, MC 1802, 401 M Street, SW, Washington, DC 20460. Phone: 202/260–3413 E-mail: bailey.kathleen@epa.gov.

Dated: January 25, 1999.

Kathleen Bailey,

Designated Federal Officer.

[FR Doc. 99–2693 Filed 2–4–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5499–6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed January 25, 1999 Through January 29, 1999 Pursuant to 40 CFR 1506.9

EIS No. 990027, Draft EIS, BLM, NM, Bisti/De-Na-Zin Wilderness Oil and Gas Development, To Drill 13 Oil and Gas Wells on Two Leases, Permit to Drill and Right-of-Way Permit, San Juan Counties, MN, Due: April 30, 1999, Contact: Lee C. Otteni (505) 599–8990.

EIS No. 990028, Draft EIS, COE, NB, Platte West Water Production Facilities, Construct a Drinking Supply and Treatment Facility, Metropolitan Utilities District of Omaha, Douglas, Saunders and Sarpy Counties, NB, Due: March 26, 1999, Contact: Mike Neuzil (402) 221–4606.

EIS No. 990029, Draft EIS, FAA, OH, Toledo Express Airport (TOL), Proposed Noise Compatibility Plan Air Traffic Actions and Proposed Aviation Related Industrial Development, Airport Layout Plan, Funding, Lucas County, OH, Due: March 22, 1999, Contact: Wally Welter (847) 294–8091.

EIS No. 990030, Final EIS, IBR, CA, San Joaquin River Agreement Project, Implementation of the Meeting Flow Objectives for 1999–2010, Vernalis Adaptive Management Plan, San Joaquin, Stanislaus, Madera, Merced, Fresno and Tuolume Counties, CA, Due: March 08, 1999, Contact: Michael Delamore (209) 487–5039.

EIS No. 990031, Draft Supplement, FHW, WV, WV–9 Transportation Corridor, Improvements from Martinsburg to Charles Town, Updated and Additional Information, Berkeley, Jefferson and Morgan Counties, WV, Due: March 31, 1999, Contact: David A. Leighow (304) 346–5928.

EIS No. 990032, Final EIS, USA, GA, U.S. Army/Fort Benning and The Consolidated Government of Columbus Proposed Land Exchange, Muscogee and Chattahoochee Counties, GA, Due: March 08, 1999, Contact: John Brent, (706) 545–4766.

EIS No. 990033, Draft EIS, FHW, FL, St. Augustine Bride of Lions (SR–AIA) Rehabilitating or Replacing the Existing Two Lane Bridge, Crossing of the Matanzas River/Intracoastal Waterway, US Coast Guard Permit, NPDES and COE Nationwide Permits, St. Augustine, St. John County, FL, Due: March 22, 1999, Contact: Mark P. Bartlett (850) 942–9598.

EIS No. 990034, Final EIS, USN, HI, Barbers Point Naval Air Station, Disposal and Reuse of Land Facilities, HI, Due: March 08, 1999, Contact: Lon (808) 471–9338.

EIS No. 990035, Final EIS, AFS, UT, Pine Tract Project, Implementation, Coal Lease Tract (UTU–76195); Modification to Federal Coal Lease (U–63214) Quitchupah Lease) and Permit Amendment Application to Subside Box Canyon, Manti-La Sal National Forest, Ferron/Price Ranger District, Emergy and Sevier Counties, UT, Due: March 8, 1999, Contact: Liane Mattson (435) 637–2817.

EIS No. 990036, Final EIS, COE, AK, Beaufort Sea Oil and Gas Development Northstar Project, Implementation, NPDES Permit, Sea Island, Alaskan Beaufort Sea, Offshore Marine Environment and Onshore Northslope of Alaskan Coastal Plain, AK, Due: March 08, 1999, Contact: Timothy R. Jennings (907) 753–2716.

Amended Notices

EIS No. 990015, Final EIS, FAA, NY, Terminal Doppler Weather Radar (TDWR) Installation and Operation, Serve the John F. Kennedy International Airports (JFK) and La Guardia (LGA), Site Specific, Air Station Brooklyn, Kings County, NY, Due: March 01, 1999, Contact: Jerome D. Schwartz (202) 267–9841.
Published FR 1–29–99—Due Date correction.

EIS No. 990016, Final EIS, IBR, WA, programmatic EIS—Yakima River Basin Water Enhancement (Phase 2) Project, Implementation, Benton, Yakima and Kittitas Counties, WA, Due: March 01, 1999, Contact: Ms. Lola Sept (208) 378–5032.
Published FR 1–29–99—Due Date correction.

EIS No. 990018, Legislative Final EIS, USN, NV, Fallon Naval Air Station, Renewal of the B–20 Land Withdrawal, City of Fallon, Churchill County, NV, Due: March 01, 1999, Contact: Sam Dennis (650) 244–3007.
Published FR 1–29–99—Due Date correction.

EIS No. 990019, Final Supplement, BLM, Co, Glenwood Springs Resource Area, Resource Management Plan and Wilderness Recommendations, Implementation and Recommendations, Garfield, Mesa, Routt, Eagle, and Pitkin Counties, CO, Due: March 01, 1999, Contact: Steve Moore (970) 947–2800.
Published FR 1–29–99—Due Date correction.

EIS No. 9990020, Draft EIS, TVA, TN, GA, Peaking Capacity Additions, Construction and Operation of Natural Gas-Fired Combustion Turbines, NPDES and COE Section 404 Permits; Three Sites Proposed: Colbert Fossil Plant, Colbert County, AL, Gallatin Fossil Plant, Sumner County, TN and Johnsonville Fossil Plant, Humphreys County, TN, Due: March 15, 1999, Contact: Gregory L. Askew, P.E. (423) 632–6418.
Published FR 1–29–99—Due Date correction.

EIS No. 990022, Final EIS, BLM, AK, Squirrel River Wild and Scenic River Suitability Study, Designation and Non-Designation, National Wild and Scenic Rivers System, AK, Due:

March 01, 1999, Contact: Lon Kelly (907) 474–2368.

Published FR 01–29–99—Due Date correction.

EIS No. 990024, Final EIS, GSA, VA, U.S. Patent and Trademark Office (PTO) Consolidation, Acquisition of 2.4 million Rentable Square Feet with a 20-year Lease Term, Three Possible Sites: Crystal City, Carlyle and Eisenhower Avenue, VA, Due: March 01, 1999, Contact: Carl Witners (202) 401–1025.

Published FR 1–29–99—Due Date correction.

EIS No. 990025, Draft EIS, UMC, AZ, Yuma Marine Corps Air Station (MCAS), To Improve Ordnance Handling and Storage, Construct a new Combat Aircraft Loading Area (CALA); New Station Ordnance Area and Relocation of MCAS Yuma, AZ, Due: March 15, 1999, Contact: Richard Samrah (520) 341–3163.

Published FR 1–29–99—Due Date correction.

EIS No. 990026, Draft EIS, AFS, ID, WA, Douglas-fir Bettle Project, Proposal To Harvest Tree, Regenerated Forest, Aquatic Restoration and Fuels Reduction, Idaho Panhandle National Forest, Coeur d'Alene River and Priest Lake Ranger District and Colville National Forest, Newport Ranger District, Kootenai, Shoshone and Bonner Counties, ID and Pend Orielle County, Wa, Due: March 16, 1999, Contact: David J. Wright (208) 664–2318.

Published FR 1–29–99—Due Date correction.

EIS No. 908468, Draft EIS, AFS, OR, Pelican Butte Ski Area Master Development Plan, Implementation, Winema National Forest, Klamath Ranger District, Klamath County, OR, Due: February 26, 1999, Contact: Edward Sheldal (202) 523–0163.

Published FR 11–20–98—Review period extended.

Dated: February 2, 1999.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 99–2846 Filed 2–4–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6231–4]

Issuance of an Emergency Ocean Dumping Permit to the National Science Foundation for Disposal of an Ice Pier From Its Base at McMurdo Station, Antarctica

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of permit issuance.

SUMMARY: On February 1, 1999, EPA issued an emergency ocean dumping permit to the National Science Foundation (NSF) to transport an existing ice pier from its base at McMurdo Station, Antarctica, and dispose of it in the waters of McMurdo Sound. The emergency permit was issued to allow NSF to remove the existing pier and to build a new one. The existing pier poses a substantial and unacceptable safety hazard to human life. Minimal adverse environmental impact from the disposal of the ice pier is expected. EPA is publishing the emergency permit for the public's information.

DATES: The permit was effective on February 1, 1999.

ADDRESSES: Written correspondence may be sent to: Dave Redford, Acting Chief, Marine Pollution Control Branch, Oceans and Coastal Protection Division, (4504F), Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Dave Redford, Acting Chief, Marine Pollution Control Branch, 202/260–9179.

SUPPLEMENTARY INFORMATION: The EPA issued the emergency permit pursuant to its authority under the Marine Protection, Research, and Sanctuaries Act of 1972. The terms and conditions of the emergency permit follow.

Dated: February 1, 1999.

J. Charles Fox,

Assistant Administrator for Water.

U.S. Environmental Protection Agency, Marine Protection, Research, and Sanctuaries ACT (Ocean Dumping) Permit

Permit Type: Emergency.

Effective Date: February 1, 1999.

Expiration Date: March 1, 2000.

Applicant: National Science Foundation.

Transporter: U.S. Coast Guard.

I. Action

This is an emergency ocean dumping permit that allows the National Science Foundation (NSF) to transport an existing ice pier from its base at McMurdo Station, Antarctica, and dispose of it in the waters of McMurdo Sound. The pier poses a substantial and unacceptable safety hazard to human life. Minimal adverse environmental impacts from the disposal of this ice pier are expected.

II. Background

The National Science Foundation currently operates three major bases in Antarctica: McMurdo Station on Ross Island, adjacent to McMurdo Sound; Palmer Station, near the western terminus of the Antarctic Peninsula; and Amundsen-Scott South Pole Station, at the geographic South Pole. McMurdo Station is the largest of the three stations, and is the primary logistics base for the United States Antarctic Program (USAP). To permit vessels to dock and unload at McMurdo Station, construction and use of an ice pier is necessary. This ice pier, which is approximately 800 feet long, 300 feet wide, and 22 feet thick, is constructed during the winter season by freezing successive layers of ice until the required thickness is achieved. Several times in the process long lengths of steel cable are frozen in the pier to provide torsional stability. Short lengths of steel pipe are implanted in the ice layers to allow the lengths of cable to be wrapped around the pipes. In the final stage of the process, lengths of wooden poles are implanted in the ice to provide support for lighting, power, and telephone service to buildings on the pier. When the construction of the ice segment of the pier is completed, a 6–8≥ layer of pumice is applied to the pier, to provide a non-slip surface.

In summary, the following types and approximate quantities of materials would normally be used in the construction of an ice pier at McMurdo Station:

1″ steel cable: 21,000 feet
2″ steel pipe: 650 feet
Wooden utility poles: Up to 6
Pumice: 5,000 cubic yards

At the end of each austral summer season, the ice pier is inspected, and as much as possible of the pumice surface is removed and stored for use the following season; small amounts of pumice surface will remain frozen in the pier and cannot be removed. If the pier has deteriorated to the point that it is not capable of being used the following season, the wooden poles are cut off just above the surface of the ice, the pumice is scraped off, all equipment, materials, and debris are removed, and the pier is physically

removed from McMurdo Station. NSF seeks authorization to tow the ice pier out to McMurdo Sound to float free amidst the ice pack, where it will mix with the sea ice, and eventually melt naturally. Transportation of the ice pier for ocean disposal in McMurdo Sound is dumping subject to the Marine Protection, Research, and Sanctuaries Act (MPRSA). MPRSA Sec. 101(a), 33 U.S.C. 1411(a).

Of potential environmental concern are any operational discharges, leaks, or spills that may have contaminated the surface of the pier over its lifetime. Examples of possible releases include aircraft fuel, gasoline, engine lubricating oils, hydraulic fluids, or ethylene glycol (antifreeze). Such releases could result in contamination of portions of the pier with compounds of concern to the marine environment. To assess this potential, the NSF has analyzed ice samples taken from the ice pier. Tests were done in two successive years for ethylene glycol, total extractable hydrocarbons, and total petroleum hydrocarbons (TPH). In over 40 analyses, there were only two cases where any contaminants were detected. In the first case, the sample collected beneath a 55-gallon fuel drum revealed leakage from the drum; in the second case, a single detection of TPH of unknown origin occurred. Subsequently, the NSF issued a directive that all locations where fuel drums were used or stored shall be underlain with a containment measure, such as large metal pans or impermeable liners, beneath the potential contaminant source. Drip pans were installed under all fuel drums providing heat to structures on the pier.

The NSF has a Spill Prevention, Control, and Countermeasures Plan for all the stations and bases under its jurisdiction in Antarctica. The Plan includes a specific section for McMurdo Station that addresses fuel storage and transfer systems, the annual unloading of drummed lubricants, solvents, and hazardous materials, and the loading of contaminated solvents and materials for removal from Antarctica. For example, if NSF personnel observe discoloration of the pumice layer, or a spill or leak, the affected pumice is removed along with any contaminated ice, and stored off the pier. In addition, there is considerable vehicular traffic on the ice pier during vessel offload operations, and the possibility of leaks from engine blocks cannot be totally excluded. However, the NSF has informed EPA that the vehicles are parked on the pier for only brief periods of time, ranging from minutes to less than an hour, and that no vehicles are ever parked on the pier overnight.

As a result of the analyses described above and the protective measures that have been instituted by the NSF, EPA has concluded that no contaminants of concern in greater than trace amounts will be contained in the pier when it is disposed, and further, that the release of the ice pier into McMurdo Sound would cause only minimal adverse environmental impacts. The long lengths of cable and the shorter lengths of steel pipe will sink to the ocean floor during the melting process, and the short lengths of wooden poles will float in the ocean for several months before becoming waterlogged and eventually sinking to the ocean floor.

Although precise information is not available on the time required for melting and disintegration of an ice pier, NSF scientists have estimated that such processes will take place over several years. NSF believes that the ice pier will drift from the release point in McMurdo Sound, into the Antarctic Sea, and eventually into the Southern Ocean, where it will be subject to the currents of the Southern Ocean. However, since it is not known how long the ice pier will float before its eventual disintegration and melting, EPA believes it is important to know the direction of the pier's path, prior to its final disintegration. Satellite tracking of large, slowly moving, objects is a well-established technology, especially since estimates of course, speed, and location need only be made several times a month.

As a result, the NSF is directed, as a condition of this permit, to utilize a methodology to track the ice pier for a period of one year from the date of release of the pier. Such methodologies may include the use of satellite-tracked pingers placed on the ice pier, or any other methodology that will allow data to be collected on the course, speed, and location of the ice pier. The results of these tracking efforts are to be included in the reports that the NSF is required to submit to EPA. The NSF has informed EPA that disposal of the ice pier is expected to be completed by March 1, 1999; however, the term of the permit extends to March 1, 2000, because of the tracking and reporting requirements stipulated in this permit.

III. Justification for the Emergency Permit

The NSF initially raised the matter of a permit for the disposal of ice piers from McMurdo Station with EPA in late 1992. At that time, it was not clear that immediate action to issue the permit was necessary, and EPA's preferred approach was to amend the ocean dumping regulations to add a new general permit at 40 CFR Part 229, authorizing the dumping of ice piers from the NSF base at McMurdo Station on a cycle of up to seven years. Work on the regulation had proceeded to the point that a general permit had been drafted in November 1998, and the internal Agency review process had begun. However, in late December 1998, the NSF determined that the pier had become unsafe for future operations, and that the unloading of vessels and deposition of heavy materials on the pier would pose a substantial and unacceptable hazard to human life. The pier has eroded from underneath, and has developed internal cracks that cannot be repaired. The NSF informed EPA that a permit to allow the dumping of the existing ice pier would be required by early February 1999.

At that point, completion of the process to grant a general permit to the NSF through rulemaking by early February was impossible, due to the time required for Agency review and approval of the proposed regulation, publication in the **Federal Register**, a public comment period, drafting of a final rule that takes into account the public comments, Agency review and approval, and publication of the final rule in the **Federal Register**. Issuance of this emergency permit allows for immediate disposal of the current deteriorating ice pier; work on the rule providing for a general permit for the NSF will continue.

Emergency permits are addressed in the ocean dumping regulations at 40 CFR 220.3(c), which provides:

1. A permit may be issued to dump materials where substances prohibited as other than trace contaminants are present in greater than trace amounts,

(a) After consultation with the Department of State, to determine if any of the signatories to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (the London Convention of 1972) are likely to be affected by the emergency dumping; and

(b) When an emergency has been demonstrated to exist that requires such dumping. The emergency must pose an unacceptable risk relating to human health, and admit of no other feasible solution. As used in 40 CFR 220.3(c), ''emergency'' refers to situations requiring action with a marked degree of urgency, but is not limited to circumstances that require immediate action.

2. Emergency permits may be issued for other materials, except those prohibited by 40 CFR 227.5, without

consultation with the Department of State, when EPA determines that there exists an emergency requiring the dumping of such materials, which poses an unacceptable risk to human health and admits of no other feasible solution.

EPA has determined that continued use of the existing ice pier would pose an unacceptable risk to human health, and that disposal of the pier admits of no other feasible solution. To continue operations in Antarctica, the NSF must have a permit that will allow removal of the existing ice pier and its subsequent disposal at sea. NSF must have this permit by early February 1999, so that the U.S. Coast Guard icebreaker (the transporter) can tow the deteriorating pier out to McMurdo Sound before the harbor and the Sound freeze solid. There are no other disposal options, and there is no other method, other than towing by the icebreaker, to remove the pier from McMurdo Station. Failure to remove the existing pier and construct a new one presents a serious risk to human health and safety, and will jeopardize the USAP's ability to continue its research mission. Without a safe platform for offloading vessels, materials cannot be delivered to resupply the station; without the resupply of McMurdo Station, activities in Antarctica would have to be halted, resulting in a severe impact to NSF's scientific objectives, including a significant environmental research program.

Further, there are no materials present on, or in, the ice pier that are prohibited by either 40 CFR 227.5 or 40 CFR 227.6. Thus, the Agency has determined that all necessary conditions for issuance of an emergency permit, pursuant to 40 CFR 220.3(c), have been met, and further, EPA has concluded that this emergency dumping action will have minimal adverse environmental effects. EPA also believes that, because of the urgency of the situation, and the risk to human health discussed above, notice and public comment on this emergency permit are impracticable, unnecessary, and not in the public interest. Further, EPA believes that the public interest requires the issuance of an emergency permit as soon as possible.

With regard to notification of the State Department, 40 CFR 220.3(c) implements the provisions of Article V(2) of the London Convention 1972 (LC 72). That article allows the issuance of emergency permits as an exception to LC 72 Article IV(1)(a) and Annex I prohibitions against the dumping of certain substances. Consistent with LC 72 Article V(2), 40 CFR 220.3(c) is intended to assure that necessary consultation with the International Maritime Organization and potentially affected states take place if the material to be dumped contains greater than trace contaminants of LC 72 Annex I substances. Because the ice pier to be dumped does not contain such materials, the consultation provisions of 40 CFR 220.3(c) are not relevant.

IV. Terms and Conditions of Permit

1. This permit authorizes the transportation and dumping into ocean waters of an ice pier, pursuant to the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 *et seq.*, (''MPRSA''), subject to the terms and conditions set forth herein. All transportation and dumping authorized herein shall at all times be undertaken in a manner consistent with this permit.

2. The applicant designated above is the permittee, and is responsible for compliance with this permit.

3. The permittee and the U.S. Coast Guard are authorized to transport the following ice pier for ocean disposal and to dump it into ocean waters, by releasing it into McMurdo Sound:

The ice pier is currently attached to the National Science Foundation base at McMurdo Station, Antarctica. This ice pier is approximately 800 feet long, 300 feet wide, and 22 feet thick, and is composed of frozen seawater. Enclosed in the pier are approximately: 21,000 feet of one-inch steel cable in several layers used for torsional stability of the pier; 650 feet of two-inch steel pipe used for securing the cable; and 6 stump ends of wooden poles, each approximately four feet long, used for light, power, and telephone connections to structures that have been removed from the pier.

4. The ice pier shall not be altered in its content from the above description by the addition of wastes from any other sources. The layer of pumice shall be removed from the surface of the pier to the extent feasible.

5. A methodology to track the ice pier released from McMurdo Station shall be established and utilized for a period of one year from the date of release of the ice pier. The permittee shall submit a full report on the tracking efforts required by this permit and the results of such tracking to the Oceans and Coastal Protection Division (OCPD), in the Office of Water in the U.S. Environmental Protection Agency (address below), within 30 days following the termination of the permit on March 1, 2000.

6. Transportation to, and dumping at, any location other than that authorized by this permit shall constitute a violation of the MPRSA and of this permit.

7. Transportation and dumping of any materials not specifically identified, or in excess of that identified, in this permit shall constitute a violation of the MPRSA and this permit.

8. If any dumping or transporting is performed by an entity other than the identified applicant or transporter, all reports required hereunder shall be jointly executed by both the permittee and an officer of that entity.

9. Any dumping or transporting authorized by this permit by any entity other than the identified applicant or transporter shall not relieve the identified applicant from full responsibility for compliance with the terms of this permit, or the MPRSA, or both; nor shall the issuance of this permit relieve any other applicant or transporter from responsibility for compliance with the terms of this permit, or the MPRSA, or both.

10. The permittee shall submit a full report on the dumping activities authorized by this permit to OCPD within 30 days after the dumping. This report shall include:

A. A description (by latitude and longitude) of the precise location where the ice pier was released;

B. The name and title of the person in charge of the vessel that transported the ice pier and conducted the operation;

C. The time of the dumping activities, including departure from McMurdo Station, and release time and date.

11. The permittee shall immediately notify OCPD of any violation of any condition of this permit.

12. All reports and notifications to OCPD required under this permit shall be submitted to: Suzanne Schwartz, Acting Director, Oceans and Coastal Protection Division (4504F), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

13. The reporting requirements contained in this permit are in addition to any reporting requirements imposed by any other agency.

14. The transporter shall place a copy of this permit in a conspicuous place in the vessel used for the transportation and dumping operations authorized herein.

15. The terms used in this permit which are defined in Section 3 of the MPRSA shall have the same meaning herein.

16. This permit may be modified or revoked, in whole or in part, for causes including, but not limited to, the following:

A. Violation of any term or condition of the permit;

B. Misrepresentation, inaccuracy, or failure by the applicant to disclose all relevant facts;

C. A change in any condition or material fact upon which this permit is based that requires either a temporary or permanent reduction or elimination of the authorized transportation or dumping including, but not limited to, newly discovered scientific data relative to the granting of this permit;

D. A determination by EPA that the dumping has resulted, is resulting, or may result, in imminent and substantial harm to human health or welfare, or to the marine environment; and

E. Failure to notify appropriate EPA officials of dumping activities.

Signed by J. Charles Fox.

January 29, 1999.

[FR Doc. 99–2785 Filed 2–4–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6231–3]

Science Advisory Board; Notification of Three Public Meetings; February 24, February 25–26, and March 16, 1999

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given of the following three Federal Advisory Committee meetings: (a) The Science Advisory Board's (SAB) Environmental Engineering Committee (EEC), will meet Wednesday February 24, 1999; (b) the EEC's Wet Weather Flows and Urban Infrastructure Subcommittee will meet Thursday and Friday, February 25–26, 1999 (both meetings will be held in Room 3709 of the Mall at the U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460); and (c) the EEC's Statistical Consultation Subcommittee will meet Tuesday March 16, 1999 (in Conference room A on the eleventh floor of Crystal Gateway One, 1235 Jefferson Davis Highway, Arlington, VA). These meetings will begin no earlier than 8:00 am and adjourn no later than 6:30 pm Eastern Time and are open to the public. Due to limited space, seating will be on a first-come basis. For further information concerning this meeting, please contact the individuals listed below. Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office.

1. Environmental Engineering Committee (EEC)

No reviews are being conducted on February 24. At this meeting the Committee expects to discuss a preliminary draft commentary on sources of particulate matter (PM2.5). The Committee will discuss several potential future actions including: (a) Invited presentations on barriers to pollution prevention at the June meeting; (b) invited presentations on sediments; (c) the pros and cons of holding a quality colloquium; and (d) evolving opportunities for possible collaboration with other advisory groups. If the opportunity arises, there may also be briefings by and discussions with the Agency on various topics of mutual interest.

2. EEC's Wet Weather Flows and Urban Infrastructure Subcommittee

The Wet Weather Flows and Urban Infrastructure Subcommittee will meet February 25–26 to review the 1996 Risk Management Plan for Wet Weather Flows and the 1997 Urban Infrastructure Research Plan—Water and Wastewater Issues with special emphasis on the state of the science writeups, research questions, and research needs. The Subcommittee will evaluate both the scientific directions and scientific quality taking into account research others are doing and what the Office of Water's needs are. The Wet Weather Flows research areas are: (a) Characterization and problem assessment; (b) watershed management; (c) toxic substance impacts and control; (d) control technologies; and (e) infrastructure improvement. Copies of the materials to be reviewed can be obtained from Diana Meola, Branch Secretary, at TEL: (732) 321–6635, FAX: (732) 321–6640, e-mail: <meola.diana@epa.gov> or Daniel Sullivan, P.E., Chief of the Urban Watershed Management Branch at TEL: (732) 321–6677, e-mail: <sullivan.daniel@epa.gov>. Copies of any hand-outs distributed at the meeting in the course of these briefings will be available subsequently through Ms. Mary Winston, address below.

3. EEC's Statistical Consultation Subcommittee

The purpose of the March 16 meeting is to provide a consultation for the Office of Solid Waste and Emergency Response on the advantages and disadvantages of various approaches for the development of cleanup goals at waste sites, emphasizing those of average or ''not to exceed'' concentrations.

A ''Consultation'' is the SAB's means of conferring—in public session—with the Agency on a technical matter before the Agency has begun substantive work on that issue. The goal is to leaven EPA's thinking on an issue by brainstorming a variety of approaches to the problem very early in the development process. There is no attempt or intent to express an SAB consensus or to generate an SAB report. The Board, via a brief letter simply notifies the Administrator that a Consultation has taken place. The Board hopes this consultation will be of help to OSWER when it later develops guidance for risk managers on the appropriate application of ''risk-based'' cleanup levels. Because this is a consultation, there are no review documents. However, for background purposes, some brief descriptive documents can be obtained from Janine Dinan at TEL: (703) 603–8824, FAX: (703) 603–9133, or via e-mail <dinan.janine@epa.gov>. Copies of any hand-outs distributed at the meeting in the course of these briefings will be available subsequently through Ms. Mary Winston, address below.

Members of the public desiring additional information about the meetings should contact Kathleen White Conway, Designated Federal Officer (DFO), Environmental Engineering Committee, Science Advisory Board (1400), Room 3702L, U.S. EPA, 401 M Street, SW, Washington, DC 20460; telephone/voice mail at (202) 260–2558; fax at (202) 260–7118; or via e-mail at: <conway.kathleen@epa.gov>. A copy of the draft Agenda is available from Ms. Mary Winston at TEL: (202) 260–2554; FAX: (202) 260–7118; or via e-Mail at: <winston.mary@epa.gov>.

Members of the public who wish to make a brief oral presentation at the February 24 meeting or the February 25–26 meeting must contact Ms. Conway in writing (by letter, fax or e-mail—see previously stated information) no later than 12 noon Eastern Time, Wednesday, February 17, 1998 in order to be included on the Agenda. Those wishing to do so at the March 16 meeting should contact Ms. Conway by 12 noon Eastern time Wednesday March 10. Public comments will be limited to ten minutes per speaker or organization. The request should identify the name of the individual making the presentation, the organization (if any) they will represent, any requirements for audio visual equipment (e.g., overhead projector, 35mm projector, chalkboard, etc), and at least 35 copies of an outline of the issues to be addressed or of the presentation itself.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found on the SAB Website (http://www.epa.gov/sab) and in The Annual Report of the Staff Director which is available from the SAB Publications Staff at (202) 260–4126 or via fax at (202) 260–1889. Individuals requiring special accommodation at SAB meetings, including wheelchair access, should contact the appropriate DFO at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: January 28, 1999.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 99–2784 Filed 2–4–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6300–2]

Science Advisory Board; Emergency Notification of Public Advisory Committee Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that one Committee of the Science Advisory Board (SAB) will meet on the dates and times described below. All times noted are Eastern Time. The meeting is open to the public, however, seating is limited and available on a first come basis. Documents that are the subject of SAB reviews are normally available from the originating U.S. Environmental Protection Agency (EPA) office and are *not* available from the SAB Office. Public drafts of SAB reports are available to the Agency and the public from the SAB office. Details on availability are noted below.

1. Drinking Water Committee (DWC)

The Drinking Water Committee (DWC) of the Science Advisory Board (SAB) will hold a public meeting beginning at 9:00 am Wednesday, February 17, 1999 and ending not later than 5:00 pm Thursday, February 18, 1999. The meeting will be held at the Drawbridge Estate hotel, 2477 Royal Drive, Ft. Mitchell, Kentucky, 41017; telephone (606) 341–2800. At this meeting, the Committee will complete its review of the US EPA ORD comparative risk framework method (an approach for balancing the chemical and microbial risks from drinking water) and receive a briefing on the status of the EPA's water consumption project.

On December 10–11, 1998, the Drinking Water Committee held its first meeting at which comparative risk framework review was initiated. At that time, the Agency briefed the Committee on the various components of the framework and a case study, after which, members and Agency representatives discussed specific topics. These interactions are captured in the minutes of the December, 1998 meeting which includes, as attachments, the written comments of the individual review panel members. The DWC engaged in a consultation with the Agency on the water consumption project at its June 18, 1998 meeting.

Background—(a) Comparative Risk Framework Methodology: The Safe Drinking Water Act (SDWA) requires EPA to provide for the maximum control of exposures to pathogenic organisms in water while minimizing concomitant exposures to the disinfection byproducts (DBPs) that might be generated by control measures. SDWA also requires EPA to conduct cost-benefit analyses of the regulatory impacts in order to identify cost-effective drinking water treatment options.

The National Center for Environmental Assessment-Cincinnati Office (NCEA-Cin) has developed a methodology for risk analysis and comparison that could help to inform the Agency while it is considering SDWA regulatory and implementation actions. The Agency's draft document, *Comparative Risk Framework Methodology and Case Study (Framework Document),* presents a method for such comparisons that applies the prevention-effectiveness approach developed by the Centers for Disease Control for structuring and analyzing complex risk trade-off problems. Prevention-effectiveness research combines tools of decision and economic analysis to look at the cost-effectiveness of different public health interventions and employs decision trees to explicitly and graphically structure the problem. The document consists of a Comparative Risk Framework Methodology (CRFM) and a Case Study. The application of this approach explicitly recognizes disinfection and treatment of drinking water to be primary public health intervention and prevention measures designed to minimize the transmission of microbial pathogens in drinking water.

Charge—Comparative Risk Framework Methodology: The Drinking Water Committee was requested to review the strategy proposed for structuring and analyzing this comparative risk/risk tradeoff problem, including the overall concept, the use of population-based probabilities for expressing both cancer and noncancer health risks and mechanisms for arriving at these numbers, and the pros and cons of the different common metrics/weights proposed for comparing qualitatively and quantitatively different health risks. Specific charge questions are available by contacting the Office of the Science Advisory Board at the address noted below. Charge questions are included for the following areas: overall approach; the comparative risk framework methodology; the case study; engineering and water treatment issues; risk characterization; microbial risks; chemical dose-response assessment; exposure; health conditions; the common health metric; the results of the methods application; and research needs.

(b) Water Consumption Estimates for the United States: EPA is now developing estimates of water intake for the United States. Included in the final report will be estimates of water intake (municipal tap and bottled water) with percentile distributions by age, gender, race, socioeconomic status, and geographic region and separately for pregnant and lactating women. The estimates will be derived using a method developed by EPA which will be applied to data contained in the United States Department of Agriculture's 1994–1996 Continuing Survey of Food Intake by Individuals (CSFII). EPA anticipates wide use of the estimates in future drinking water rule-making activities. This will be one of two briefings for standing Science Advisory Board committees in preparation for a formal SAB review of the EPA water consumption report during the Spring of 1999. The other briefing will occur during the March

1999 meeting of the SAB's Integrated Human Exposure Committee.

For Further Information Contact: Single copies of the background information for the review of the risk comparison framework can be obtained by contacting Mr. Glenn Rice, US EPA National Center for Environmental Assessment, 26 Martin Luther King Drive, Cincinnati, Ohio 45268; or by telephone at (513) 569–7813. No background documents are expected to be provided to the Committee for the water consumption briefing. Additional information for this meeting, or the meeting agenda, can be obtained by contacting Mr. Thomas O. Miller, Designated Federal Officer (DFO) for the Drinking Water Committee, Science Advisory Board (1400), U.S. EPA, 401 M Street, SW, Washington, DC 20460; by telephone at (202) 260–5886; by fax at (202) 260–7118 or via the E-Mail at: miller.tom@epa.gov, or by contacting Ms. Dorothy Clark at (202) 260–6555, by fax at (202) 260–7118, and by E-Mail at: clark.dorothy@epa.gov. Anyone wishing to make an oral presentation to the Committee must contact Mr. Miller, in writing (by letter, fax, or E-mail) no later than 12 noon, Thursday, February 11, 1999, in order to be included on the Agenda. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Mr. Miller no later than the time of the presentation for distribution to the Committee and the interested public.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date (usually one week before the meeting), may be mailed to the relevant SAB committee or subcommittee; comments received too close to the meeting date will normally be provided to the committee at its meeting, or mailed soon after receipt by the Agency. Written comments may be provided to the Drinking Water Committee up until the time of the meeting, however, for this meeting only, delayed comments received up to 15 days after the meeting will be provided to the Committee for consideration and will be made part of the permanent Committee record.

Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found on the SAB Website (*http://www.epa.gov/sab*) and in The Annual Report of the Staff Director which is available from the SAB Publications Staff at (202) 260–4126 or via fax at (202) 260–1889. Individuals requiring special accommodation at SAB meetings, including wheelchair access, should contact the appropriate DFO at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: February 3, 1999.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 99–2952 Filed 2–4–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00569A; FRL–6061–8]

Pesticides: Science Policy Issues Related to the Food Quality Protection Act; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: On December 4, 1998, EPA issued a notice of availability for the draft science policy paper ''Proposed Threshold of Regulation Policy When a Food Use Does Not Require a Tolerance.'' The comment period would have ended February 4, 1999. In response to several requests, EPA has decided to extend the comment period two weeks.

DATES: Written comments must be submitted to EPA by February 18, 1999.

ADDRESSES: By mail, submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Follow the instructions under Unit II. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address given in this unit, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Jeff Kempter (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Room 713D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5448, e-mail: kempter.carlton@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Agency has issued the draft document listed in the SUMMARY at the beginning of this document and solicited comments on it. The background on this document can be found in the previous **Federal Register** notice published on December 4, 1998 (63 FR 67063) (FRL–6048–2). In response to several requests, a time extension of two weeks is being provided such that the comment period will now end on February 18, 1999.

II. Public Record and Electronic Submissions

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket control number OPP–00569 for ''Proposed Threshold of Regulation Policy When a Food Use Does Not Require a Tolerance.'' A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, except legal holidays. The official rulemaking record is located at the Virginia address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epa.gov

Electronic comments must be submitted as an ASCII file avoiding the

use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPP–00569. Electronic comments on this document may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, pesticides and pests.

Dated: February 3, 1999.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 99–2951 Filed 2–4–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00542B; FRL–6060–7]

Pesticides; Science Policy Issues Related to the Food Quality Protection Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: EPA is announcing the availability of the revised version of the pesticide science policy document originally entitled ''Guidance for Identifying Pesticide Chemicals That Have a Common Mechanism of Toxicity, for Use in Assessing the Cumulative Toxic Effects of Pesticides.'' This document was made available as a draft document on August 6, 1998, for public comment (63 FR 42031) (FRL–5797–7). The title of the document has been changed to ''Guidance for Identifying Pesticide Chemicals and Other Substances That Have a Common Mechanism of Toxicity.'' The revised guidance document describes the approach that EPA will use for identifying and categorizing pesticide chemicals and other substances that cause a common toxic effect by a common mechanism, for purposes of assessing the cumulative toxic effects of such substances. Interested parties may request a copy of the Agency's revised guidance document and responses to public comments as set forth in Unit I. of this document. This notice is the fifth in a series of science policy issues related to the Tolerance Reassessment Advisory Committee (TRAC).

FOR FURTHER INFORMATION CONTACT: For questions concerning the revised document ''Guidance for Identifying Pesticide Chemicals and Other Substances That Have a Common Mechanism of Toxicity,'' contact by mail: Dr. Stephen C. DeVito, Office of Pesticide Programs, Health Effects Division (7509C), Environmental Protection Agency, 401 M St., SW, Washington, DC 20460; telephone number: (703) 308-9584; fax number (703) 308-7157; e-mail: devito.steve@epamail.epa.gov .

SUPPLEMENTARY INFORMATION:

I. General Information

A. How Can I Get Additional Information or Copies of This Document or Other Documents?

1. *Electronically*. You may obtain electronic copies of this document and the science policy paper at http://www.epa.gov/pesticides/. On the Office of Pesticide Program Home Page select ''TRAC'' and then look up the entry for this document. You can also go directly to the listings at the EPA Home page at the **Federal Register** — Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/) to obtain this notice and the science policy paper.

2. *Fax on Demand*. You may request to receive a faxed copy of this document, as well as supporting information, by using a faxphone to call (202) 401–0527 and selecting item 6055 for ''Guidance for Identifying Pesticide Chemicals and Other Substances That Have a Common Mechanism of Toxicity.'' You may also follow the automated menu.

3. *In person or by phone*. If you have any questions or need additional information about this action, you may contact the appropriate technical person identified in the ''FOR FURTHER INFORMATION CONTACT'' section of this document. In addition, the official record for the science policy paper listed in the SUMMARY section of this document, including the public versions, has been established under the docket control number OPP-00542. A detailed summary of the comments and of the Agency's response to the comments is available in the same docket file. A public version of each record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Public Information and Records Integrity Branch telephone number is 703–305–5805.

II. Background

On August 3, 1996, the Food Quality Protection Act of 1996 (FQPA) was signed into law. Effective upon signature, the FQPA significantly amended the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Among other changes, FQPA established a stringent health-based standard (''a reasonable certainty of no harm'') for pesticide residues in foods to assure protection from unacceptable pesticide exposure; provided heightened health protections for infants and children from pesticide risks; required expedited review of new, safer pesticides; created incentives for the development and maintenance of effective crop protection tools for farmers; required reassessment of existing tolerances over a 10-year period; and required periodic re-evaluation of pesticide registrations and tolerances to ensure that scientific data supporting pesticide registrations will remain up-to-date in the future.

Subsequently, the Agency established the Food Safety Advisory Committee (FSAC) as a subcommittee of the National Advisory Council for Environmental Policy and Technology (NACEPT) to assist in soliciting input from stakeholders and to provide input to EPA on some of the broad policy choices facing the Agency and on strategic direction for the Office of Pesticide Programs. The Agency has used the interim approaches developed through discussions with FSAC to make regulatory decisions that met FQPA's standard, but that could be revisited if additional information became available or as the science evolved. As EPA's approach to implementing the scientific provisions of FQPA has evolved, the Agency has sought independent review and public participation, often through presentation of many of the science policy issues to the FIFRA Scientific Advisory Panel (SAP), a group of independent, outside experts who provide peer review and scientific advice to EPA's Office of Pesticide Programs (OPP).

In addition, as directed by Vice President Albert Gore, EPA has been working with the U.S. Department of Agriculture (USDA) and another subcommittee of NACEPT, the Tolerance Reassessment Advisory Committee (TRAC), chaired by the EPA Deputy Administrator and the USDA Deputy Secretary, to address FQPA issues and implementation. TRAC

comprises more than 50 representatives of affected user, producer, consumer, public health, environmental, states and other interested groups. The TRAC has met five times as a full committee from May 27 through September 16, 1998.

The Agency has been working with the TRAC to ensure that its science policies, risk assessments of individual pesticides, and process for decision making are transparent and open to public participation. An important product of these consultations with TRAC is the development of a framework for addressing key science policy issues. The Agency decided that the FQPA implementation process would benefit from initiating notice and comment on the major science policy issues.

The TRAC identified nine science policy issue areas they believe were key to implementation of FQPA and tolerance reassessment. The framework calls for EPA to provide one or more documents for comment on each of the nine issues by announcing their availability in the **Federal Register**. In addition to comments received in response to these **Federal Register** notices, EPA will consider comments received during the TRAC meetings. Each of these issues is evolving and in a different stage of refinement. Accordingly, as the issues are further refined by EPA in consultation with USDA and others, they may also be presented to the SAP.

In accordance with the framework described in a separate notice published in the **Federal Register** of October 29, 1998 (63 FR 58038) (FRL–6041–5), EPA is issuing a series of draft documents concerning nine science policy issues identified by the TRAC related to the implementation of FQPA.

III. Summary of Revised Science Policy Guidance Document

This **Federal Register** notice announces the availability of a revised version of the EPA pesticide science policy guidance document that has been retitled ''Guidance for Identifying Pesticide Chemicals and Other Substances That Have a Common Mechanism of Toxicity.'' The guidance document describes the approach that EPA will use for identifying and categorizing pesticide chemicals and other substances that cause a common toxic effect by a common mechanism, for purposes of assessing the cumulative toxic effects of such substances. Specifically, the guidance document describes:

1. EPA's interpretation of common mechanism of toxicity with respect to making a determination of safety under FFDCA as amended by FQPA.

2. The specific steps that need to be taken for identifying mechanisms of toxicity of pesticides and other substances that cause a common toxic effect.

3. The types of data (and their sources) that are needed for doing so.

4. How these data are to be used in reaching conclusions regarding commonality of mechanisms of toxicity.

5. Criteria the Agency will use for categorizing pesticides and other substances for purposes of conducting cumulative risk assessments.

The Agency plans to use this guidance as the initial step in its process to assess the possibility of cumulative toxicity to human health that may be caused by pesticides and other substances that are toxic from a common mechanism. The Agency is currently developing guidance for conducting cumulative risk assessments that it will use to characterize the potential for cumulative toxicity to human health that may result from exposure to pesticides and other substances that have a common mechanism of toxicity. That guidance will be made available for public comment in June, 1999.

IV. Summary of Agency's Response to Public Comments

In the **Federal Register** of August 6, 1998 (63 FR 42031)(FRL-5797-7), EPA announced the availability of a draft version of the document described in Unit III. of this document and solicited public comment. The original public comment period ended on September 6, 1998, but was extended to October 8, 1998, at 63 FR 47290, September 4, 1998 (FRL–6028–7). The Agency received comments from 16 different organizations. The Agency would like to thank these organizations for critically reviewing the document, and for providing recommendations to improve the science policy described therein. All comments were considered by the Agency in revising the document. The comments and the Agency's responses to these comments are briefly summarized below.

Many of the public comments were similar in content, and pertained to general issues dealing with grouping chemicals for purposes of cumulative risk assessment, or specific sections within the draft document. To facilitate review and consideration of the comments for purposes of revising the document, the Agency grouped the comments in accordance to nature of the comment, or issue or section of the document with which they addressed. Hence, comments were grouped as follows: Purpose and introduction of the guidance document; exposure issues; consideration of substances other than pesticides; definitions of terms; and assessing cumulative toxicity. Following is a brief summary of the more significant comments received in these areas, along with EPA's general responses. A more detailed summary of the comments and the Agency's response to the comments is available as described in Unit I. of this document.

A. Purpose and Introduction of the Guidance Document

Several commentors appear to have misunderstood the purpose of the document. These commentors were of the impression that the primary purpose of the document is to describe the approach EPA will use to assess cumulative toxicity and risk from pesticides that have a common mechanism of toxicity. However, the purpose of the document, as stated in the draft version, is to describe the process that EPA will use for identifying pesticides and other substances that cause a common toxic effect by a common mechanism of toxicity.

B. Exposure Issues

A number of commentors raised the issue of exposure. One commentor suggested that grouping of chemicals should be based only on causing a common toxic effect by a common mechanism, excluding exposure as a criterion for grouping. Other commentors suggested that EPA should do an exposure assessment first and use exposure as a basis for grouping. The Agency will not use exposure as a criterion for grouping chemicals that cause a common toxic effect by a common mechanism. Exposure will be considered, however, during the assessment and characterization of cumulative effects of pesticides that have a common mechanism of toxicity.

Several commentors stated that there is a lack of detail or discussion on how the Agency plans to assess exposure when conducting cumulative risk assessments on chemicals that have been grouped by common mechanism of toxicity. Some commentors stated that the document needs to be expanded to include more detail on how the Agency will conduct cumulative risk assessments on pesticides that have a common mechanism of toxicity. Two commentors suggested that the guidance document should be revised to include examples on how the Agency will: Apply the common mechanism guidelines; assess cumulative toxicity; and conduct cumulative risk

assessments. The Agency's response to these comments is as follows. First, the Agency will make available in the near future specific examples of how it will apply its guidance for identifying pesticide chemicals that have a common mechanism of toxicity. Secondly, the primary purpose of the document is to describe the approach that EPA will use to identify pesticides that have a common mechanism of toxicity, and not how the Agency will assess exposure to such pesticides and the cumulative risks that they may pose. The Agency is currently preparing a document that will describe the approach it will use to conduct cumulative risk assessments. That document will provide details on exposure analyses.

Some commentors stated that EPA should not restrict cumulative risk assessments to only those pesticides within a common mechanism group for which there is concomitant (i.e., simultaneous) exposure (as stated in the draft version), whereas other commentors stated that the Agency should restrict cumulative risk assessments to only those pesticides within a group for which there is concomitant exposure. The Agency agrees that cumulative toxicity may result from exposures that are not concomitant, and cumulative risk assessments performed by the Agency on pesticides within a common mechanism group should not be restricted to only those for which there is concomitant exposure. In addition to concomitant exposure, the Agency will also consider other factors that may affect the potential for two or more chemicals that cause a common toxic effect by a common mechanism to cause cumulative toxicity.

C. Consideration of Substances Other than Pesticides

One commentor suggested that the guidance document needs to be expanded to include guidance on how the Agency will conduct cumulative risk assessments on pesticides that are not toxic via a common mechanism of toxicity. The Agency did not include such guidance because it is beyond the scope of the document. Some commentors pointed out that the focus of the guidance document is only on identifying pesticides that have a common mechanism of toxicity, and not on identifying other (i.e., non-pesticide) substances that have a mechanism of toxicity common with that of a given pesticide or pesticides. The Agency agrees that the focus of the draft document is on identifying and grouping pesticide substances that have a common mechanism of toxicity. Although the Agency intends to use the approach described in the document to identify pesticide substances and other substances that cause a common toxic effect by a common mechanism, this intent was not made clear in the draft version. The Agency has changed the title of the document and has made other editorial changes throughout the document that broaden its scope to include substances not used as pesticides. The Agency wishes to make clear that it will include other substances that are toxic from a mechanism common with that of a given pesticide or pesticides in a cumulative risk assessment.

D. Definitions of Terms

A number of commentors questioned the Agency's definitions of certain terms used in the document, and had opposing opinions on how these terms should be defined. For example, several commentors questioned the Agency's definitions of ''mechanism of toxicity'' and ''common mechanism of toxicity.'' Some commentors believe that the Agency's definitions for these terms are either too broad, unclear, or need to be made more simple and rigorous. Other commentors believe that the Agency's definitions are too narrow. Another commentor believes that the Agency's definition is clear and appropriate. The Agency reviewed its definitions of the terms listed in Section II (''Definitions of Specific Terms...'') of the document, and believes that its definitions of the terms ''mechanism of toxicity'' and ''common mechanism of toxicity'' are clear and consistent with the intent of FQPA. However, the Agency has included additional discussion in the revised version in Section III that adds further clarification to these terms. One commentor disagreed with the Agency's definition of ''cumulative toxic effect.'' This commentor stated that there does not need to be an overall increase in toxicity to be cumulative, and suggested that the Agency remove the part of its definition that states there is an overall increase in toxicity. The Agency agrees with the commentor, and has clarified its original definition of ''cumulative toxic effect'' in the revised version of the document.

E. Assessing Cumulative Toxicity.

Some of the commentors had comments pertaining to Section IV of the document: ''Policies for Assessing the Cumulative Toxic Effects Posed by Two or More Pesticides That Are Toxic By a Common Mechanism.'' One commentor wanted the Agency to clarify this section. Several commentors questioned the example that poses a hypothetical pharmacokinetic interaction between two substances and describes how EPA will consider such an interaction in its evaluation of cumulative toxicity. The Agency has revised this section of the document. As mentioned above, the Agency is currently developing a document that will describe in detail and provide examples of how the Agency will accumulate toxicity and assess cumulative risks posed by pesticides that are toxic from a common mechanism. The document will discuss the policies, practices and factors the Agency will use or consider in the assessment of cumulative toxicity.

V. Policies Not Rules

The draft science policy document discussed in this notice is intended to provide guidance to EPA personnel and decision-makers, and to the public. As a guidance document and not a rule, the policy in this guidance is not binding on either EPA or any outside parties. Although this guidance provides a starting point for EPA pesticide risk assessments, EPA will depart from its policy where the facts or circumstances warrant. In such cases, EPA will explain why a different course was taken. Similarly, outside parties remain free to assert that a policy is not appropriate for a specific pesticide or that the circumstances surrounding a specific risk assessment demonstrate that a policy should be abandoned.

The ''revised'' guidance is not an unalterable document. Once a ''revised'' guidance document is issued, EPA will continue to treat it as guidance, not a rule. Accordingly, on a case-by-case basis EPA will decide whether it is appropriate to depart from the guidance or to modify the overall approach in the guidance.

VI. Contents of Docket

Document that are referenced in this notice will be inserted in the docket under the docket control number OPP–00542. In addition, the documents referenced in the framework notice, which published in the **Federal Register** on October 29, 1998 (63 FR 58038) have also been inserted in the docket under docket control number OPP–00557.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, pesticides and pests.

Dated: January 29, 1999.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 99–2781 Filed 2–4–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3230–6]

Proposed Agreement Pursuant to 122(g)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act for the MacGillis & Gibbs / Bell Lumber & Pole Site

AGENCY: Environmental Protection Agency (''EPA'').

ACTION: Notice; Request for public comment.

SUMMARY: In accordance with 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1984, as amended (''CERCLA''), notification is hereby given of a proposed administrative agreement concerning the MacGillis & Gibbs / Bell Lumber & Pole Superfund Site at 440 Fifth Avenue N.W. in New Brighton, Minnesota (the ''Site''). EPA proposes to enter into this agreement under the authority of 122(g)(1)(B) of CERCLA. The proposed agreement has been executed by Hypro Corporation (''Hypro'').

EPA listed the Site on the National Priorities List in 1984 after initial investigations revealed the presence of hazardous substances, including wastes associated with pentachlorophenol and creosote-based wood treating processes at the Site. EPA selected a final remedy for the Site in 1994, which included a groundwater extraction and treatment phase. Since then, EPA has incurred response costs mitigating an imminent and substantial endangerment to human health or the environment present or threatened by hazardous substances present at or near the Site, including hazardous substances migrating with an aquifer to the east of the Site. Hypro owns real property to the east of the Site and situated above an aquifer contaminated with hazardous substances associated with the Site. Hypro has represented to EPA that it did not generate, treat, store or dispose of any hazardous substances at the Site and did not transport any hazardous substances to the Site, and has not permitted the contamination or contributed to it. Under the proposed agreement, Hypro will grant access to its real property to the EPA and, upon assignment, the State of Minnesota, for the purpose of installing, operating and maintaining an extraction well cluster and related equipment for use in connection with the groundwater phase remedy at the Site. Hypro waives any claims against the Superfund for reimbursement of costs and for any potential claims under the Constitution for diminution of its property value resulting from the presence of the groundwater extraction equipment. EPA agrees to give Hypro protection from third-party claims under CERCLA for contribution and a covenant not to sue, subject to standard reopeners.

For thirty days following the date of publication of this notice, the Environmental Protection Agency will receive written comments relating to this proposed agreement. EPA will consider all comments received and may decide not to enter this proposed agreement if comments disclose facts or considerations which indicate that the proposed agreement is inappropriate, improper or inadequate.

DATES: Comments on the proposed agreement must be received by EPA on or before March 8, 1999.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604–3590, and should refer to: In the Matter of Hypro Corporation, New Brighton, Minnesota, U.S. EPA Docket No. V–W–99–C–524.

FOR FURTHER INFORMATION CONTACT: Thomas M. Williams, U.S. Environmental Protection Agency, Office of Regional Counsel, C–14J, 77 West Jackson Boulevard, Chicago, Illinois, 60604–3590, (312) 886–0814.

A copy of the proposed administrative settlement agreement may be obtained in person or by mail from the EPA's Region 5 Office of Regional Counsel, 77 West Jackson Boulevard, Chicago, Illinois, 60604–3590. Additional background information relating to the settlement is available for review at the EPA's Region 5 Office of Regional Counsel.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. Sections 9601–9675.

William E. Muno,

Director, Superfund Division, Region 5.

[FR Doc. 99–2790 Filed 2–4–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6226–9]

Clean Water Act Class II: Proposed Administrative Penalty Assessment and Opportunity To Comment Regarding Northeast Public Sewer District, Fenton, Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment regarding Northeast Public Sewer District, Fenton, Missouri.

SUMMARY: EPA is providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after filing a Complaint commencing either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1319(g).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR part 22. The procedures by which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty (30) days after issuance of public notice.

On December 31, 1998, EPA commenced the following Class II proceeding for the assessment of penalties by filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551–7630, the following complaint:

In the Matter of, the Northeast Public Sewer District, City of Fenton, Missouri; EPA Docket No. CWA–VII–99–0003.

The Complaint proposes a penalty of Five Thousand Dollars ($5,000) for discharge of sludge to Saline Creek in violation of the National Pollutant Discharge Elimination System (NPDES) permit and Sections 301(a) and 402 of the Clean Water Act.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint or other documents filed in this proceeding, comment upon the proposed penalty assessment, or

otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above.

The administrative record for the proceeding is located in the EPA Regional Office at the address stated above, and the file will be open for public inspection during normal business hours. All information submitted by the Northeast Public Sewer District is available as part of the administrative record subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding prior to thirty (30) days from the date of this document.

Dated: January 15, 1999.

Dennis Grams,

Regional Administrator, Region 7.

[FR Doc. 99–2451 Filed 2–4–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6226–8]

Clean Water Act Class II: Proposed Administrative Penalty Assessment and Opportunity To Comment Regarding Klein Products of Kansas, Inc., Fort Scott, KS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment regarding Klein Products of Kansas, Inc., Fort Scott, Kansas.

SUMMARY: EPA is providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after filing a Complaint commencing either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1319(g).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR part 22. The procedures by which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty (30) days after issuance of public notice.

On December 30, 1998, EPA commenced the following Class II proceeding for the assessment of penalties by filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551–7630, the following complaint:

In the Matter of, Klein Products of Kansas, Inc., Fort Scott, Kansas; EPA Docket No. CWA–7–99–0002.

The Complaint proposes a penalty of Eleven Thousand Dollars ($11,000) for discharge of a xylene mixture to waters of the United States without a permit in violation of Sections 301(a) and 402 of the Clean Water Act.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint or other documents filed in this proceeding, comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above.

The administrative record for the proceeding is located in the EPA Regional Office at the address stated above, and the file will be open for public inspection during normal business hours. All information submitted by the Klein Products of Kansas, Inc., is available as part of the administrative record subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding prior to thirty (30) days from the date of this document.

Dated: January 15, 1999.

Dennis Grams,

Regional Administrator, Region 7.

[FR Doc. 99–2452 Filed 2–4–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5499–5]

Intent To Prepare an Environmental Impact Statement To Consider Policies, Guidance, and Processes to Minimize the Environmental Impacts of Mountaintop Mining and Valley Fills in the Appalachian Coalfields

AGENCIES: Environmental Protection Agency (EPA), U.S. Army Corps of Engineers (Corps), Office of Surface Mining (OSM), and U.S. Fish and Wildlife Service (FWS).

ACTION: Notice of intent to prepare an Environmental Impact Statement.

PURPOSE: The EPA, Corps, OSM, and FWS, in accordance with Section 102(2)(c) of the National Environmental Policy Act (NEPA), with the State of West Virginia, will prepare an Environmental Impact Statement (EIS) on a proposal to consider developing agency policies, guidance, and coordinated agency decision-making processes to minimize, to the maximum extent practicable, the adverse environmental effects to waters of the United States and to fish and wildlife resources from mountaintop mining operations, and to environmental resources that could be affected by the size and location of fill material in valley fill sites.

DATES: The agencies invite comments and suggestions on the scope of the analysis, including the regulatory issues and significant environmental effects to be addressed in the EIS. Written comments from the public regarding the environmental and regulatory issues and alternatives to be addressed in the EIS should be received in writing by March 31, 1999. The agencies will hold public meetings on February 23, 1999, in Summersville, West Virginia; February 24, 1999, in Charleston, West Virginia; and February 25, 1999, in Logan, West Virginia, to receive public input, either verbal or written, on relevant environmental and regulatory issues that should be addressed in the EIS. The locations and starting times of the public meetings are as follows: in Summersville, the meeting will be held at the Nicholas County Veteran's Memorial Park beginning at 6:30 p.m.; in Charleston, the meeting will be held at the rotunda at Riggleman Hall, University of Charleston in the afternoon from 2–4 p.m. and in the evening beginning at 6:30 p.m.; and in Logan, the meeting will be held at the Chief Logan State Park beginning at 6:30 p.m. Other public meetings may also be held and will be announced at a later date.

ADDRESSES: Send written comments and suggestions concerning this proposal to William Hoffman, Environmental Protection Agency, 3ES30, 1650 Arch Street, Philadelphia, Pennsylvania, 19103–2029; e-mail address, hoffman.william@ epamail.epa.gov; telephone: 215–814–2995. Requests to be placed on the mailing list should also be sent to this address.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action

and EIS are to be directed to William Hoffman, Environmental Protection Agency, 215–814–2995. Coordinators for each of the federal and state agencies are as follows:

William Hoffman, U.S. Environmental Protection Agency, 215–814–2995

David G. Hartos, Office of Surface Mining, 412–937–2909

Andy Gallagher, WV Division of Environmental Protection, 304–759–0515

Michael D. Gheen, U.S. Army Corps of Engineers, 304–529–5487

David Densmore, U.S. Fish and Wildlife Service, 814–234–4090

SUPPLEMENTARY INFORMATION: The agencies undertaking preparation of this voluntary EIS implement federal and state laws with which mountaintop mining operations and associated discharges to waters of the U.S. must comply. OSM is responsible for national administration of the Surface Mining Control and Reclamation Act (SMCRA); it has delegated the authority for the SMCRA programs for surface mining operations in West Virginia to the State of West Virginia. Other Appalachian coalfield states (except Tennessee) also implement delegated SMCRA authority. Discharge of fill material into U.S. waters is regulated under Sec. 404 of the Clean Water Act, with permit responsibility administered by the U.S. Army Corps of Engineers and applicable 404 regulations issued by the Corps and EPA. Other discharges to U.S. waters are subject to Sec. 402 of the Clean Water Act, which is administered nationally by EPA with authority for the program delegated to West Virginia and other Appalachian coalfield states. Mountaintop mining operations must also comply with the Endangered Species Act, which is administered by FWS. In addition, the Fish and Wildlife Coordination Act (FWCA) pertains to federally-permitted, constructed, or licensed water development projects and land development projects that affect any water body. Whenever OSM, COE, or EPA authorize an action within the scope of the FWCA, they are required to consult with the FWS, and similar State agencies, to obtain recommendations on ways to mitigate adverse effects on fish and wildlife resources.

The number of mountaintop mining operations that utilize valley fills, as well as the scale of individual operations, have increased in recent years in West Virginia. This EIS will evaluate significant environmental impacts associated with these operations on water quality, streams, aquatic and terrestrial habitat, habitat fragmentation, the hydrological balance, and other individual and cumulative effects. Federal and state agencies are increasingly concerned over the lack of comprehensive data regarding valley fill operations, and have initiated a number of studies to address these data gaps. Accurately describing and quantifying the extent and nature of direct, secondary, and cumulative impacts related to valley fills and associated mining practices is difficult.

This EIS will complement recent efforts to address the issues of mountaintop mining and valley fills. The OSM recently completed and issued a draft oversight report entitled ''An Evaluation of Approximate Original Contour and Postmining Land Use in West Virginia''. During 1998, the Governor of West Virginia established a Governor's Task Force, which held public inquiries and evaluated the impacts of mountaintop mining operations on the economy, the environment, and the people of that State. Its report was issued in December 1998.

To address the concerns about mountaintop mining and valley fills, the agencies will consider potential revisions to relevant regulations, policies, and guidance that would minimize the potential for adverse individual and cumulative impacts of mining operations. The EIS will provide information that will help the agencies improve the permitting process to protect water quality and minimize impacts to other environmental resources. The EIS will also examine how regulations of the agencies can be better coordinated. The EIS may consider information on the following: the cumulative environmental impacts of mountaintop mining; the efficacy of stream restoration; the viability of reclaimed streams compared to natural waters; the impact that filled valleys have on aquatic life, wildlife and nearby residents; biological and habitat analyses that should be done before mining begins; practicable alternatives for in-stream placement of excess overburden; measures to minimize stream filling to the maximum extent practicable; and the effectiveness of mitigation and reclamation measures. The EIS is expected to take two years to complete.

Dated: January 29, 1999.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 99–2845 Filed 2–4–99; 8:45 am]

BILLING CODE 6560–50–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Meeting of the President's Committee of Advisors on Science and Technology

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for a meeting of the President's Committee of Advisors on Science and Technology (PCAST), and describes the functions of the Committee. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES AND PLACE: February 22, 1999, Washington, DC. This meeting will take place in the Truman Room (Third Floor) of the White House Conference Center, 726 Jackson Place, NW, Washington, DC.

TYPE OF MEETING: Open.

PROPOSED SCHEDULE AND AGENDA: The President's Committee of Advisors on Science and Technology (PCAST) is tentatively scheduled to meet in open session on Monday, February 22, 1999, at approximately 1:00 p.m. to discuss (1) the Science and Technology budget, (2) the report of the President's Information Technology Advisory Committee, and (3) work of PCAST panels. This session will end at approximately 4:30 p.m.

PUBLIC COMMENTS: There will be a time allocated for the public to speak on any of the above agenda items. Please make your request for the opportunity to make a public comment five (5) days in advance of the meeting. Written comments are welcome anytime prior to or following the meeting. Please notify Joan P. Porter, PCAST Executive Secretary, at (202) 456–6101 or fax your requests/comments to (202) 456–6026.

FOR FURTHER INFORMATION CONTACT: For information regarding time, place, and agenda, please call Joan P. Porter, PCAST Executive Secretary, at (202) 456–6101, prior to 3:00 p.m. on Friday, February 19, 1999. Please note that public seating for this meeting is limited, and is available on a first-come first served basis.

SUPPLEMENTARY INFORMATION: The President's Committee of Advisors on Science and Technology was established by Executive Order 12882, as amended, on November 23, 1993. The purpose of PCAST is to advise the President on matters of national importance that have significant science and technology content, and to assist the President's National Science and Technology Council in securing private sector participation in its activities. The Committee members are distinguished

individuals appointed by the President from non-Federal sectors. The PCAST is co-chaired by the Assistant to the President for Science and Technology, and by John Young, former President and CEO of the Hewlett-Packard Company.

Dated: February 1, 1999.

Barbara Ann Ferguson,

Administrative Officer, Office of Science and Technology Policy.

[FR Doc. 99–2858 Filed 2–4–99; 8:45 am]

BILLING CODE 3170–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

January 13, 1999.

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, Public Law 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 April 6, 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, 445 12th Street, S.W., 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: 3060–0686.

Title: Report and Order, Streamlining the International Section 214 Authorization Process and Tariff Requirements, IB Docket No. 95–118.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 18.

Estimated Time Per Response: 2 to 20 hours.

Frequency of Response: Annually; Semi-annually; Quarterly; and On Occasion reporting requirements; Third Party disclosure.

Total Annual Burden: 90 hours.

Total Annual Costs: $9,000.

Needs and Uses: Under § 63.19, carriers will be required to notify their customers and provide the Commission with a copy of the notification, at least 60 days prior to discontinuation of international telecommunications service. The information will enable the Commission to confirm that international service providers wishing to discontinue service give sufficient notice to allow consumers to obtain alternative service. We estimate that 15 respondents will submit this information to their customers and the Commission, and it should take two hours per response, for a total of 30 burden hours for this rule section.

Under § 63.53(c), applicants filing information or documents in a foreign language in a § 214 proceeding are required to submit a certified English translation of the information. The translation will eliminate the time and resources needed to translate documents, and enable the Commission to make documents readily available for the public. We estimate that three respondents will submit this information, and it should take 20 hours per response, for a total of 60 burden hours for this rule section.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–2774 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

January 19, 1999.

SUMMARY: The Federal Communications Commissions, 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, Public Law 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 April 6, 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 Commission, 445 12th Street, S.W., 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: 3060–0695.

Title: Proposed 87.219 Automatic Operation.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 50.

Estimated Time Per Response: 0.7 hour.

Total Annual Burden: 35 hours.

Total Annual Cost: $0.

Needs and Uses: The rule requires that if airports have control towers or FAA flight service stations, and more than one licensee and want to have an automated aeronautical advisory station (unicom), they must write an agreement outlining who will be responsible for the unicom's operation, sign the agreement, and keep a copy of the authorization. The information will be used by compliance personnel for enforcement purposes and by licensees to clarify responsibility in operating unicoms.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–2775 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

January 28, 1999.

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(s), as required by the Paperwork Reduction Act of 1995, Public Law 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 March 8, 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 Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0027.

Title: Application for Construction Permit for Commercial Broadcast Station.

Form Number: FCC Form 301.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1,550.

Estimated Time Per Response: 2—4 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Total Annual Burden: 3,120 hours.

Total Annual Cost: $17,217,350.

Needs and Uses: The Report and Order in MM Dockets 98–43 and 94–149 substantially revised the FCC Form 301 to facilitate electronic filing by replacing narrative exhibits with the use of certifications and an engineering technical block. The Commission also deleted and narrowed overly burdensome questions. The FCC 301 will be supplemented with detailed worksheets and instructions to explain processing standards and rule interpretations to help ensure that applicants certify accurately. These changes will reduce applicant filing burdens in the preparation and submission of exhibits in support of applications. The Commission has also adopted a formal program of pre-and post-application grant random audits to preserve the integrity of our streamlined application process.

In Report and Order, MM Docket 97–234, implemented provision of the Balanced Budget Act of 1997 which expanded the Commission's competitive bidding authority under Section 309(j) of the Communications Act of 1934. This R&O adopted competitive bidding procedures to award construction permits in the commercial broadcast and secondary broadcast services and amended application filing procedures for the broadcast services to complement the competitive bidding process including adopting filing windows for new and major changes in the commercial broadcast services. This R&O eliminated the site and financial certification questions on the FCC 301. It also added a question which, if applicable, requires an exhibit setting forth the terms and conditions, and the parties involved in any bidding consortia; demonstrating eligibility for designated entity status; and relevant ownership information related to the competitive bidding process.

OMB Control Number: 3060–0031.

Title: Application for Consent to Assignment of Broadcast Station Construction Permit or License.

Form Number: FCC Form 314.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions.

Number of Respondents: 1,375.

Estimated Time Per Response: 1–2 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Total Annual Burden: 2,220 hours.

Total Annual Cost: $9,567,250.

Needs and Uses: The Report and Order in MM Dockets 98–43 and 94–149 substantially revised the FCC Form 314 to facilitate electronic filing by replacing narrative exhibits with the use of certifications. The Commission also deleted and narrowed overly burdensome questions. The FCC 314 will be supplemented with detailed worksheets and instructions to explain processing standards and rule interpretations to help ensure that applicants certify accurately. These changes will reduce applicant filing burdens in the preparation and submission of exhibits in support of applications. The Commission has also adopted a formal program of pre- and post-application grant random audits to preserve the integrity of our streamlined application process.

In Report and Order, MM Docket 97–234, implemented provision of the Balanced Budget Act of 1997 which expanded the Commission's competitive bidding authority under Section 309(j) of the Communications Act of 1934 and imposed reporting requirements concerning the transfer or assignment of authorizations obtained through the competitive bidding to the FCC 314. This collection also includes third party disclosure requirement contained in Section 73.3580. This section requires local public notice in a newspaper of general circulation of the filing of all applications for assignment of license/permit. This notice must be completed

within 30 days of the tendering of the application. This notice must be published at least twice a week for two consecutive weeks in a three-week period. A copy of this notice must be placed in the public inspection file along with the application. Additionally, an applicant for assignment of license must broadcast the same notice over the station at least once daily on four days in the second week immediately following the tendering for filing of the application.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–2700 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval.

January 27, 1999.

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, Public Law 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 March 8, 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, 445 12th Street, S.W., 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–XXXX.

Title: Direct Broadcast Satellite Public Interest Obligations.

Form Number: N/A.

Type of Review: New collection.

Respondents: Businesses or other for-profit entities; Individuals or households.

Number of Respondents: 8.

Estimated Time per Response: 12 hours.

Frequency of Response: Recordkeeping.

Total Annual Burden: 96 hours.

Total Annual Costs: $1,440.

Needs and Uses: The Commission imposes public interest obligations upon providers of Direct Broadcast Satellite (DBS) Services, to grant access for political candidate advertising and to reserve four per cent of channel capacity for educational and informational programming. Once the Report and Order comes into effect, every DBS licensee will be required to maintain a public file at its headquarters that contains: (i) annual measurements of channel capacity and average calculations on which it bases its four percent reservation; (ii) a record of entities to which educational and informational programming capacity is provided, the amount of capacity provided to each entity, the conditions under which it is being provided, and the rates, if any, being paid by each entity; (iii) a record of the entities that have requested capacity and the disposition of those requests; and (iv) a record of all requests for channel time made by political candidates and the disposition of those requests.

Statutory authority for collection of this information is contained in 47 U.S.C. Sections 335, 315, and 312 (a)(7).

The information will be used by the FCC and interested members of the public to monitor DBS providers' compliance with public interest obligations. Without such information, the FCC could not determine whether DBS providers have compiled with their obligations.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–2776 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Gen. Docket No. 90–119; DA 98–2616]

Private Land Mobile Radio Service Rules, Florida Area Public Safety Plan

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Chief Public Safety and Private Wireless Division released this Public Notice inviting comments on the Florida Public Safety Regional Plan (Region 9 Plan) that proposes to revise the current channel allotments for radio frequencies in the 821–824/866–869 MHz bands within the Florida area. In accordance with the National Public Safety Plan, each region is responsible for planning its use of public safety radio frequency spectrum in the 821–824/866–869 MHz bands.[1]

DATES: December 28, 1998.

FOR FURTHER INFORMATION CONTACT: Ghassan Khalek, Federal Communications Commission, Washington, DC, (202) 418–2771.

SUPPLEMENTARY INFORMATION: On December 9, 1998, Region 9 submitted a proposed amendment to its Public Safety Plan that would revise the current channel allotments to reflect changes made as a result of its fourth window application process. In accordance with the National Public Safety Plan, each region is responsible for planning its use of public safety radio frequency spectrum in the 821–824/866–869 MHz bands.[2] The Public Safety Plan for Region 9, which was adopted by the Commission on May 10, 1990, governs the use of frequency assignments in the 821–824/866–869 MHz within the Florida.[3]

The Commission is soliciting comments from the public before taking action on this proposed plan amendment. Interested parties may file comments to the proposed amendment on or before January 28, 1999, and reply comments on or before February 15, 1999. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS), [*See Electronic Filing of Documents in Rulemaking*

[1] *Report and Order*, General Docket No. 87–112, 3 FCC Rcd 905 (1987).

[2] Id.

[3] Id.

Proceedings, 63 FR 24,121 (1998)], or by filing paper copies. Commenters who submit by paper should send original and five copies of comments to the Secretary, Federal Communications Commission, Washington, DC 20554. Commenters should clearly identify all comments and reply comments, whether submitted electronically or as paper copies, as submissions to General Docket 90–119 Florida Public Safety Region 9. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number.

Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

Questions regarding this public notice may be directed to Ghassan Khalek, Wireless Telecommunications Bureau (202) 418–2771.

The original Region 9 Public Safety Plan is available for inspection and copying during normal business hours in the FCC Reference Center (Room 230) 1919 M Street, NW, Washington, DC The original Region 9 Public Safety Plan may also be ordered from the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, NW, Washington, DC 20036, Telephone (202) 857–3800.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–2777 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2314]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

January 28, 1999.

Petitions for reconsideration and clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by February 3, 1999. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Fees for ancillary or Supplementary Use of Digital Television Spectrum Pursuant to Section 336(e)(1) of the Telecommunications Act of 1996 (MM Docket No. 97–247).

Number of Petitions Filed: 2.

Subject: Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz to Use by the Mobile-Satellite Service (ET Docket No. 95–18, RM–7927, PP–28).

Number of Petitions Filed: 4.

Subject: 1998 Biennial Regulatory Review Streamlining of Mass Media Applications Rules and Process.

Number of Petitions Filed: 38.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–2773 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:01 a.m. on Tuesday, February 2, 1999, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's supervisory, resolution, and corporate activities.

In calling the meeting, the Board determined, on motion of Director Ellen S. Seidman (Director, Office of Thrift Supervision), seconded by Vice Chairman Andrew C. Hove, Jr., concurred in by Director John D. Hawke, Jr. (Comptroller of the Currency), and Chairman Donna Tanoue, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no notice of the meeting earlier than February 1, 1999, was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, N.W., Washington, D.C.

Dated: February 2, 1999.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 99–2913 Filed 2–3–99; 12:38 pm]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1266–DR]

Arkansas; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Arkansas, (FEMA–1266–DR), dated January 23, 1999, and related determinations.

EFFECTIVE DATE: January 27, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Arkansas, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 23, 1999:

Clay and Lonoke Counties for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 99–2742 Filed 2–4–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3134–EM]

Illinois; Amendment No. 3 to Notice of an Emergency

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the State of Illinois, (FEMA–3134–EM), dated January 8, 1999, and related determinations.

EFFECTIVE DATE: January 28, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of an emergency for the State of Illinois, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of January 8, 1999:

The county of McHenry for reimbursement for emergency protective measures, Category B, under the Public Assistance program for a period of 48 hours.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 99–2740 Filed 2–4–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3135–EM]

Indiana; Amendment No. 2 to the Notice of an Emergency

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the State of Indiana, (FEMA–3135-EM), dated January 15, 1999, and related determinations.

EFFECTIVE DATE: January 28, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of an emergency for the State of Indiana, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 15, 1999:

Boone, Carroll, Elkhart, Fayette, Howard, Morgan, Parke, Putnam, Vigo, and Wells Counties for reimbursement for emergency protective measures, Category B, under the Public Assistance program for a period of 48 hours.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 99–2739 Filed 2–4–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1194–DR]

Commonwealth of the Northern Mariana Islands; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for Commonwealth of the Northern Mariana Islands (FEMA–1194-DR), dated December 24, 1997, and related determinations.

EFFECTIVE DATE: January 4, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3630.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the cost share arrangement under FEMA–1194-DR is adjusted at 100 percent Federal funding for eligible costs for the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 99–2744 Filed 2–4–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1262–DR]

Tennessee; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Tennessee, (FEMA–1262–DR), dated January 19, 1999, and related determinations.

EFFECTIVE DATE: January 23, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Tennessee, is hereby amended to include the following areas among the areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 19, 1999:

Benton and Humphreys Counties for Individual Assistance and Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 99–2741 Filed 2–4–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1262–DR]

Tennessee; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Tennessee, (FEMA–1262–DR), dated January 19, 1999, and related determinations.

EFFECTIVE DATE: January 22, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Tennessee, is hereby amended to include Categories C through G under the Public Assistance program in the following areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 19, 1999:

Crockett, Decatur, Hardeman, Haywood, Henderson, Lauderdale, Madison, Maury, and Montgomery Counties for Categories C through G under the Public Assistance program (already designated for Individual Assistance and Categories A and B under the Public Assistance program).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 99–2743 Filed 2–4–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 207–011649

Title: Joint Operating Agreement Between Interocean Lines, Inc. and Trinity Shipping Line, S.A.

Parties:

Interocean Lines, Inc.

Trinity Shipping Line, S.A.

Synopsis: The proposed Agreement would permit the parties to share space equally aboard three vessels in the trade between United States ports in Florida and ports in Panama, Ecuador, and Peru.

Dated: February 1, 1999.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–2695 Filed 2–4–99; 8:45 am]

BILLING CODE 6730–01–M

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 the 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, D.C. 20573.

Giorgio Gori USA Inc., 80 River Street, Hoboken, NJ 07030, Officers: Ivano, Reali, President, Cornelia Reali, Vice President

Unitrans Worldwide, Inc., 57 Teed Drive, Randolph, MA 02368, Officer: Lindsay P. Barich, President

Indus Shipping Company Ltd., 27 Park Place, New York, NY 10007, Officers: Parveen A. Din, President Philip A. Din, Vice President

Dated: February 1, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–2765 Filed 2–4–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 22, 1999.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. PCB Limited Partnership, Largo, Florida; to acquire 25 percent of the voting shares of PCB Bancorp, Inc., Largo, Florida, and thereby indirectly acquire Premier Community Bank of Florida, Largo, Florida.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Peter N. Horne, Sr., Harlan, Iowa; to acquire 34.86 percent; Frederick R. Horne III, Sloan, Iowa, to acquire 34.86 percent; and Todd K. Plumb, Harlan, Iowa, to acquire 26.21 percent of the voting shares of Midstates Bancshares, Inc., Harlan, Iowa, and thereby indirectly acquire Midstates Bank, N.A., Harlan, Iowa.

Board of Governors of the Federal Reserve System, February 1, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–2719 Filed 2–4–99; 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 March 1, 1999.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. C-B-G, Inc., Wilton, Iowa; to acquire 24.36 percent of the voting shares of Peoples National Corporation, Columbus Junction, Iowa, and thereby indirectly acquire Community Bank, Muscatine, Iowa.

2. Schonath Family Partnership, a Limited Partnership, Oconomowoc, Wisconsin; to acquire an additional 8.46 percent, for a total of 33 percent of the voting shares of InvestorsBancorp, Inc., Pewaukee, Wisconsin, and thereby indirectly acquire InvestorsBank, Pewaukee, Wisconsin.

Board of Governors of the Federal Reserve System, February 1, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–2718 Filed 2–4–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Premerger Notification: Reporting and Waiting Period Requirements

AGENCY: Federal Trade Commission.

ACTION: Notice of adoption of formal interpretation.

SUMMARY: The Premerger Notification Office (''PNO'') of the Federal Trade Commission (''FTC''), with the concurrence of the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (''DOJ''), is adopting a Formal Interpretation of the Hart-Scott-Rodino Act, which requires persons planning certain mergers, consolidations, or other acquisitions to report information about the proposed transactions to the FTC and DOJ. The Interpretation concerns the reportability of certain transactions involving the formation of a Limited Liability Company (''LLC''), a relatively new form of entity authorized by state statutes, resulting in the combination of business into the new LLC.

This Formal Interpretation was first published on October 13, 1998, together with a request for comments, to become effective on December 14, 1998. 63 FR 54713 (October 13, 1998). The PNO received six comments which were placed on the public record. On December 2, 1998, the effective date of this Interpretation was postponed until February 1, 1999, to give the PNO staff more time to analyze and respond to the comments. 63 FR 66546 (December 2, 1998).

Formal Interpretation 15 as republished here has been modified in response to the comments. Under the revised Interpretation, the formation of an LLC which combines under common control in the LLC two or more pre-existing businesses will be treated as subject to the requirements of the HSR act under § 801.2(d) of the HSR rules, 16 CFR § 801.2(d), which governs mergers and consolidations. Because Formal Interpretation 15 has been modified substantially, the effective date of the Interpretation is postponed until March 1, 1999.

DATES: The effective date is March 1, 1999.

FOR FURTHER INFORMATION CONTACT: Richard B. Smith, Deputy Assistant Director, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580. Telephone: (202) 326–2850. Thomas F. Hancock, Attorney, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580. Telephone: (202) 326–2946.

SUPPLEMENTARY INFORMATION: The text of Formal Interpretation Number 15 is set out below.

Formal Interpretation Number 15

Formal Interpretation Pursuant to § 803.30 of the Premerger Notification Rules, 16 CFR § 803.30, Concerning the Reporting Requirements for the Formation of Certain Limited Liability Companies (''LLCs'').

This is a Formal Interpretation pursuant § 803.30 of the Premerger Notification Rules (''the rules''), 16 CFR § 803.30. The rules implement Section 7A of the Clayton Act, 15 U.S.C. § 18a, which was added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (''the act''). This Formal Interpretation and a request for comments were originally published on October 13, 1998, to become effective on December 14, 1998. See 63 FR 54713 (October 13, 1998). The PNO staff received six comments. The staff postponed the effective date until February 1, 1999, in order to have more time to analyze these comments. 63 FR 66546 (December 2, 1998). Formal Interpretation 15, published here, has been modified substantially in response to the comments received and postpones the effective date until March 1, 1999.

The act requires the parties to certain acquisitions of voting securities or assets to notify the FTC and the DOJ and to wait a specified period of time before consummating the transaction. The purpose of the act and the rules is to ensure that such transactions receive meaningful scrutiny under the antitrust laws, with the possibility of an effective remedy for violations, prior to consummation. Under the rules, certain types of transactions, such as mergers, consolidations, and the formation of corporate joint ventures, are treated as acquisitions of voting securities potentially subject to the act, while other transactions, such as the formation of partnerships, are deemed non-reportable. See §§ 801.2(d) and 801.40 of the rules, 16 CFR §§ 801.2(d) and 801.40.

The LLC [1] is a relatively new form of business organization that is neither a partnership nor a corporation but a hybrid legal entity that combines certain desirable features of both partnerships and corporations. Specifically, an LLC is taxed as a partnership but shields its members from liability as a corporation shields its shareholders. The first LLC statute was passed in 1977 by Wyoming [2] and a trickle of other states followed. The use of LLCs expanded significantly after 1988 when the Internal Revenue Service (''IRS'') concluded that an LLC organized under the Wyoming statute was taxable as a partnership.[3] By 1993 all 51

[1] This Formal Interpretation applies only to the reportability of the formation of certain LLCs. The position of the FTC staff on the status and treatment under the act of other non-corporate entities such as partnerships remains unchanged.

[2] Wyo. Stat. §§ 17–15–101 to –135 (Supp. 1989).

[3] Rev. Rul. 88–76, 1988–2 C. B. 360, 361.

jurisdictions had LLC laws of one form or another.

When it first encountered these types of organizational structures, the PNO concluded that as ''companies'' LLCs are ''entities'' within the meaning of § 801.1(a)(2), 16 CFR § 801.1(a)(2), and that, until it had more experience with them, the PNO would treat LLCs like corporations. Initially, therefore, § 801.40 of the rules, 16 CFR § 801.40, ''Formation of joint venture or other corporations,'' governed the formation of LLCs and an interest in an LLC was treated as a voting security for HSR purposes.

On further analysis, the PNO concluded that this initial approach was too inclusive. LLCs at the time were primarily used as vehicles for the creation of start-up businesses. The PNO's treatment of LLCs resulted in requiring HSR filings in a large number of transactions that did not raise antitrust concerns. Furthermore, the PNO believed that in most LLCs the interest held by the members of the LLC was more like a partnership interest than a voting security interest. Consequently, in 1994, the PNO began to informally advise parties that the treatment of LLCs for reporting purposes would depend on a determination of whether the interest acquired in the LLC was more like a voting security interest or more like a partnership interest.[4]

This treatment of LLCs has not been completely satisfactory. The use of LLCs has evolved, and while LLCs continue to be used as vehicles for start-up enterprises, they are now often used to combine competing businesses under common control. Indeed, the Commission's litigation staff has investigated several transactions raising potential antitrust concerns involving the formation of LLCs. In these transactions, previously separate businesses were combined under common control when they were both contributed to a single, newly-formed LLC. Nevertheless, the creation of the LLC to combine competing businesses under common control was typically not treated as reportable under the PNO's then-current treatment. However, the union of competing businesses under common control is of obvious potential antitrust concern. Since the past treatments of LLCs have not been satisfactory at singling out those transactions that were the most likely to have anticompetitive effects, the PNO staff has decided to revise its approach to LLCs in order to better carry out the purposes of the act.

The formation of an LLC into which two or more businesses are contributed, like other unions of businesses under common control, is a kind of merger or consolidation.[5] Section 801.2(d)(1)(i) of the rules, 16 CFR § 801.2(d)(1)(i), states that ''[m]ergers and consolidations are transactions subject to the act * * *.''[6] A filing requirement for those LLC formations that involve the combination of businesses is appropriate and advances the purposes of the act and the rules, namely, to ensure that the antitrust enforcement agencies have advance notice of, and a timely opportunity to challenge, transactions which may violate the antitrust laws.

This Formal Interpretation, therefore, changes the PNO's treatment of LLC's as follows: The PNO will henceforth treat as reportable the formation of an LLC if (1) two or more preexisting, separately controlled businesses will be contributed, and (2) at least one of the members will control the LLC (i.e., have an interest entitling it to 50 percent of the profits of the LLC or 50 percent of the assets of the LLC upon dissolution).[7] The formation of all other LLCs will be treated similar to the formation of a partnership which, under the PNO's longstanding position on partnership formations, will not be reportable.

Post-formation acquisitions of membership interests in LLCs will not be reportable except in two situations: (1) when the acquisition of the membership interest results in the acquiring person, who had not previously filed for and consummated the acquisition of control of that LLC, holding 100 percent of the membership interests of the LLC (similar to the PNO's treatment of the acquisition of a partnership interest), and (2) when the acquiring person contributes a business to the LLC in exchange for the LLC membership interest. The PNO will treat this contribution of an additional business to the business(es) already in the LLC as a formation of a new LLC under this Interpretation.

In determining what is a ''business'' for purposes of this Interpretation, the PNO will look to the definition of ''operating unit'' for purposes of § 802.1(a) of the rules, 16 CFR § 802.1(a), namely, ''* * * assets that are operated * * * as a business undertaking in a particular location or for particular products or services, even though those assets may not be organized as a separate legal entity.'' In addition, for purposes of this Formal Interpretation, the contribution to an LLC of an interest in intellectual property, such as a patent, a patent license, know-how, and so forth, which is exclusive against all parties including the grantor, is the contribution of a business, whether or not the intellectual property has generated any revenues.

Under this Interpretation, the approach of § 801.2(d) will be used to determine the acquiring person(s) and acquired person(s) for potentially reportable LLC formations.[8] Section 801.2(d)(2)(i) states that ''[a]ny person party to a merger or consolidation is an acquiring person if as a result of the transaction such person will hold any assets or voting securities which it did not hold prior to the transaction'' (emphasis added). In the context of the formation of a new LLC, this means that any person that will control an LLC in which two or more previously separate businesses will be combined will be an acquiring person. Thus, if ''A'' and ''B''

[4] Specifically, the formation of an LLC was treated as potentially reportable only if the LLC had a group that functioned like a board of directors and the LLC ownership interest resulted in the holders appointing person(s) other than their employees, officers, or directors (or those of entities controlled by such holder or its ultimate parent entity) to that group. In such cases, the LLC interest was treated as a voting security interest. In all other instances, LLC interests were treated as partnership interests and the acquisition of these interests was not reportable (unless the acquiring person would hold 100 percent of the interests as a result of the acquisition).

[5] While combining businesses in an LLC may not be a ''merger'' or ''consolidation'' in the strictest sense because they do not involve corporations, the rationale of this interpretation is similar to that used by the PNO under § 801.2(d) to require filing for acquisitions of non-profit corporations which, like LLCs, typically do not issue voting securities. (See ABA, The Premerger Notification Practice Manual, 1991 ed., Interp. #109.)

[6] In fact, as it was originally promulgated in 1978, § 801.2(d)(1)(i), 16 CFR § 801.2(d)(1)(i) stated that ''[a] merger, consolidation, or *other transaction combining all or any part of the business of two or more persons* shall be an acquisition subject to the act * * *.'' (emphasis added) 43 Fed Reg 33539, July 31, 1978. In 1983, this section was changed to clarify the treatment of mergers and consolidations under the rules, and the italicized wording was eliminated. However, there is no indication that this change was intended to narrow the scope of § 801.2(d). Rather, according to the Statement of Basis and Purpose to the 1983 changes, 48 Fed Reg 34430, July 29, 1983, the Commission simply sought to make clear that mergers and consolidations are treated as acquisitions of voting securities and to aid the parties to a merger in determining which is the acquiring person and which is the acquired person.

[7] Of course, as with all transactions, the HSR size of person and size of transaction requirements need to be met as well, and exemptions may apply.

[8] The Formal Interpretation as published in October described a method to determine reportability that was based on concepts found in § 801.40 of the HSR rules, 16 CFR § 801.40. Certain comments suggested that such an approach was confusing and would increase the likelihood that parties would make erroneous conclusions on their reporting obligations. In light of those comments, and the change in approach this Formal Interpretation adopts, there will no longer be any need to look to § 801.40 to determine reporting obligations.

form a 60–40 LLC, the 60 percent member, ''A'' will be an acquiring person with respect to the contributions of ''B.'' Section 801.2(d)(2)(ii) states that ''[a]ny person party to a merger or consolidation is an acquired person if as a result of the transaction the assets or voting securities of any entity included within such person will be held by any other person'' (emphasis added). In the above example of the formation of a 60–40 LLC, ''B'' would therefore be an acquired person.

If ''A'' and ''B'' were to form a 50–50 LLC to which both were to contribute businesses, both would be both acquiring and acquired persons because both would control the LLC and thus hold assets or voting securities it did not hold prior to the transaction. ''A'' and ''B'' would file in both capacities, assuming the relevant size criteria were met. Thus, both the acquiring and acquired persons will be required to file notification and, in accordance with § 803.10 of the rules, the 30-day waiting period will begin when both persons have substantially complied with the notification requirements.

Under this Interpretation, the nature of the acquisition(s) taking place when an LLC is formed, that is, whether it is an acquisition of assets or of voting securities, depends on what is being contributed by the other member(s) of the LLC.[9] In the 50–50 LLC described above, suppose that ''A'' contributes a group of assets constituting a business and ''B'' contributes 50 or more percent of the voting securities of a corporate subsidiary, S. Under this Interpretation, ''B'' will have made an acquisition of assets and ''A'' will have made an acquisition of voting securities.

In addition, any exemption in the act or rules that would make any other acquisition non-reportable may make the acquisition by one or more of the contributors to an LLC non-reportable. If, for example, ''A's'' asset contribution consists of hotel properties the acquisition of which would be exempt under § 802.2(e), ''B's'' acquisition in the formation of this LLC would not be reportable. Similarly, if S has sales and assets of less than $25 million and the value of the S stock that will be held by ''A'' as a result of the acquisition is $15 million or less, then ''A's'' acquisition in the formation would be exempted by § 802.20(b).

To determine whether a filing is required, the parties to potentially reportable formation transactions also must determine the size-of-person and size-of-transaction, which should be done just as in any other asset or voting securities acquisition in accordance with §§ 801.10 and 801.11 of the HSR rules. Since these transactions are similar to asset exchanges, for most such transactions there will not be a determined acquisition price for the acquired assets or voting securities to use in applying the size-of-transaction test. For such transactions, parties should use the market price or fair market value where another contributor contributes 50 or more percent of the voting securities of an issuer (see § 801.10(a)), or the fair market value where another contributor puts assets constituting a business into the LLC (see § 801.10(b)).

This Formal Interpretation will not require reporting regarding some LLC formations and some acquisitions of existing LLC interests that would have required reporting under the Interpretation announced by the PNO in October of 1998. Unlike the October version, this Formal Interpretation requires reporting of the formation of an LLC only if the formation brings together within the LLC two formerly separately controlled businesses. Comments received suggested that the treatment announced in the October version would have covered a substantial number of LLCs that are not likely to raise competitive concerns. For example, the October Formal Interpretation would have viewed LLCs that are created solely as financing vehicles as reportable. In these transactions, a financial institution (or other party providing financing) in the ordinary course of its business contributes only cash or other financial assets and one other party contributes one or more operating units to a new LLC that the financial institution may control for HSR purposes, at least for a period of time. Under this revised Interpretation, so long as such financing transactions do not result in the contribution of a business to the LLC by two or more members, it will not be treated as reportable.[10]

As described above, except for situations where a new business is contributed in exchange for an interest in existing LLC or where, as a result of an acquisition, the acquiring person would hold 100 percent of the interests in an existing LLC, no acquisition of an interest in an existing LLC is reportable under this Interpretation. Several comments indicated that LLC agreements are sometimes entered into in which the right to receive more than 50 percent of the LLC's profits shifts from one member to another upon the happening of some event outside the control—or even the knowledge—of the members. Under the definition of control applicable to LLCs (i.e. § 801.1(b)(ii)), under the October Interpretation, such a shift in the right to receive profits might have created a reporting obligation. The commenters argued that it would be unduly burdensome to require the beneficiaries of such shifts to file and that no substantive law enforcement interest would be served. The PNO does not intend that such shifts be reportable under this Formal Interpretation. Since such a shift would be the post-formation acquisition of an interest in an existing LLC without the contribution of another business, it will not be treated as subject to the reporting requirements of the act.

Some of the reasons for concluding that the formation of certain LLCs should be treated as reportable may apply equally well to partnerships. The position of the PNO, however, is that the formation of a partnership is not reportable and acquisitions of partnership interests that do not result in one person's holding 100 percent of the interests in a partnership are non-reportable. Several comments received on the Formal Interpretation published in October suggested that no change to the treatment of partnerships was necessary at this time. The treatment of partnerships was originally adopted, in part, because of the difficulty of monitoring compliance with HSR reporting obligations since many partnerships can be formed informally or by implication in many typical business arrangements. Furthermore, there has been no suggestion in any of the comments that partnerships are being used with any greater frequency now to combine competing businesses. Consequently, the PNO has decided not to change its treatment of partnerships at this time, but it may re-visit this issue in the future as developments require.

The following examples are an integral part of this Formal Interpretation:

1. ''A'' and ''B'' both plan to contribute businesses to a new LLC in which each will acquire a 50 percent interest. This LLC formation would involve both ''A'' and ''B'' making reportable acquisitions if the size-of-person and size-of-transaction tests are met. Each acquisition would be reportable unless exempted by Section

[9] In this respect, the Interpretation necessarily departs from the text of § 801.2(d)(1)(i), which provides that all mergers and consolidations shall be treated as acquisitions of voting securities.

[10] There is no evidence to suggest now that LLC formations where only one business is contributed are being used to accomplish a merger or consolidation of two businesses. However, the PNO will look carefully at these transactions in the future and, if they begin to be used to accomplish a merger or consolidation, will re-visit this issue.

7A(c) of the act or Part 802 of the HSR rules. ''A'' would file as an acquiring person and ''B'' as an acquired person for ''A's'' acquisition of the assets being contributed by ''B,'' and ''B'' would file as an acquiring person and ''A'' as an acquired person for ''B's'' acquisition of the assets contributed by ''A.'' If ''A'' or ''B'' (or both) contributed 50 percent or more of the voting securities of a corporation, the acquisition(s) would be treated as an acquisition of voting securities of the issuer whose shares are contributed.

2. ''A,'' ''B,'' and ''C'' form an LLC in year 1 in which each receives a one-third interest and to which each contributes a business valued at approximately $20 million. ''A,'' ''B,'' and ''C'' are $100 million persons. This formation would not be reportable because no member controls the LLC. In year 2, ''X,'' also a $100 million person, acquires the membership interests of ''A'' and ''B'' for cash. This would not be reportable because two or more separate businesses are not being united in the LLC even though ''X'' is gaining control of it. Note, however, that the result would be different if ''X'' also contributed a business to the LLC in exchange for the LLC membership interests it receives. In the latter case, the transaction will be treated as the formation of a new LLC. Note also that in the example where ''X'' contributed only cash and did not file under HSR, if ''X'' were subsequently also to acquire ''C's'' membership interest it would then hold 100 percent of the interests in this LLC and would therefore have to file for the acquisition of all of the assets of the LLC.

3. ''A'' and ''B'' form a new LLC, to which ''A'' will contribute its widget business and ''B'' will contribute cash for operating capital. This formation would not be reportable because two previously separate businesses are not being contributed to the LLC.

4. ''A,'' ''B,'' and ''C'' form a 60–20–20 LLC to which ''A'' contributes cash and receives a 60 percent membership interest and ''B'' and ''C'' each contribute an operating unit for a 20 percent interest. This is a kind of consolidation of ''B's'' and ''C's'' operating units into the new LLC and ''A'' will control the LLC. There are two reportable transactions (assuming the size criteria are met and no exemption applies): ''A'' acquiring the operating unit contributed by ''B,'' and ''A''' acquiring the operating unit contributed by ''C''.

5. ''A'' proposes to consolidate its weighted business, which it has conducted in two subsidiaries and a division, into a newly-formed LLC in which it will hold a 60 percent membership interest. This would not be reportable because, although separate businesses are being combined, they were not under separate control prior to the transaction.

6. ''A,'' ''B,'' and ''C'' form a new LLC in which ''A'' will have a 60 percent interest and ''B'' and ''C'' each will have 20 percent interests. ''A,'' a large, international pharmaceutical company, contributes $100 million in cash and the assets of a pharmaceutical product which is currently on the market. This pharmaceutical product lines constitutes a business. ''B'' contributes licenses to several patents which it will also continue to use to manufacture various drugs. ''C'' will contribute licenses which are exclusive even against itself for several drugs which are still at the testing stage and which have never been marketed. With a 60 percent interest, ''A'' will control the LLC. Since the licenses ''B'' will contribute are not exclusive as against it, they do not constitute a business. However, the licenses being contributed by ''C'' do constitute a business, even though they have not generated any revenue. ''A'' has a potential reporting obligation for the formation of this LLC for acquiring assets from ''C.'' This formation combines two pre-existing, separately controlled businesses in an LLC which ''A'' will control.

7. ''A'' and ''B'' are both regional grocery store chains which do their data processing in-house. ''A's'' data processing unit does work only for ''A'' and ''B's'' only for ''B.'' ''A'' and ''B'' decide to contribute the assets used in their data processing operations to a new jointly-controlled LLC which will provide data processing services to ''A'' and ''B.'' Assume the size tests are met. This would not be reportable because the assets used to provide such management and administrative support services do not constitute businesses. Cf § 802.1(d)(4) of the rules and Examples 10 and 11, 16 CFR § 802.1(d)(4). This would be the case even if the new LLC intends to begin offering data processing services to third parties, since this would be beginning a new business rather than uniting existing businesses. Note, however, that the result would be different if ''A'' and ''B'' had used their equipment to provide any data processing services to others prior to contributing it to the new LLC, for then each would be contributing an existing business.

8. In year 1, ''A,'' ''B,'' and ''C'' form a new LLC to which each contributes a business in exchange for a one-third interest. This formation is not reportable because no member controls the LLC. Suppose that in year 2 ''A'' sells additional assets to the LLC for cash. This transaction is not covered by this Formal Interpretation. However, the LLC has a potential filing obligation as the acquiring person of those assets and ''A'' as the acquired person. Note that it is irrelevant whether the assets sold by ''A'' in year 2 constitute a business.

Donald S. Clark,

Secretary.

[FR Doc. 99–2640 Filed 2–4–99; 8:45 am]

BILLING CODE 6750–01–M

GENERAL ACCOUNTING OFFICE

[Document No. JFMIP–SR–98–6]

Joint Financial Management Improvement Program (JFMIP)—Federal Financial Management System Requirements (FFMSR)

AGENCY: Joint Financial Management Improvement Program (JFMIP).

ACTION: Notice of document availability.

SUMMARY: The JFMIP is seeking public comment on an exposure draft titled, ''Travel System Requirements,'' dated January 29, 1999. The draft is being issued to update a January 1991 document. The draft incorporates: (1) statutory and regulatory changes; (2) technological changes, including electronic signature capability; and (3) JFMIP documentation changes. The document is designed to provide financial managers with Governmentwide mandatory requirements for financial systems in order to process and record financial events effectively and efficiently, and to provide complete, timely, reliable, and consistent information for decision makers and the public.

DATES: Comments are due by April 9, 1999.

ADDRESSES: Copies of the exposure draft have been mailed to Agency Senior Financial Officials and are available on the JFMIP website: hhtp:www.financenet.gov/financenet/fed/jfmip/jfmipexp.htm.

Comments should be addressed to JFMIP, 441 G Street NW., Room 3111, Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Dennis Mitchell, 202–512–5994 or via Internet:mitchelld.jfmip@gao.gov

SUPPLEMENTARY INFORMATION: The Federal Financial Management Improvement Act (FFMIA) of 1996 mandated that agencies implement and maintain systems that comply substantially with the Federal financial management systems requirements,

applicable Federal accounting standards, and the U.S. Government Standard General Ledger at the transaction level. The FFMIA statute codified the JFMIP financial systems requirements documents as a key benchmark that agency systems must meet in order to be substantially in compliance with systems requirements provisions under FFMIA. To support the requirements outlined in the FFMIA, we are updating requirements documents that are obsolete and publishing additional requirements documents.

Comments received will be reviewed and the exposure draft will be revised as necessary. Publication of the final requirements will be mailed to agency senior financial officials and will be available on the JFMIP website.

Karen Cleary Alderman,

Executive Director, Joint Financial Management Improvement Program.

[FR Doc. 99–2702 Filed 2–4–99; 8:45 am]

BILLING CODE 1610–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–07–99]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

1. National CDC AIDS And STD Hotline Callers Survey—Reinstatement—(0920–0295)—The National Center For HIV, STD, and TB Prevention (NCHSTP)is requesting clearance to gather information for management and evaluation purposes. The information gathered will assist NCHSTP in the improvement of HIV/STD services to high risk populations. Every 25th caller to the National AIDS Hotline (NAH) and every 10th caller to the National STD Hotline (NSTDH) will be surveyed. Only callers to the AIDS and STD Hotlines will be affected. Respondents (callers) will be the general public. The total annual burden hours are 754.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)
On Going Data Collection			
NAH English	14,800	1	.0208
NAH Spanish	4,200	1	.0208
NSTDH	12,380	1	.0208
Additional Surveys for Special Event Data Collection			
NAH English	2,700	1	.025
NAH Spanish	300	1	.025
NSTDH	1,000	1	.025

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–2721 Filed 2–4–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Conference on Health Statistics Meeting

The National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following meeting:

Name: National Conference on Health Statistics.

Times and Dates: 9 a.m.–5 p.m., August 2, 1999. 8:30 a.m.–5 p.m., August 3, 1999. 8:30 a.m.–5 p.m., August 4, 1999.

Place: Omni Shoreham Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008.

Status: Open to the public, limited only by the space available. Pre-registration is recommended, and there is no registration fee. Please obtain registration information from the contact person listed below.

Purpose: The theme of the conference is Health in the New Millennium: Making Choices, Measuring Impact. The conference will feature sessions on information technology; State and local initiatives and relationships; data standards and methods; data applications; and future date needs. Presentations will be made by a wide range of speakers from the public and private sector. The conference will also include exhibits and poster sessions that complement the presentations.

Contact Person for More Information: Substantive program and registration information for the meeting may be obtained from Barbara Hetzler, National Conference on Health Statistics, Office of Data Standards, Program Development, and Extramural Programs, NCHS, CDC, 6525 Belcrest Road, Room 1100, Hyattsville, Maryland 20782. Telephone: 301/436–7122 ext. 148, e-mail biw1@cdc.gov.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and ATSDR.

Dated: January 29, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–2727 Filed 2–4–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies, and Laboratories That Have Withdrawn From the Program

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

This Notice is now available on the internet at the following website: http://www.health.org.

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, 5600 Fishers Lane, Rockwall 2 Building, Room 815, Rockville, Maryland 20857; Tel.: (301) 443–6014.

Special Note: Our office moved to a different building on May 18, 1998. Please use the above address for all regular mail and correspondence. For all overnight mail service use the following address: Division of Workplace Programs, 5515 Security Lane, Room 815, Rockville, Maryland 20852.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840 (Formerly: Bayshore Clinical Laboratory)

Advanced Toxicology Network, 15201 East I–10 Freeway, Suite 125, Channelview, TX 77530, 713–457–3784/800–888–4063, (Formerly: Drug Labs of Texas, Premier Analytical Laboratories)

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931/334–263–5745

Alliance Laboratory Services, 3200 Burnet Ave., Cincinnati, OH 45229, 513–585–9000, (Formerly: Jewish Hospital of Cincinnati, Inc.)

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 20151, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866/800–433–2750

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801–583–2787/800–242–2787

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783 (formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Ave., Miami, FL 33136, 305–325–5784

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652 / 417–269–3093 (formerly: Cox Medical Centers)

Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, P.O. Box 88–6819, Great Lakes, IL 60088–6819, 847–688–2045 / 847–688–4171

Diagnostic Services Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 941–561–8200 / 800–735–5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31604, 912–244–4468

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 800–898–0180 / 206–386–2672 (formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

Dynacare Kasper Medical Laboratories,* 14940–123 Ave., Edmonton, Alberta, Canada T5V 1B4, 800–661–9876 / 403–451–3702

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 601–236–2609

Gamma-Dynacare Medical Laboratories,* A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall St., London, ON, Canada N6A 1P4, 519–679–1630

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Hartford Hospital Toxicology Laboratory, 80 Seymour St., Hartford, CT 06102–5037, 860–545–6023

Info-Meth, 112 Crescent Ave., Peoria, IL 61636, 800–752–1835 / 309–671–5199 (Formerly: Methodist Medical Center Toxicology Laboratory)

LabCorp Occupational Testing Services, Inc., 1904 Alexander Drive Research Triangle Park, NC 27709, 919–672–6900 / 800–833–3984 (Formerly: CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

LabCorp Occupational Testing Services, Inc., 4022 Willow Lake Blvd., Memphis, TN 38118, 901–795–1515/800–223–6339 (Formerly: MedExpress/National Laboratory Center)

LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927 / 800–728–4064 (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America, 888 Willow St., Reno, NV 89502, 702–334–3400 (Formerly: Sierra Nevada Laboratories, Inc.)

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 800–437–4986 / 908–526–2400 (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989 / 800–433–3823

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734 / 800–331–3734

MAXXAM Analytics Inc.,* 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555 (Formerly: NOVAMANN (Ontario) Inc.)

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43614, 419–383–5213

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 800–832–3244 / 651–636–7466

Methodist Hospital Toxicology Services of Clarian Health Partners, Inc., Department

of Pathology and Laboratory Medicine, 1701 N. Senate Blvd., Indianapolis, IN 46202, 317–929–3587
MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–4512, 800–950–5295
Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 805–322–4250
Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800–322–3361 / 801–268–2431
Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–341–8092
Pacific Toxicology Laboratories, 6160 Variel Ave., Woodland Hills, CA 91367, 818–598–3110 (Formerly: Centinela Hospital Airport Toxicology Laboratory
Pathology Associates Medical Laboratories, 11604 E. Indiana, Spokane, WA 99206, 509–926–2400 / 800–541–7891
PharmChem Laboratories, Inc., 1505-A O'Brien Dr., Menlo Park, CA 94025, 650–328–6200 / 800–446–5177
PharmChem Laboratories, Inc., Texas Division, 7610 Pebble Dr., Fort Worth, TX 76118, 817–595–0294 (formerly: Harris Medical Laboratory)
Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372 / 800–821–3627
Poisonlab, Inc., 7272 Clairemont Mesa Blvd., San Diego, CA 92111, 619–279–2600 / 800–882–7272
Quest Diagnostics Incorporated, 4444 Giddings Road, Auburn Hills, MI 48326, 810–373–9120 / 800–444–0106 (formerly: HealthCare/Preferred Laboratories, HealthCare/MetPath, CORNING Clinical Laboratories)
Quest Diagnostics Incorporated, National Center for Forensic Science, 1901 Sulphur Spring Rd., Baltimore, MD 21227, 410–536–1485 (formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science, CORNING National Center for Forensic Science)
Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800–526–0947 / 972–916–3376 (formerly: Damon Clinical Laboratories, Damon/MetPath, CORNING Clinical Laboratories)
Quest Diagnostics Incorporated, 875 Greentree Rd., 4 Parkway Ctr., Pittsburgh, PA 15220–3610, 800–574–2474 / 412–920–7733 (formerly: Med-Chek Laboratories, Inc., Med-Chek/Damon, MetPath Laboratories, CORNING Clinical Laboratories)
Quest Diagnostics of Missouri LLC, 2320 Schuetz Rd., St. Louis, MO 63146, 800–288–7293 / 314–991–1311 (formerly: Quest Diagnostics Incorporated, Metropolitan Reference Laboratories, Inc., CORNING Clinical Laboratories, South Central Division)
Quest Diagnostics Incorporated, 7470 Mission Valley Rd., San Diego, CA 92108–4406, 800–446–4728 / 619–686–3200 (formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT), CORNING Nichols Institute, CORNING Clinical Laboratories)
Quest Diagnostics Incorporated, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5590 (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratory)
Quest Diagnostics Incorporated, 1355 Mittel Blvd., Wood Dale, IL 60191, 630–595–3888 (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratories Inc.)
Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130
Scott & White Drug Testing Laboratory, 600 S. 31st St., Temple, TX 76504, 800–749–3788 / 254–771–8379
S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/ 800–999–5227
SmithKline Beecham Clinical Laboratories, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590 (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214–637–7236 (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 801 East Dixie Ave., Leesburg, FL 34748, 352–787–9006 (formerly: Doctors & Physicians Laboratory)
SmithKline Beecham Clinical Laboratories, 400 Egypt Rd., Norristown, PA 19403, 800–877–7484 / 610–631–4600 (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 506 E. State Pkwy., Schaumburg, IL 60173, 847–447–4379/800–447–4379 (formerly: International Toxicology Laboratories)
SmithKline Beecham Clinical Laboratories, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520 / 800–877–2520
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176
Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602–438–8507
Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus 1210 W. Saginaw, Lansing, MI 48915, 517–377–0520 (Formerly: St. Lawrence Hospital & Healthcare System)
St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273
Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260
UNILAB 18408 Oxnard St., Tarzana, CA 91356, 800–492–0800 / 818–996–7300 (formerly: MetWest-BPL Toxicology Laboratory)
Universal Toxicology Laboratories, LLC, 10210 W. Highway 80, Midland, Texas 79706, 915–561–8851 / 888–953–8851
UTMB Pathology-Toxicology Laboratory, University of Texas Medical Branch, Clinical Chemistry Division 301 University Boulevard, Room 5.158, Old John Sealy, Galveston, Texas 77555–0551, 409–772–3197

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. DHHS, with the DHHS' National Laboratory Certification Program (NLCP) contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do. Upon finding a Canadian laboratory to be qualified, the DHHS will recommend that DOT certify the laboratory (FR, 16 July 1996) as meeting the minimum standards of the ''Mandatory Guidelines for Workplace Drug Testing'' (59 FR, 9 June 1994, Pages 29908–29931). After receiving the DOT certification, the laboratory will be included in the monthly list of DHHS certified laboratories and participate in the NLCP certification maintenance program.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 99–2766 Filed 2–4–99; 8:45 am]

BILLING CODE 4160–20–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Administration

Notice of Intent To Make Funds Available for School Violence Prevention and Early Childhood Development Activities Under the Safe Schools/Healthy Students Initiative

AGENCIES: U.S. Department of Education, Office of Elementary and Secondary Education, Safe and Drug-Free Schools Program; U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS); U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP); U.S. Department of Justice, Office of Community Oriented Policing Services (COPS).

ACTION: Notice of intent to make funds available to enhance and implement comprehensive community-wide strategies for creating safe and drug-free schools and promoting healthy childhood development.

SUMMARY: The Departments of Education, Health and Human Services, and Justice are collaborating to provide students with enhanced comprehensive educational, mental health, law enforcement, and as appropriate, juvenile justice system services and activities designed to ensure the development of the social skills and emotional resilience necessary to avoid drug use and violent behavior and the creation of safe, disciplined, and drug-free schools.

Through a single application process, successful applicants will receive support for up to three years. Awards will be made to approximately 50 sites, ranging from up to $3 million per year for urban school districts, up to $2 million per year for suburban school districts, and up to $1 million per year for rural school districts and tribal schools designated as local education agencies by their states.

DATES: It is anticipated that the program solicitation and application will be available no later than March 15, 1999.

CONTACT: Detailed information regarding the Safe Schools Healthy/Students Initiative is available at:

Internet: http://www.ed.gov/offices/OESE/SDFS

Fax-on-Demand: Juvenile Justice Clearinghouse (800) 638–8736

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under the Omnibus Consolidated and Emergency Supplemental Appropriation Act of 1999, Pub. L. 105–277 and the Public Health Service Act Section 501(d)(5).

Background

The purpose of the Safe Schools/Healthy Students Initiative is to assist schools and communities to enhance and implement comprehensive community-wide strategies for creating safe and drug-free schools and promoting healthy childhood development. Eligible activities may include, but are not limited to, programs such as mentoring, conflict resolution, after school, multisystemic therapy, functional family therapy, social skills building, school-based probation, student assistance, teen courts, truancy prevention, alternative education, developing information sharing systems, staff professional development, hiring additional school resource officers, and treatment efforts that involve the juvenile justice system and schools. Interventions selected must have evidence of effectiveness and developmentally appropriate.

To be eligible for funding, applicants will be required to demonstrate evidence of a comprehensive community-wide strategy that at minimum consists of six general topic areas: (1) School safety, (2) drug and violence prevention and early intervention programs, (3) school and community mental health preventive and treatment intervention services, (4) early childhood psychosocial and emotional development programs, (5) education reform, and (6) safe school policies. The plan must be developed by a partnership comprising the local education agency, local public mental health authority, local law enforcement agency, family members, students, and juvenile justice officials. The local education agency will be required to submit formal written agreements signed by the school superintendent, the head of the local public mental health authority, and the chief law enforcement executive to be certified as an eligible applicant. Applicants will be strongly encouraged to demonstrate partnerships with businesses, social services, faith communities, and other community-based organizations that support the educational, emotional and health needs of students in the school district.

Applicants will be required to conduct a basic assessment of the community risks and assets related to children and adolescents and have a plan for continual updating of this assessment. Assessments shall include, but are not limited to, rates of the following: students engaged in alcohol and drug use and violent behavior, firearms brought to school, incidents of serious and violent crime in schools, suicide attempts, students suspended and/or expelled from school, students receiving probation services, and students in juvenile justice placements. Applicants will be required to provide an assessment of the community resources available for children and adolescents, including number of after school programs, percentage of youth served by programs to build social skills, and number and quality of community mental health and social service organizations available to provide services to children and adolescents.

Applicants will be required to develop a plan for assessing the community-wide strategy and agree to participate in a national evaluation of this initiative. Applicants that do not have the capability to collect data or develop a plan for assessing their strategy will be encouraged to join with a local university, research organization, or other appropriate entity to assist with these activities.

Dated: February 1, 1999.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 99–2853 Filed 2–4–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4432–N–05]

Federal Property Suitable as Facilities to Assist the Homeless

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

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholdings agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the

homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitablility should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register,** the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: ENERGY: Ms. Marsha Penhaker, Department of Energy, Facilities Planning and Acquisition Branch, FM–20, Room 6H–058, Washington, DC 20585; (202) 586–0426, GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW, Washington, DC 20405; (202) 501–2059; NAVY: Mr. Charles C. Cocks, Department of the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE, Suite 1000, Washington, DC 20374–5065 (202) 685–9200 (These are not toll-free numbers).

Dated: January 28, 1999.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

TITLE V. FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 2/5/99

Suitable/Available Properties

Buildings (by State)

California

Bldg. 105QA
Naval Station, San Diego
Mission Gorge Recreation Center
San Diego CA 92136–
Landholding Agency: Navy
Property Number: 77199830002
Status: Excess
Comment: 1000 sq. ft., needs repair, most recent use—water treatment facility, off-site use only.

Bldg. 102QA
Naval Station, San Diego
Mission Gorge Recreation Center
San Diego CA 92136–
Landholding Agency: Navy
Property Number: 77199830003
Status: Excess
Comment: 6138 sq. ft., needs repair, most recent use—pro shop, off-site use only

Bldg. 118QA
Naval Station, San Diego
Mission Gorge Recreation Center
San Diego CA 92136–
Landholding Agency: Navy
Property Number: 77199830004
Status: Excess
Comment: 5635 sq. ft., needs repair, most recent use—coffee shop—grille, off-site use only

Bldg. 119QA
Naval Station, San Diego
Mission Gorge Recreation Center
San Diego CA 92136–
Landholding Agency: Navy
Property Number: 77199830005
Status: Excess
Comment: 1277 sq. ft., needs repair, most recent use—lockers, off-site use only

Bldg. 129QA
Naval Station, San Diego
Mission Gorge Recreation Center
San Diego CA 92136–
Landholding Agency: Navy
Property Number: 77199830006
Status: Excess
Comment: 2832 sq. ft., needs repair, most recent use—patio cover, off-site use only

Bldg. 140QA
Naval Station, San Diego
Mission Gorge Recreation Center
San Diego CA 92136–
Landholding Agency: Navy
Property Number: 77199830007
Status: Excess
Comment: 1648 sq. ft., needs repair, most recent use—golf cart battery shop, off-site use only

Bldg. 176QA
Naval Station, San Diego
Mission Gorge Recreation Center
San Diego CA 92136–
Landholding Agency: Navy
Property Number: 77199830008
Status: Excess
Comment: 5200 sq. ft., needs repair, most recent use—golf cart shelter, off-site use only

Bldg. 193
Naval Station, San Diego
Mission Gorge Recreation Center
San Diego CA 92136–5294
Landholding Agency: Navy
Property Number: 77199830112
Status: Excess
Comment: 780 sq. ft., needs major repair, most recent use—utility plant, off-site use only

Bldg. 203
Naval Station, San Diego
Mission Gorge Recreation Center
San Diego CA 92136–5294
Landholding Agency: Navy
Property Number: 77199830113
Status: Excess
Comment: 360 sq. ft., needs major repair, most recent use—valve house, off-site use only

Bldg. 228
Naval Station
San Diego CA 92136–5294
Landholding Agency: Navy
Property Number: 77199830114
Status: Excess
Comment: 6142 sq. ft., needs major repairs, most recent use—workshop, off-site use only

Bldg. 286
Naval Station
San Diego CA 92136–5294
Landholding Agency: Navy
Property Number: 77199830115
Status: Excess
Comment: 23,760 sq. ft., needs major repairs, most recent use—shop, off-site use only

Bldg. 308
Naval Station
San Diego CA 92136–5294
Landholding Agency: Navy
Property Number: 77199830116
Status: Excess
Comment: 3,400 sq. ft., needs major repairs, most recent use—workshop, off-site use only

Bldg. 314
Naval Station
San Diego CA 92136–5294
Landholding Agency: Navy
Property Number: 77199830117
Status: Excess

Comment: 160 sq. ft., most recent use—water treatment facility, off-site use only
Bldg. 315
Naval Station
San Diego CA 92136–5294
Landholding Agency: Navy
Property Number: 77199830118
Status: Excess
Comment: 160 sq. ft., needs major repairs, most recent use—water treatment facility, off-site use only

Bldg. 335
Naval Station
San Diego CA 92136–5294
Landholding Agency: Navy
Property Number: 77199830119
Status: Excess
Comment: 14,000 sq. ft., needs major repairs, most recent use—workshop, off-site use only
Bldg. 398
Naval Station
San Diego CA 92136–5294
Landholding Agency: Navy
Property Number: 77199830120
Status: Excess
Comment: 1,530 sq. ft., needs major repairs, most recent use—admin., off-site use only
Bldg. 3201
Naval Station
San Diego CA 92136–5294
Landholding Agency: Navy
Property Number: 77199830121
Status: Excess
Comment: 1,750 sq. ft., needs major repairs, most recent use—workshop, off-site use only

Connecticut

Pier 7
Naval Undersea Warfare Center
New London Co: New London CT 06320–5594
Landholding Agency: Navy
Property Number: 77199710063
Status: Excess
Comment: 700′ long by 30′ wide, rectangular shaped reinforced concrete pier

Bldg. 84, Anx. of Gilmore Hall
Naval Submarine Base New London
Groton Co: New London CT 06349–
Landholding Agency: Navy
Property Number: 77199830009
Status: Excess
Comment: 5400 sq. ft., 2-story, presence of asbestos/lead paint, needs rehab, off-site use only

Bldg. 150, McNeil Hall
Naval Submarine Base New London
Groton Co: New London CT 06349–
Landholding Agency: Navy
Property Number: 77199830010
Status: Excess
Comment: 27,120 sq. ft., 4-story, presence of asbestos/lead paint, needs rehab, off-site use only
Bldg. 437, Fife Hall
Naval Submarine Base New London
Groton Co: New London CT 06349–
Landholding Agency: Navy
Property Number: 77199830011
Status: Excess
Comment: 51,790 sq. ft., 3-story, presence of asbestos/lead paint, needs rehab, off-site use only

Bldg. 295
Naval Submarine Base New London
Groton Co: New London CT 06349–
Landholding Agency: Navy
Property Number: 77199830012
Status: Excess
Comment: presence of asbestos/lead paint, needs rehab, off-site use only

Facility CH–901
Naval Submarine Base
Co: New London CT
Landholding Agency: Navy
Property Number: 77199830045
Status: Excess
Comment: 6161 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—community center, off-site use only

3 Bldgs
Naval Submarine Base
R121444, R121458, R121469
Ledyard Co: New London CT 06335–
Landholding Agency: Navy
Property Number: 77199910019
Status: Unutilized
Comment: various sq. ft., wood, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. S87, Radio Trans. Fac.
Lualualei, Naval Station,
Eastern Pacific
Wahiawa Co: Honolulu HI 96786–2050
Landholding Agency: Navy
Property Number: 77199240011
Status: Unutilized
Comment: 7566 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only

Bldg. 64, Radio Trans Facility
Naval Computer &
Telecommunications Area
Wahiawa Co: Honolulu HI 96786–3050
Landholding Agency: Navy
Property Number: 77199310004
Status: Unutilized
Comment: 3612 sq. ft., 1 story, access restrictions, needs rehab, most recent use—storage, off-site use only

Bldg. 442, Naval Station
Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199630088
Status: Excess
Comment: 192 sq. ft., most recent use—storage, off-site use only

Bldg. S180
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640039
Status: Unutilized
Comment: 3412 sq. ft., 2-story, most recent use—bomb shelter, off-site use only, relocation may not be feasible

Bldg. S181
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640040
Status: Unutilized
Comment: 4258 sq. ft., 1-story, most recent use—bomb shelter, off-site use only, relocation may not be feasible

Bldg. 219
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640041
Status: Unutilized
Comment: 620 sq. ft., most recent use—damage control, off-site use only, relocation may not be feasible

Bldg. 220
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640042
Status: Unutilized
Comment: 620 sq. ft., most recent use—damage control, off-site use only, relocation may not be feasible

Bldg. 222
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640043
Status: Unutilized
Comment: 620 sq. ft., most recent use—damage control, off-site use only, relocation may not be feasible

Bldg. 160
Naval Station, Pearl Harbor
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640002
Status: Excess
Comment: 6070 sq. ft., needs rehab, presence of lead paint, most recent use—storage/office, off-site use only

Maine

Bldg. 22
Naval Air Station
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199840008
Status: Excess
Comment: 2687 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 36
Naval Air Station
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199840009
Status: Excess
Comment: 8840 sq. ft., most recent use—storage, off-site use only

Bldg. 38
Naval Air Station
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199840010
Status: Excess
Comment: 19,612 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—office, off-site use only

Maine

Bldg. 234
Naval Air Station
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199840011
Status: Excess
Comment: 768 sq. ft., presence of asbestos/lead paint, most recent use—generator bldg., off-site use only

Maryland

Cheltenham Naval Comm. Dtchmt.
9190 Commo Rd., AKA 7700 Redman Rd.
Clinton Co: Prince Georges MD 20397–5520
Landholding Agency: GSA
Property Number: 77199330010
Status: Excess

Comment: 32 bldgs., various sq. ft., most recent use—admin/comm, & 39 family housing units on 230.35 acres, presence of lead paint/asbestos, 20.09 acres leased to County w/improvements
GSA Number: 4–N–MD–544A

Minnesota

GAP Filler Radar Site
St. Paul Co: Rice MN 55101–
Landholding Agency: GSA
Property Number: 54199910009
Status: Excess
Comment: 1266 sq. ft., concrete block, presence of asbestos/lead paint, most recent use—storage, zoning requirements
GSA Number: 1–GR(1)–MN–475

New Hampshire

Bldg. 246
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199820028
Status: Unutilized
Comment: metal frame structure, off-site use only
Bldg. 335
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199820029
Status: Unutilized
Comment: 1000 sq. ft., brick, off-site use only
Bldg. 128
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199830015
Status: Excess
Comment: 10,900 sq. ft., needs rehab, presence of asbestos, most recent use—storage, off-site use only
Bldg. 185
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199830016
Status: Excess
Comment: 2310 sq. ft., needs rehab, presence of asbestos, most recent use—office, off-site use only
Bldg. 314
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199830017
Status: Excess
Comment: cement block bldg., needs rehab, presence of asbestos, most recent use—storage, off-site use only
Bldg. 336
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199830018
Status: Excess
Comment: metal bldg w/cement block foundation, off-site use only

New York

101 Housing Units
Mitchel Complex
82B Mitchel Avenue
East Meadow Co: Nassau NY 11554–
Landholding Agency: Navy
Property Number: 77199810093
Status: Unutilized
Comment: 422 sq. ft., frame, 2-story, presence of asbestos/lead paint, most recent use—residential, off-site use only
36 Garages
Mitchel Complex
82B Mitchel Avenue
East Meadow Co: Nassau NY 11554–
Landholding Agency: Navy
Property Number: 77199810094
Status: Unutilized
Comment: 350 sq. ft., masonary, most recent use—garage, off-site use only
Naval Reserve Center
201 Third Avenue
Frankfort NY 13340–1419
Landholding Agency: Navy
Property Number: 7719980017
Status: Unutilized
Comment: 10,000 sq. ft., most recent use—training facility

Pennsylvania

Bldg. 76
Naval Inventory Control
Point
Philadelphia Co; Philadelphia PA 19111–5098
Landholding Agency: Navy
Property Number: 77199730075
Status: Excess
Comment: 3475 sq. ft., cinder block/metal, most recent use—child care, needs repair, off-site use only
Bldg. 44
Philadelphia Naval Shipyard
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 7719980093
Status: Excess
Comment: 2154 sq. ft., needs repair, presence of asbestos, most recent use—medical clinic, off-site use only
Bldg. 48
Philadelphia Naval Shipyard
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 77199830094
Status: Excess
Comment: 2737 sq. ft., needs repair, presence of asbestos, most recent use—admin., off-site use only
Bldg. 49
Philadelphia Naval Shipyard
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 77199830095
Status: Excess
Comment: 3263 sq. ft., needs repair, presence of asbestos, most recent use—admin., off-site use only
Bldg. 64
Philadelphia Naval Shipyard
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 77199830096
Status: Excess
Comment: 3157 sq. ft., needs major repairs, presence of asbestos, most recent use—office, off-site use only
Bldg. 65 U/V
Philadelphia Naval Shipyard
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 77199830097
Status: Excess
Comment: 4829 sq. ft., needs repair, presence of asbestos, most recent use—quarters, off-site use only
Bldg. 133
Philadelphia Naval Shipyard
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 77199830098
Status: Excess
Comment: 27,600 sq. ft., needs repair, presence of asbestos, most recent use—admin., offsite use only
Bldg. 337
Philadelphia Naval Shipyard
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 77199830099
Status: Excess
Comment: 1025 sq. ft., needs major repairs, presence of asbestos, most recent use—garage, offsite use only
Bldg. 418
Philadelphia Naval Shipyard
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 77199830100
Status: Excess
Comment: 2578 sq. ft., needs repair, presence of asbestos, most recent use—quarters, offsite use only
Bldg. 570
Philadelphia Naval Shipyard
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 77199830101
Status: Unutilized
Comment: 9123 sq. ft., needs repair, presence of asbestos, most recent use—tool room, offsite use only
Bldg. 605
Philadelphia Naval Shipyard
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 77199830102
Status: Excess
Comment: 1118 sq. ft., needs repair, presence of asbestos, most recent use—garage offsite use only

Rhode Island

Bldg. 69
Naval Education and Training
Center
Newport Co: Newport RI 02841–
Landholding Agency: Navy
Property Number: 77199810052
Status: Unutilized
Comment: 600 sq. ft., concrete, presence of asbestos, most recent use—storage, off-site use only
Bldg. A33
Naval Hospital Gate 5
Newport RI 02841–
Landholding Agency: Navy
Property Number: 77199810083
Status: Underutilized
Comment: 1512 sq. ft., detached 5 stall garage, needs repair, presence of asbestos, off-site use only
Facility T
Naval Education and Training
Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 77199810175
Status: Unutilized

Comment: 1610 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—office, off-site use only
Facility U
Naval Education and Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 77199810176
Status: Unutilized
Comment: 1593 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—maint. shop, off-site use only
Facility V
Naval Education & Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 77199810177
Status: Unutilized
Comment: 1593 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—maint. shop, off-site use only
Facility W
Naval Education & Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 77199810178
Status: Unutilized
Comment: 1593 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—training/office, off-site use only
Facility X
Naval Education & Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 77199810179
Status: Unutilized
Comment: 1593 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—office, off-site use only
Facility Y
Naval Education & Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 77199810180
Status: Unutilized
Comment: 1593 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—admin., off-site use only
Facility 322
Naval Education & Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 77199810181
Status: Unutilized
Comment: 800 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—maint. shop, off-site use only
Facility 323
Naval Education & Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 77199810182
Status: Unutilized
Comment: 800 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—maint. shop, off-site use only
Facility 324
Naval Education & Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 77199810183
Status: Unutilized
Comment: 800 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—maint shop, off-site use only
Facility 325
Naval Education & Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 77199810184
Status: Unutilized
Comment: 800 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—storage, off-site use only
Facility 326
Naval Education & Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 77199810185
Status: Unutilized
Comment: 800 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—storage, off-site use only
Facility 327
Naval Education & Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 77199810186
Status: Unutilized
Comment: 800 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—maint. shop, off-site use only
Bldg. 342
Coddington Point
Naval Education & Training Center
Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 77199810259
Status: Unutilized
Comment: 646 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only
Bldg. 340
Coddington Point
Naval Education & Training Center
Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 77199810260
Status: Unutilized
Comment: 96 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—heating plant bldg., off-site use only
Bldg. 697
Coddington Cove
Naval Education & Training Center
Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 77199810262
Status: Unutilized
Comment: 960 sq. ft., presence of asbestos/lead paint, most recent use—self help shop, off-site use only
Bldg. 696
Coddington Cove
Naval Education & Training Center
Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 77199810263
Status: Unutilized
Comment: 960 sq. ft., presence of asbestos/lead paint, most recent use—elec/comm maint. shop, off-site use only
Bldg. 35
Coddington Cove
Naval Education & Training Center
Newport RI 02841—1711
Landholding Agency: Navy
Property Number: 77199810264
Status: Unutilized
Comment: 2880 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—auto storage, off-site use only
Bldg. 70
Naval Station, Newport
Middletown Co: Newport RI 02842–
Landholding Agency: Navy
Property Number: 77199840018
Status: Unutilized
Comment: 1900 sq ft., most recent use—storage, off-site use only
Bldg. 111
Naval Station, Newport
Middletown Co: Newport RI 02842–
Landholding Agency: Navy
Property Number 771998840019
Status: Unutilized
Comment: 560 sq. ft., most recent use—storage, off-site use only
Facility 700
Naval Station
Newport RI 02841—
Landholding Agency: Navy
Property Number: 77199840029
Unutilized
Comment: 6230 sq. ft., recent use—wastewater treatment plant, off-site use only
Facility 994
Naval Station
Newport RI 02841–
Landholding Agency: Navy
Property Number: 77199840030
Status: Unutilized
Comment: 960 sq. ft., most recent use—storage, off-site use only
Facility 449
Naval Station
Newport RI 02841–
Landholding Agency: Navy
Property Number: 77199840031
Status: Unutilized
Comment: 140 sq. ft., most recent use—chlorination shed, off-site use only
Facility 1324
Naval Station
Newport RI 02841–
Landholding Agency: Navy
Property Number: 77199840032
Status: Unutilized
Comment: 107 sq. ft., most recent use—lift station controls shed, off-site use only

Washington

149 Duplexes
Navy Transient Family Accom.
Eastpark
90 Magnuson Way
Bremerton WA 98310–
Location: Structures 002–148, 150, 152–153, 157
Landholding Agency: Navy
Property Number: 77199820118
Status: Excess
Comment: 1286 sq. ft./1580 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—housing, off-site use only

9 Fourplexes
Navy Transient Family Accom.
Eastpark
90 Magnuson Way
Bremerton WA 98310–
Location: Structures 151, 155–156, 158–163
Landholding Agency: Navy
Property Number: 77199820119
Status: Excess
Comment: 3082 sq. ft./3192 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—housing, off-site use only
2 Sixplexes
Navy Transient Family Accom.
Eastpark
90 Magnuson Way
Bremerton WA 98310–
Location: Structures 154, 189
Landholding Agency: Navy
Property Number: 77199820120
Status: Excess
Comment: 4618 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—housing, off-site use only
1 Single Unit
Navy Transient Family Accom.
Eastpark
90 Magnuson Way
Bremerton WA 98310–
Location: Structure 149
Landholding Agency: Navy
Property Number: 77199820121
Status: Excess
Comment: 790 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—housing, off-site use only
Storage Building
Navy Transient Family Accom.
Eastpark
90 Magnuson Way
Bremerton WA 98310–
Landholding Agency: Navy
Property Number: 77199820122
Status: Excess
Comment: 2160 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—housing, off-site use only
Admin. Building, Structure 001
Navy Transient Family Accom.
Eastpark
90 Magnuson Way
Bremerton WA 98310–
Landholding Agency: Navy
Property Number: 77199820123
Status: Excess
Comment: 9550 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—housing, off-site use only
Bldg. 376, Naval Air Station
Topsham Annex
Topsham Co: Sagadahoc ME
Landholding Agency: Navy
Property Number: 77199320011
Status: Unutilized
Comment: 4530 sq. ft., 2-story, most recent use—quarters, needs rehab
Bldg. 383
Topsham Annex, Naval Air
Station
Bruswick ME 04011–
Landholding Agency: Navy
Property Number: 77199720025
Status: Unutilized
Comment: 4431 Sq. ft., 1-story
Bldg. 382
Topsham Annex, Naval Air
Station
Brunswick ME 04011–
Landholding Agency: Navy
Property Number: 77199720026
Status: Unutilized
Comment: 14855 sq. ft., 1-story, subject to contamination
Bldg. 381
Topsham Annex, Naval Air
Station
Brunswick ME 04011–
Landholding Agency: Navy
Property Number: 77199720027
Status: Unutilized
Comment: 14057 sq. ft., 1-story

Ohio

Naval & Marine Corps Res. Cntr
315 East LaClede Avenue
Youngstown OH
Landholding Agency: Navy
Property Number: 77199320012
Status: Unutilized
Comment: 3067 sq. ft. 2-story, possible asbestos.

Puerto Rico

Bldgs. 501 & 502
U.S. Naval Radio Transmitter
Facility
State Road No. 2
Juana Diaz PR 00795–
Landholding Agency: Navy
Property Number: 77199530007
Status: Underutilized
Comment: Reinforced concrete structures, limited access, needs rehab, most recent use—transmitter and power house

Virginia

Naval Medical Clinic
6500 Hampton Blvd.
Norfolk Co: Norfolk VA 23508–
Landholding Agency: Navy
Property Number: 77199010109
Status: Unutilized
Comment: 3665 sq ft., 1-story, possible asbestos, most recent use—laundry.

Land (by State)

Florida

13.358 acres
Naval Air Station
Hwy 98 & Perimeter Drive
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199820141
Status: Unutilized
Comment: paved, abandoned runway, reroute security fencing

Virginia

Naval Base
Norfolk Co: Norfolk VA 23508–
Location: Northeast corner of base, near Willoughby housing area.
Landholding Agency: Navy
Property Number: 77199010156
Status: Unutilized
Comment: 60 acres; most recent use—sandpit; secured area with alternate access.
Land—CD area
Naval Base Norfolk
Norfolk VA 23511–2797
Landholding Agency: Navy
Property Number: 77199830022
Status: Unutilized
Comment: 2 acres, open space

New Hampshire

Naval & Marine Corp. Rsv. Ctr.
199 North Main St.
Manchester NH 03102–
Landholding Agency: Navy
Property Number: 77199530005
Status: Excess
Comment: 3 bldgs. on 2.53 acres of land, limited utilities, limited use prior to environmental cleanup

Puerto Rico

Bldg. 561
Former Ramey AFB
Aguadilla PR 00604–
Landholding Agency: Navy
Property Number: 77199630001
Status: Unutilized
Comment: 102666 sq. ft. bldg. on 5.006 acres, most recent use—manufacturing, office and freight distribution center, presence of asbestos

Land (by State)

Illinois

Libertyville Training Site
Libertyville Co: Lake IL 60048–
Landholding Agency: Navy
Property Number: 77199010073
Status: Unutilized
Comment: 114 acres; possible radiation hazard; existing FAA use license.

California

Bldg. 366
Naval Air Weapons Station,
China Lake
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199520026
Status: Unutilized
Reason: Secured Area
Bldgs. 27, 30, 33, 36
Naval Command, Control &
Ocean Surv. Center
San Diego CA
Landholding Agency: Navy
Property Number: 77199740045
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material Secured Area
Bldg. 89, Naval Station
San Diego CA 92136–
Landholding Agency: Navy
Property Number: 77199810001
Status: Excess
Reason: unsound
Bldg. 164
Naval Station
San Diego CA 92136–
Landholding Agency: Navy
Property Number: 77199810046
Status: Excess
Reason: Extensive deterioration
Bldg. 439
Naval Station
San Diego CA 92136–
Landholding Agency: Navy
Property Number: 77199810048
Status: Excess
Reason: Extensive deterioration
Bldg. 173
Naval Station
San Diego CA 92136–
Landholding Agency: Navy

Property Number: 77199810050
Status: Excess
Reason: Extensive deterioration
Bldg. 547
Naval Station, San Diego
San Diego, CA 92136–
Landholding Agency: Navy
Property Number: 77199810172
Status: Excess
Reason: Extensive deterioration
Bldgs. 3300–3309
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820064
Status: Excess
Reason: Extensive deterioration
Bldgs. 3310–3319
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820065
Status: Excess
Reason: Extensive deterioration
Bldgs. 3320–3329
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820066
Status: Unutilized
Reason: Extensive deterioration
Bldgs. 3330–3339
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820067
Status: Excess
Reason: Extensive deterioration
Bldgs. 3340–3349
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820068
Status: Excess
Reason: Extensive deterioration
Bldgs. 3350–3359
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820069
Status: Excess
Reason: Extensive deterioration
Bldgs. 3360–3369
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820070
Status: Excess
Reason: Extensive deterioration
Bldgs. 3370–3379
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820071
Status: Excess
Reason: Extensive deterioration
Bldgs. 3380–3389
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820072
Status: Excess
Reason: Extensive deterioration
Bldgs. 3390–3399
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820073
Status: Excess
Reason: Extensive deterioration
Bldgs. 3400–3409
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820074
Status: Excess
Reason: Extensive deterioration
Bldgs. 3410–3419
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820075
Status: Excess
Reason: Extensive deterioration
Bldgs. 3420–3429
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820076
Status: Excess
Reason: Extensive deterioration
Bldgs. 3420–3439
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820077
Status: Excess
Reason: Extensive deterioration
Bldgs. 3440–3449
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820078
Status: Excess
Reason: Extensive deterioration
Bldgs. 3450–3459
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820079
Status: Excess
Reason: Extensive deterioration
Bldgs. 3460–3469
Capehart Housing
China Lake Naval Weapon Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820080
Status: Excess
Reason: Extensive deterioration
Bldgs. 3470–3479
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820081
Status: Excess
Reason: Extensive deterioration
Bldgs. 3480–3489
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820082
Status: Excess
Reason: Extensive deterioration
Bldgs. 3490–3499
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820083
Status: Excess
Reason: Extensive deterioration
Bldgs. 3500–3509
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820084
Status: Excess
Reason: Extensive deterioration
Bldgs. 3510–3519
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820085
Status: Excess
Reason: Extensive deterioration
Bldgs. 3520–3529
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820086
Status: Excess
Reason: Extensive deterioration
Bldgs. 3530–3539
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820087
Status: Excess
Reason: Extensive deterioration
Bldgs. 3540–3549
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820088
Status: Excess
Reason: Extensive deterioration
Bldgs. 3550–3559
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820089
Status: Excess
Reason: Extensive deterioration
Bldgs. 3560–3569
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820090
Status: Excess
Reason: Extensive deterioration
Bldgs. 3570–3579

Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820091
Status: Excess
Reason: Extensive deterioration
Bldgs. 3580–3589
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820092
Status: Excess
Reason: Extensive deterioration
Bldgs. 3590–3599
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820093
Status: Excess
Reason: Extensive deterioration
Bldgs. 3600–3609
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820094
Status: Excess
Reason: Extensive deterioration
Bldgs. 3610–3619
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820095
Status: Excess
Reason: Extensive deterioration
Bldgs. 3620–3629
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820096
Status: Excess
Reason: Extensive deterioration
Bldgs. 3630–3639
Capehart Housing
China Lake Naval Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 77199820097
Status: Excess
Reason: Extensive deterioration
Bldg. 210
Naval Station, San Diego
San Diego CA 92136–
Landholding Agency: Navy
Property Number: 77199830001
Status: Excess
Reason: Extensive deterioration
Bldg. 444
Naval Station
San Diego CA 92136–5294
Landholding Agency: Navy
Property Number: 77199830122
Status: Excess
Reason: Extensive deterioration
Bldg. 209
Naval Station, San Diego
San Diego CA 92136–5065
Landholding Agency: Navy
Property Number: 77199840001
Status: Excess
Reason: Extensive deterioration

Colorado

Bldg. 727
Rocky Flats Environmental
Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910001
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 729
Rocky Flats Environmental
Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910002
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 779
Rocky Flats Environmental
Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910003
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 780
Rocky Flats Environmental
Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910004
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 780A
Rocky Flats Environmental
Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910005
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 780B
Rocky Flats Environmental
Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910006
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 782
Rocky Flats Environmental
Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910007
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 783
Rocky Flats Environmental
Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910008
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area
Bldg. 784 (A–D)
Rocky Flats Environmental
Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910009
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area
Bldg. 785
Rocky Flats Environmental
Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910010
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area
Bldg. 786
Rocky Flats Environmental
Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910011
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area
Bldg. 787 (A–D)
Rocky Flats Environmental
Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910012
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area
Bldg. 875
Rocky Flats Environmental
Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910013
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area
Bldg. 880
Rocky Flats Environmental
Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910014
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area
Bldg. 886
Rocky Flats Environmental
Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910015
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Connecticut

Naval Housing—7 Bldgs.
Naval Submarine Base
New London Co: Groton CT
Landholding Agency: Navy
Property Number: 77199510001
Status: Unutilized
Reasons: Secured Area
Bldgs. DG–8, DG–9
Naval Submarine Base New London
Groton Co: New London CT 06349–
Landholding Agency: Navy
Property Number: 77199720046
Status: Excess
Reason: Extensive deterioration
Dolphin Gardens, DG–8, DG–9

Naval Submarine Base
Groton CT 06349–
Landholding Agency: Navy
Property Number: 77199810084
Status: Underutilized
Reason: Extensive deterioration

Florida

East Martello Bunker #1
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77199010101
Status: Excess
Reason: Within airport runway clear zone
Bldg. 139
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199820098
Status: Unutilized
Reason: Secured Area
Bldg. 221
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199820099
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 226
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199820100
Status: Unutilized
Reason: Secured Area
Bldg. 654
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199820101
Status: Unutilized
Reason: Secured Area
Bldg. 701
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199820102
Status: Unutilized
Reason: Secured Area
Bldg. 1805
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199820103
Status: Unutilized
Reason: Secured Area
Bldg. 1806
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199820104
Status: Unutilized
Reason: Secured Area
Bldg. 1971
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199820105
Status: Unutilized
Reason: Secured Area
Bldg. 1994
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199820106
Status: Unutilized
Reason: Secured Area
Bldg. 2657
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199820107
Status: Unutilized
Reason: Secured Area
Bldg. 3213
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199820108
Status: Unutilized
Reason: Secured Area
Bldg. 3443
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199820109
Status: Unutilized
Reason: Secured Area
Quarters 9
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199820124
Status: Unutilized
Reason: Secured Area, Extensive deterioration
Quarters 10
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199820125
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Hawaii

Bldg. 126, Naval Magazine
Waikele Branch
Lualualei Co: Oahu HI 96792–
Landholding Agency: Navy
Property Number: 77199230012
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Extensive Deterioration, Secured Area
Bldg. Q75, Naval Magazine
Lualualei Branch
Lualualei Co: Oahu HI 96792–
Landholding Agency: Navy
Property Number: 77199230013
Status: Unutilized
Reasons: Extensive Deterioration, Secured Area
Bldg. 7, Naval Magazine
Lualualei Branch
Lualualei Co: Oahu HI 96792–
Landholding Agency: Navy
Property Number: 77199230014
Status: Unutilized
Reasons: Extensive Deterioration, Secured Area
Bldg. 6, Pearl Harbor
Richardson Recreational Area
Honolulu Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199410003
Status: Unutilized
Reason: Extensive Deterioration
Bldg. 10, Pearl Harbor
Richardson Recreational Area
Honolulu Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199410004
Status: Unutilized
Reason: Extensive Deterioration
Bldg. 9
Navy Public Works Center
Kolekole Road
Lualualei Co: Honolulu HI 96782–
Landholding Agency: Navy
Property Number: 77199530009
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. X5
Nanumea Road
Pearl Harbor Co: Honolulu HI 96782–
Landholding Agency: Navy
Property Number: 77199530010
Status: Excess
Reason: Secured Area
Bldg. SX30
Nanumea Road
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199530011
Status: Excess
Reason: Secured Area
Bldg. 98
Pearl Harbor Naval Shipyard
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199620032
Status: Excess
Reason: Extensive deterioration
Bldg. Q13
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640035
Status: Unutilized
Reason: Extensive deterioration
Bldg. Q14
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640036
Status: Unutilized
Reason: Extensive deterioration
Bldg. 40
Naval Magazine
Lualualei Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830028
Status: Unutilized
Reason: Extensive deterioration
Bldg. 50
Naval Magazine
Lualualei Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830029
Status: Unutilized
Reason: Extensive deterioration
Bldg. Q76
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830030
Status: Unutilized
Reason: Extensive deterioration
Bldg. Q334
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830031
Status: Unutilized
Reason: Extensive deterioration
Bldg. S380

Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830032
Status: Unutilized
Reason: Extensive deterioration
Bldg. S381
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830033
Status: Unutilized
Reason: Extensive deterioration
Bldg. Q410
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830034
Status: Unutilized
Reason: Extensive deterioration
Bldg. Q422
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830035
Status: Unutilized
Reason: Extensive deterioration
Bldg. 429
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830036
Status: Unutilized
Reason: Extensive deterioration
Bldg. 431
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830037
Status: Unutilized
Reason: Extensive deterioration
Bldg. 447
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830038
Status: Unutilized
Reason: Extensive deterioration
Facility S–721
Naval Station
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199840042
Status: Excess
Reason: Secured Area
Facility S–897
Naval Station
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199840043
Status: Excess
Reason: Secured Area
Facility S–937
Naval Station
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199840044
Status: Excess
Reason: Secured Area
Facility S–19
Naval Station
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199840045
Status: Excess
Reason: Secured Area
Facility S–173
Naval Station
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199840046
Status: Excess
Reason: Secured Area
Bldg. 665
Naval Station
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199910020
Status: Excess
Reason: Extensive deterioration
Bldg. 693
Naval Station
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199910021
Status: Excess
Reason: Extensive deterioration
Bldg. S–196
Naval Station
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199910022
Status: Excess
Reason: Extensive deterioration
Facility Bldg. 225
Naval Station
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199910023
Status: Excess
Reason: Extensive deterioration
Bldg. 640
Naval Station
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199910024
Status: Excess
Reason: Extensive deterioration

Illinois

Bldg. 415
Naval Training Center
201 N. Decatur Ave.
Great Lakes IL
Landholding Agency: Navy
Property Number: 77199840023
Status: Unutilized
Reason: Secured Area
Bldg. 1015
Naval Training Center
201 N. Decatur Ave.
Great Lakes IL
Landholding Agency: Navy
Property Number: 77199840024
Status: Unutilized
Reason: Secured Area
Bldg. 1016
Naval Training Center
201 Decater Ave.
Great Lakes IL
Landholding Agency: Navy
Property Number: 77199840025
Status: Unutilized
Reason: Secured Area

Indiana

5 Bldgs.
Naval Surface Warfare
Center, Crane Div.
#54, 2530, 2812, 2929, 3031
Crane Co: Martin IN 41522–
Landholding Agency: Navy
Property Number: 77199830046
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Maine

Bldg. 293, Naval Air Station
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199240015
Status: Excess
Reason: Secured area
Bldg. 384
Naval Air Station Topsham
Brunswick Co: Sagadahoc ME
Landholding Agency: Navy
Property Number: 77199340001
Status: Unutilized
Reason: Extensive deterioration
Aircraft Hangar #2
Naval Air Station
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199810015
Status: Excess
Reason: Extensive deterioration
Bldg. 13
Naval Air Station
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199840005
Status: Excess
Reason: Extensive deterioration
Bldg. 15
Naval Air Station
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199840006
Status: Excess
Reason: Extensive deterioration
Bldg. 16
Naval Air Station
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199840007
Status: Excess
Reason: Extensive deterioration

Maryland

15 Bldgs.
Naval Air Warfare Center
Patuxent River Co: St. Mary's MD 20670–5304
Landholding Agency: Navy
Property Number: 77199730062
Status: Unutilized
Reason: Extensive deterioration
Bldg. 510, Indian Head Div.
Naval Surface Warfare Center
Indian Head Co: Charles MD 20640–
Landholding Agency: Navy
Property Number: 77199740083
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material

Mississippi

Bldg. 170
Naval Construction Battalion Center
Gulfport Co: Harrison MS 39501–
Landholding Agency: Navy
Property Number: 77199820110
Status: Unutilized
Reason: Secured area, Extensive deterioration
Bldg. 78
Naval Construction Battalion Center
Gulfport Co: Harrison MS 39501–5001
Landholding Agency: Navy

Property Number: 7719983004
Status: Unutilized
Reasons: Secured area, Extensive deterioration
Bldg. 113
Naval Construction Battalion Center
Gulfport Co: Harrison MS 39501–5001
Landholding Agency: Navy
Property Number: 77199830048
Status: Unutilized
Reasons: Secured area, Extensive deterioration
Bldg. 147
Naval Construction Battalion Center
Gulfport Co: Harrison MS 39501–5001
Landholding Agency: Navy
Property Number: 77199830049
Status: Unutilized
Reasons: Secured area, Extensive deterioration
Bldg. 187
Naval Construction Battalion Center
Gulfport Co: Harrison MS 39501–5001
Landholding Agency: Navy
Property Number: 77199830050
Status: Unutilized
Reasons: Secured area, Extensive deterioration

New Hampshire

Bldg. 89
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199830086
Status: Unutilized
Reason: Secured Area

Bldg. 93
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199830087
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 99
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199830088
Status: Unutilized
Reasons: Secured Area

Bldg. 115
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199830089
Status: Unutilized
Reasons: Secured Area

Bldg. 178
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199830090
Status: Unutilized
Reasons: Secured Area

Bldg. 298
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199830091
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. H–21
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199830092
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Dry Dock 1
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199840012
Status: Underutilized
Reasons: Secured Area

Dry Dock 3
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 771998040013
Status: Underutilized
Reasons: Secured Area

Berth 2
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199840014
Status: Underutilized
Reason: Secured Area

Berth 11
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199840015
Status: Underutilized
Reason: Secured Area

New Jersey

Bldg. 329
Naval Air Engineering Station
Lakehurst Co: Ocean NJ 08733–5000
Landholding Agency: Navy
Property Number: 77199740008
Status: Unutilized
Reason: Extensive deterioration

Bldg. 116
Naval Air Engineering Station
Lakehurst Co: Ocean NJ 08733–5000
Landholding Agency: Navy
Property Number: 77199740009
Status: Unutilized
Reason: Extensive deterioration

Bldg. 188
Naval Air Engineering Station
Lakehurst Co: Ocean NJ 08733–5000
Landholding Agency: Navy
Property Number: 77199830065
Status: Unutilized
Reason: Extensive deterioration

North Carolina

Bldg. M509
Camp Lejeune
Camp Lejeune Co: Onslow NC 28542–0004
Landholding Agency: Navy
Property Number: 77199810223
Status: Unutilized
Reason: Secured Area

Bldg. 96
Marine Corps Air Station
Cherry Point
Havelock Co: Craven NC 28533–
Landholding Agency: Navy
Property Number: 77199820111
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 97
Marine Corps Air Station
Cherry Point
Havelock Co: Craven NC 28533–
Landholding Agency: Navy
Property Number: 77199820112
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 169
Marine Corps Air Station
Cherry Point
Havelock Co: Craven NC 28533–
Landholding Agency: Navy
Property Number: 77199820113
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 196
Marine Corps Air Station,
Cherry Point
Havelock Co: Craven NC 28533–
Landholding Agency: Navy
Property Number: 77199820114
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 477
Marine Corps Air Station,
Cherry Point
Havelock Co: Craven NC 28533–
Landholding Agency: Navy
Property Number: 77199820115
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 3422
Marine Corps Air Station,
Cherry Point
Havelock Co: Craven NC 28533–
Landholding Agency: Navy
Property Number: 77199820116
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 899
Marine Corps Base
Camp Lejeune Co: Onslow NC 28542–0004
Landholding Agency: Navy
Property Number: 77199830039
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 900
Marine Corps Base
Camp Lejeune Co: Onslow NC 28542–0004
Landholding Agency: Navy
Property Number: 77199830040
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 1300
Marine Corps Base
Camp Lejeune Co: Onslow NC 28542–0004
Landholding Agency: Navy
Property Number: 77199830041
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 1607
Marine Corps Base
Camp Lejeune Co: Onslow NC 28542–0004
Landholding Agency: Navy
Property Number: 77199830042
Status: Unutilized

Reasons: Secured Area, Extensive deterioration
Bldg. AS–822
Marine Corps Base
Camp Lejeune Co: Onslow NC 28542–0004
Landholding Agency: Navy
Property Number: 77199830043
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. BA115
Marine Corps Base
Camp Lejeune Co: Onslow NC 28542–0004
Landholding Agency: Navy
Property Number: 77199830044
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 908
Marine Corps Base
Camp Lejeune Co: Onslow NC 28542–0004
Landholding Agency: Navy
Property Number: 77199840021
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Pennsylvania

Bldg. 22
Willow Grove Naval Air Station
Willow Grove Co: Montgomery PA 19090–
Landholding Agency: Navy
Property Number: 77199720028
Status: Excess
Reason: Extensive deterioration
Bldg. 11
Naval Inventory Control Point
Philadelphia Co: Philadelphia PA 19111–5098
Landholding Agency: Navy
Property Number: 77199730071
Status: Excess
Reason: Extensive deterioration
Bldg. 30
Naval Inventory Control Point
Philadelphia Co: Philadelphia PA 19111–5098
Landholding Agency: Navy
Property Number: 77199730072
Status: Excess
Reason: Extensive deterioration
Bldg. 31
Naval Inventory Control Point
Philadelphia Co: Philadelphia PA 19111–5098
Landholding Agency: Navy
Property Number: 77199730073
Status: Excess
Reason: Extensive deterioration
Bldg. 39
Naval Inventory Control Point
Philadelphia Co: Philadelphia PA 19111–5098
Landholding Agency: Navy
Property Number: 77199730074
Status: Excess
Reason: Extensive deterioration
Bldg. 022
Naval Inventory Control Point
Mechanicsburg PA 17055–0788
Landholding Agency: Navy
Property Number: 77199740062
Status: Unutilized
Reason: Extensive deterioration
Bldg. 913
Naval Inventory Control Point
Mechanicsburg PA 17055–0788
Landholding Agency: Navy
Property Number: 77199740063
Status: Unutilized
Reason: Extensive deterioration
Bldg. 610
Naval Inventory Control Point
Mechanicsburg PA 17055–0788
Landholding Agency: Navy
Property Number: 77199820140
Status: Unutilized
Reason: Extensive deterioration
Bldg. 524
Naval Systems Engineering Station
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 77199830023
Status: Unutilized
Reason: Extensive deterioration
Bldg. 616
Naval Systems Engineering Station
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 77199830024
Status: Unutilized
Reason: Extensive deterioration
Bldg. 707
Naval Systems Engineering Station
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 77199830025
Status: Unutilized
Reason: Extensive deterioration
Bldg. 790
Naval Systems Engineering Station
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 77199830026
Status: Unutilized
Reason: Extensive deterioration
Bldg. 879
Naval Systems Engineering Station
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 77199830027
Status: Unutilized
Reason: Extensive deterioration
Bldg. 434
Philadelphia Naval Shipyard
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 77199830103
Status: Excess
Reason: Extensive deterioration
Bldg. 528
Philadelphia Naval Shipyard
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 77199830104
Status: Excess
Reason: Extensive deterioration
Bldg. 534
Philadelphia Naval Shipyard
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 77199830105
Status: Excess
Reason: Extensive deterioration
Bldg. 637
Philadelphia Naval Shipyard
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 77199830106
Status: Excess
Reason: Extensive deterioration
Bldg. 662
Philadelphia Naval Shipyard
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 77199830107
Status: Excess
Reason: Extensive deterioration
Bldg. 672
Philadelphia Naval Shipyard
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 77199830108
Status: Excess
Reason: Extensive deterioration

Puerto Rico

Bldg. 433
Naval Station Roosevelt Roads
Ceiba PR 00735–
Landholding Agency: Navy
Property Number: 77199830066
Status: Unutilized
Reason: Extensive deterioration
Bldg. 434
Naval Station Roosevelt Roads
Ceiba PR 00735–
Landholding Agency: Navy
Property Number: 77199830067
Status: Unutilized
Reason: Extensive deterioration
Bldg. 464
Naval Station Roosevelt Roads
Ceiba PR 00735–
Landholding Agency: Navy
Property Number: 77199830068
Status: Unutilized
Reason: Extensive deterioration
Bldg. 762
Naval Station Roosevelt Roads
Ceiba PR 00735–
Landholding Agency: Navy
Property Number: 77199830069
Status: Unutilized
Reason: Extensive deterioration
Bldg. 763
Naval Station Roosevelt Roads
Ceiba PR 00735–
Landholding Agency: Navy
Property Number: 77199830070
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1927
Naval Station Roosevelt Roads
Ceiba PR 00735–
Landholding Agency: Navy
Property Number: 77199830071
Status: Unutilized
Reason: Extensive deterioration
Bldg. 175
Naval Station Roosevelt Roads
Ceiba PR 00735–
Landholding Agency: Navy
Property Number: 77199830072
Status: Unutilized
Reason: Extensive deterioration
Former No. 2091
Naval Station Roosevelt Roads
Ceiba PR 00735–
Landholding Agency: Navy
Property Number: 77199830073
Status: Unutilized
Reason: Extensive deterioration
Bldg. 261/1692
Naval Station Roosevelt Roads
Ceiba PR 00735–
Landholding Agency: Navy
Property Number: 77199830074
Status: Unutilized
Reason: Extensive deterioration

B–38
Naval Station Roosevelt Roads
Ceiba PR 00735–
Landholding Agency: Navy
Property Number: 77199830075
Status: Unutilized
Reason: Extensive deterioration

Rhode Island

Bldg. 32
Naval Underwater Systems Center
Gould Island Annex
Middletown Co: Newport RI 02840–
Landholding Agency: Navy
Property Number: 77199010273
Status: Excess
Reason: Secured Area
Bldg. W–31
Coddington Point
Naval Education & Training Center
Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 77199810261
Status: Unutilized
Reason: Extensive deterioration
Bldg. 121
Coasters Harbor Island
Naval Education & Training Center
Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 77199810265
Status: Unutilized
Reason: Extensive deterioration
Bldg. 33
Naval Station, Gould Island
Newport Co: RI 02842–
Landholding Agency: Navy
Property Number: 77199910025
Status: Unutilized
Reason: Inaccessible
Bldg. 53
Naval Station, Gould Island
Newport Co: RI 02842–
Landholding Agency: Navy
Property Number: 77199910026
Status: Unutilized
Reason: Inaccessible
Bldg. 54
Naval Station, Gould Island
Newport Co: RI 02842–
Landholding Agency: Navy
Property Number: 77199910027
Status: Unutilized
Reason: Inaccessible
Bldg. 56
Naval Station, Gould Island
Newport Co: RI 02842–
Landholding Agency: Navy
Property Number: 77199910028
Status: Unutilized
Reason: Inaccessible
Bldg. 58
Naval Station, Gould Island
Newport Co: RI 02842–
Landholding Agency: Navy
Property Number: 77199910029
Status: Unutilized
Reason: Inaccessible
Bldg. 59
Naval Station, Gould Island
Newport Co: RI 02842–
Landholding Agency: Navy
Property Number: 77199910030
Status: Unutilized
Reason: Inaccessible
Bldg. 60
Naval Station, Gould Island
Newport Co: RI 02842–
Landholding Agency: Navy
Property Number: 77199910031
Status: Unutilized
Reason: Inaccessible
Bldg. 70
Naval Station, Gould Island
Newport Co: RI 02842–
Landholding Agency: Navy
Property Number: 77199910032
Status: Unutilized
Reason: Inaccessible
Bldg. 91G
Naval Station, Gould Island
Newport Co: RI 02842–
Landholding Agency: Navy
Property Number: 77199910033
Status: Unutilized
Reason: Inaccessible

Tennessee

15 Bldgs.
Naval Support Activity,
Memphis
Millington Co: Shelby TN 38054–
Location: 329, 400–408, 1585, S–159, S–160, S–163, 1278
Landholding Agency: Navy
Property Number: 77199820126
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
18 Bldgs.
Naval Support Activity, Memphis
Millington Co: Shelby TN 38054–
Location: 2001–2002, 2048–2051, 2064–2070, 2107–2111
Landholding Agency: Navy
Property Number: 77199820127
Status: Unutilized
Reason: Secured Area
P–348 (Bldgs. 409–417)
Naval Support Activity, Memphis
Millington Co: Shelby TN 38054–
Landholding Agency: Navy
Property Number: 77199830109
Status: Excess
Reasons: Secured Area, Extensive deterioration
P–349 (12 Bldgs.)
Naval Support Activity Memphis
Millington Co: Shelby TN 38054–
Landholding Agency: Navy
Property Number: 77199830110
Status: Excess
Reasons: Secured Area Extensive deterioration
P–350 (16 Bldgs.)
Naval Support Activity Memphis
Millington Co: Shelby TN 38054–
Landholding Agency: Navy
Property Number: 77199830111
Status: Excess
Reasons: Secured Area Extensive deterioration
11 Bldgs.
Naval Surface Warfare Center
Carderock Division,
Detachment Memphis
Memphis Co: Shelby TN 38113–
Landholding Agency: Navy
Property Number: 7719984022
Status: Unutilized
Reason: Secured Area

Texas

Bldgs. 1561, 1562, 1563
Naval Air Station Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127–6200
Landholding Agency: Navy
Property Number: 77199820050
Status: Unutilized
Reasons: Secured Area Extensive deterioration
Bldg. 1190
Naval Air Station Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127–6200
Landholding Agency: Navy
Property Number: 77199820053
Status: Unutilized
Reason: Secured Area
Bldg. 1820
Naval Air Station Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127–6200
Landholding Agency: Navy
Property Number: 77199820054
Status: Unutilized
Reasons: Secured Area Extensive deterioration
Bldg. 700
Naval Air Station Kingsville
Kingsville Co: Klebert TX 78363–
Landholding Agency: Navy
Property Number: 77199830077
Status: Unutilized
Reason: Extensive deterioration
Bldg. 701
Navy Air Station Kingsville
Kingsville Co: Kleberg TX 78363–
Landholding Agency: Navy
Property Number: 77199830078
Status: Unutilized
Reason: Extensive deterioration
Bldg. 704
Navy Air Station Kingsville
Kingsville Co: Kleberg TX 78363–
Landholding Agency: Navy
Property Number: 77199830079
Status: Unutilized
Reason: Extensive deterioration

Virginia

Fleet Training Center
Fire Fighting Training
Facility
SDA–323, SDA–324, SDA–325, SDA–326
Norfolk VA 23511–
Landholding Agency: Navy
Property Number: 77199740010
Status: Unutilized
Reason: Extensive deterioration
Bldg. 02
Naval Weapons Station
Yorktown Co: York VA 23691–
Landholding Agency: Navy
Property Number: 77199810073
Status: Excess
Reason: Extensive deterioration
Bldg. 2208
Naval Medical Clinic
Quantico VA
Landholding Agency: Navy
Property Number: 77199820001
Status: Unutilized
Reason: Extensive deterioration
Bldgs. 358, 359
Cheatham Annex
Williamsburg VA 23185–
Landholding Agency: Navy
Property Number: 77199820023
Status: Excess
Reason: Extensive deterioration
Bldg. CAD–43

Cheatham Annex
Williamsburg VA 23185–
Landholding Agency: Navy
Property Number: 77199820024
Status: Excess
Reason: Extensive deterioration
Bldg. CAD–102
Cheatham Annex
Williamsburg VA 23185–
Landholding Agency: Navy
Property Number: 77199820025
Status: Excess
Reason: Extensive deterioration
Bldg. CAD–102A
Cheatham Annex
Williamsburg VA 23185–
Landholding Agency: Navy
Property Number: 77199820026
Status: Excess
Reason: Extensive deterioration
Bldg. CAD–127
Cheatham Annex
Williamsburg VA 23185–
Landholding Agency: Navy
Property Number: 77199820027
Status: Excess
Reason: Extensive deterioration
8 Bldgs.
Naval Base Norfolk
Norfolk VA
Location: #NH–A, NH–A1, NH–B, NH–C, NH–C1, NH–D, NH–D1 , NH–B1
Landholding Agency: Navy
Property Number: 77199830052
Status: Unutilized
Reason: Extensive deterioration
CAD–40
Cheatham Annex
Williamsburg VA 23185–
Landholding Agency: Navy
Property Number: 77199830084
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
13 Garages
Naval Base Norfolk Complex
Norfolk VA
Location: A–39A, F–32A, F–33E/W, G–31E, G–31W, G–45A, H–7A, SP–18A, SP–19A, SP–20A, SP–21A, SP–24A, SP–26A
Landholding Agency: Navy
Property Number: 77199840016
Status: Excess
Reason: Extensive deterioration

Washington

Bldg. 913
Naval Undersea Warfare Center
Keyport Co: Kitsap WA 98345–7610
Landholding Agency: Navy
Property Number: 77199720014
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration
Bldg. 6661
Naval Submarine Base, Bangor
Silverdale Co: Kitsap WA 98315–6499
Landholding Agency: Navy
Property Number: 77199730039
Status: Unutilized
Reason: Secured Area
Bldg. 1635
Naval Submarine Base, Bangor
Silverdale Co: Kitsap WA 98315–1199
Landholding Agency: Navy
Property Number: 77199730040
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 7457
Naval Submarine Base, Bangor
Silverdale Co: Kitsap WA 98315–1199
Landholding Agency: Navy
Property Number: 77199730041
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 4446
Naval Submarine Base, Bangor
Silverdale Co: Kitsap WA 98315–1199
Landholding Agency: Navy
Property Number: 77199740082
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 604, Pier 91
Naval Station Everett
Seattle Co: King WA
Landholding Agency: Navy
Property Number: 77199810011
Status: Excess
Reason: Extensive deterioration
Bldg. 1008
Naval Submarine Base, Bangor
Silverdale Co: Kitsap WA 98315–1199
Landholding Agency: Navy
Property Number: 77199810012
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1010
Naval Submarine Base, Bangor
Silverdale Co: Kitsap WA 98315–1199
Landholding Agency: Navy
Property Number: 77199810013
Status: Unutilized
Reason: Extensive deterioration
Bldg. 6460
Naval Submarine Base, Bangor
Silverdale Co: Kitsap WA 98315–1199
Landholding Agency: Navy
Property Number: 77199810014
Status: Unutilized
Reason: Extensive deterioration
Bldg. 604
Manchester Fuel Department
Port Orchard WA 98366–
Landholding Agency: Navy
Property Number: 77199810170
Status: Excess
Reasons: Within 2,000 ft. of flammable or explosive material, Secured Area
Bldg. 288
Fleet Industrial Supply Center
Bremerton WA 98314–5100
Landholding Agency: Navy
Property Number: 77199810171
Status: Excess
Reasons: Within 2,000 ft. of flammable or explosive material, Secured Area
Bldg. 332
NAS Whidbey Island
Whidbey Island WA
Landholding Agency: Navy
Property Number: 77199810217
Status: Excess
Reason: Secured Area
Bldg. 2512
NAS Whidbey Island
Whidbey Island WA
Landholding Agency: Navy
Property Number: 77199810218
Status: Excess
Reason: Secured Area
Bldg. 2536
NAS Whidbey Island
Whidbey Island WA
Landholding Agency: Navy
Property Number: 77199810219
Status: Excess
Reason: Secured Area
Bldg. 2591
NAS Whidbey Island
Whidbey Island WA
Landholding Agency: Navy
Property Number: 77199810220
Status: Excess
Reason: Secured Area
Bldg. 47
Naval Radio Station T Jim Creek
Arlington Co: Snohomish WA 98223–
Landholding Agency: Navy
Property Number: 77199820056
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 48
Naval Radio Station T Jim Creek
Arlington Co: Snohomish WA 98223–
Landholding Agency: Navy
Property Number: 77199820057
Status: Unutilized
Reasons: Secured Area Extensive deterioration
Coal Handling Facilities
Puget Sound Naval Shipyard
#908, 919, 926–929
Bremerton WA 98314–5000
Landholding Agency: Navy
Property Number: 77199820142
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
Bldg. 193
Puget Sound Naval Shipyard
Bremerton WA 98310–
Landholding Agency: Navy
Property Number: 77199820143
Status: Unutilized
Reason: Contamination
Bldg. 202
Naval Air Station Whidbey Island
Oak Harbor WA 98278–
Landholding Agency: Navy
Property Number: 77199830019
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
Bldg. 2649
Naval Air Station Whidbey Island
Oak Harbor WA 98278–
Landholding Agency: Navy
Property Number: 77199830020
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Extensive deterioration
Bldg 2669
Naval Air Station Whidbey Island
Oak Harbor WA 98278–
Landholding Agency: Navy
Property Number: 77199830021
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Extensive deterioration
Bldg. 2559
Naval Air Station, Whidbey Island
Oak Harbor WA 98278–

Landholding Agency: Navy
Property Number: 77199830063
Status: Excess
Reason: Extensive deterioration
Bldgs. 35, 36
Naval Radio Station T Jim Creek
Arlington Co: Snohomish WA 98223–
Landholding Agency: Navy
Property Number: 77199830076
Status: Unutilized
Reason: Extensive deterioration
Bldg. 21
Naval Undersea Warfare Center Div.
Keyport Co: Kitsap WA 98345–7610
Landholding Agency: Navy
Property Number: 77199830083
Status: Excess
Reasons: Secured Area Extensive deterioration
Bldg. 918
Puget Sound Naval Shipyard
Bremerton WA 98314–5000
Landholding Agency: Navy
Property Number: 77199840020
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive materials, Secured Area

Land (by State)

California

Space Surv. Field Station
Portion/Off Heritage Road
San Diego CA 90012–1408
Landholding Agency: Navy
Property Number: 77199820049
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Florida

Boca Chica Field
Naval Air Station
Key West Co: Monroe FL 23040–
Landholding Agency: Navy
Property Number: 77199010097
Status: Unutilized
Reason: Floodway

Maine

37 Acres, Topsham Annex
Naval Air Station
Brunswick ME 04011–
Landholding Agency: Navy
Property Number: 77199720001
Status: Unutilized
Reason: Secured Area
Land—Triangular Area
NAS Brunswick, Wildwood
Subd. Encroachment
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199820117
Status: Excess
Reason: Landlocked

Maryland

5,635 sq. ft. of Land
Solomon's Annex
Solomon's MD
Landholding Agency: Navy
Property Number: 77199230001
Status: Excess
Reason: Drainage Ditch
Govt. Railroad
Naval Surface Warfare Center
Indian Head Div.
Indian Head Co: Charles MD 20640–
Landholding Agency: Navy
Property Number: 77199740084
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Floodway

North Carolina

0.85 parcel of land
Marine Corps Air Station,
Cherry Point
Havelock Co: Craven NC 28533–
Landholding Agency: Navy
Property Number: 77199740074
Status: Unutilized
Reason: Secured Area

Washington

Land—Port Hadlock Detachment
Naval Ordnance Center
Pacific Division
Port Hadlock Co: Jefferson WA 98339–
Landholding Agency: Navy
Property Number: 77199640019
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

[FR Doc. 99–2499 Filed 2–4–99; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–00; N–61466 and N–63104]

Notice of Realty Action: Lease/Conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management, Interior.

ACTION: Recreation and public purpose lease/conveyance.

SUMMARY: The following described public land in Nye County, Nevada, near Pahrump, Nevada, has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended (43 U.S.C. 869 *et seq.*). The Town of Pahrump proposes to use the land for development of a community fairground and rodeo complex, recreational complex, visitor information center, and municipal golf course. Section 125 of Public Law 105–277, dated October 22, 1998, directs conveyance of the lands located south of the centerline of Highway 160 within T. 20 S., R.54 E., sections 32 and 33 to the Town of Pahrump immediately upon completion of the requirements of the Act. The rodeo and fairground complex, recreational complex and visitor information center have been proposed to be located on these lands. The lands within T. 20 S., R.54 E., section 19, will be leased with the option to patent and subject to the requirements of the R&PP Act. The municipal golf course is proposed for this site.

Mount Diablo Meridian, Nevada

T. 20 S., R.54 E.,
Section 32, portions of the NE¼ and the N½SE¼ south of the centerline of Highway 160
Section 33, portions of lots 5,6,9,11,14 and 16, NE¼SW¼, NW¼SW¼ south of the centerline of Highway 160
Section 19, NE¼, N½SE¼

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

3. All valid and existing rights.

4. Subject To: Those rights for highway purposes which have been granted to Nevada Department of Transportation, by right-of-way No. Nev–01849 pursuant to the Act of November 9, 1921 (42 Stat. 216).

5. Those rights for utility purposes (water pipeline) which have been granted to Central Nevada Utilities, by right-of-way No. N–46681 pursuant to the Act of October 21, 1976 (FLPMA) as follows:

6. Those rights for utility purposes (communications line) which have been granted to Nevada Bell, by right-of-way No. N–5689 pursuant to the Act of March 4, 1911 (36 Stat. 1253).

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4765 W. Vegas Drive, Las Vegas, Nevada, 89108.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposal under the mineral material disposal laws. For a period of 45 days from the date of publication of this

notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance for classification of the lands to the Field Manager, Las Vegas Field Office, 4765 Vegas Drive, Las Vegas, Nevada 89108.

Classification Comments: Interested parties may submit comments involving the suitability of the land for the proposed facilities. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for the proposed facilities.

Any adverse comments will be reviewed by the State Director.

In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: January 27, 1999.

Rex Wells,

Acting Field Manager, Las Vegas District.

[FR Doc. 99–2699 Filed 2–4–99; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Intent To Prepare an Environmental Impact Statement To Consider Policies, Guidance, and Processes To Minimize the Environmental Impacts of Mountaintop Mining and Valley Fills in the Appalachian Coalfields

AGENCY: U.S. Environmental Protection Agency (EPA), U.S. Army Corps of Engineers (Corps), Office of Surface Mining (OSM), and U.S. Fish and Wildlife Service (FWS).

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

PURPOSE: The EPA, Corps, OSM, and FWS, in accordance with Section 102(2)(c) of the National Environmental Policy Act (NEPA), with the State of West Virginia, will prepare an Environmental Impact Statement (EIS) on a proposal to consider developing agency policies, guidance, and coordinated agency decision-making processes to minimize, to the maximum extent practicable, the adverse environmental effects to waters of the United States and to fish and wildlife resources from mountaintop mining operations, and to environmental resources that could be affected by the size and location of fill material in valley fill sites.

DATES: The agencies invite comments and suggestions on the scope of the analysis, including the regulatory issues and significant environmental effects to be addressed in the EIS. Written comments from the public regarding the environmental and regulatory issues and alternatives to be addressed in the EIS should be received in writing by March 31, 1999. The agencies will hold public meetings on February 23, 1999, in Summersville, West Virginia; February 24, 1999, in Charleston, West Virginia; and February 25, 1999, in Logan, West Virginia, to receive public input, either verbal or written, on relevant environmental and regulatory issues that should be addressed in the EIS. The locations and starting times of the public meetings are as follows: In Summersville, the meeting will be held at the Nicholas County Veteran's Memorial Park beginning at 6:30 p.m.; in Charleston, the meeting will be held at the rotunda at Riggleman Hall, University of Charleston in the afternoon from 2–4 p.m. and in the evening beginning at 6:30 p.m.; and in Logan, the meeting will be held at the Chief Logan State Park beginning at 6:30 p.m. Other public meetings may also be held and will be announced at a later date.

ADDRESSES: Send written comments and suggestions concerning this proposal to William Hoffman, Environmental Protection Agency, 3ES30, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029; e-mail address, hoffman.william@epamail.epa.gov; telephone: 215–814–2995. Requests to be placed on the mailing list should also be sent to this address.

FOR FURTHER INFORMATION AND CONTACTS: Questions about the proposed action and EIS are to be directed to William Hoffman, Environmental Protection Agency, 215–814–2995. Coordinators for each of the federal and state agencies are as follows:

William Hoffman, U.S. Environmental Protection Agency, 215–814–2995

David G. Hartos, Office of Surface Mining, 412–937–2909

Andy Gallagher, WV Division of Environmental Protection, 304–759–0515

Michael D. Gheen, U.S. Army Corps of Engineers 304–529–5487

David Densmore, U.S. Fish and Wildlife Service, 814–234–4090

SUPPLEMENTARY INFORMATION: The agencies undertaking preparation of this voluntary EIS implement federal and state laws with which mountaintop mining operations and associated discharges to waters of the U.S. must comply. OSM is responsible for national administration of the Surface Mining Control and Reclamation Act (SMCRA); it has delegated the authority for the SMCRA programs for surface mining operations in West Virginia to the State of West Virginia. Other Appalachian coal field states (except Tennessee) also implement delegated SMCRA authority. Discharge of fill material into U.S. waters is regulated under Sec. 404 of the Clean Water Act, with permit responsibility administered by the U.S. Army Corps of Engineers and applicable 404 regulations issued by the Corps and EPA. Other discharges to U.S. waters are subject to Sec. 402 of the Clean Water Act, which is administered nationally by EPA with authority for the program delegated to West Virginia and other Appalachian coalfield states. Mountaintop mining operations must also comply with the Endangered Species Act, which is administered by FWS. In addition, the Fish and Wildlife Coordination act (FWCA) pertains to federally-permitted, constructed, or licensed water development projects and land development projects that affect any water body. Whenever OSM, COE, or EPA authorize an action within the scope of the FWCA, they are required to consult with the FWS, and similar State agencies, to obtain recommendations on ways to mitigate adverse effects on fish and wildlife resources.

The number of mountaintop mining operations that utilize valley fills, as well as the scale of individual operations, have increased in recent years in West Virginia. This EIS will evaluate significant environmental impacts associated with these operations on water quality, streams, aquatic and terrestrial habitat, habitat fragmentation, the hydrological balance, and other individual and cumulative effects. Federal and state agencies are increasingly concerned over the lack of comprehensive data regarding valley fill operations, and have initiated a number of studies to address these data gaps. Accurately describing and quantifying the extent and nature of direct,

secondary, and cumulative impacts related to valley fills and associated mining practices is difficult.

This EIS will complement recent efforts to address the issues of mountaintop mining and valley fills. The OSM recently completed and issued a draft oversight report entitled ''An Evaluation of Approximate Original Contour and Postmining Land Use in West Virginia''. During 1998, the Governor of West Virginia established a Governor's Task Force, which held public inquiries and evaluated the impacts of mountaintop mining operations on the economy, the environment, and the people of that State. Its report was issued in December 1998.

To address the concerns about mountaintop mining and valley fills, the agencies will consider potential revisions to relevant regulations, policies, and guidance that would minimize the potential for adverse individual and cumulative impacts of mining operations. The EIS will provide information that will help the agencies improve the permitting process to protect water quality and minimize impacts to other environmental resources. The EIS will also examine how regulations of the agencies can be better coordinated. The EIS may consider information on the following: the cumulative environmental impacts of mountaintop mining; the efficacy of stream restoration; the viability of reclaimed streams compared to natural waters; the impact that filled valleys have on aquatic life, wildlife and nearby residents; biological and habitat analyses that should be done before mining begins; practicable alternatives for in-stream placement of excess overburden; measures to minimize stream filling to the meximum extent practicable; and the effectiveness of mitigation and reclamation measures. The EIS is expected to take two years to complete.

Dated: February 2, 1999.

Mary Josie Blanchard,

Assistant Director, Program Support.

[FR Doc. 99–2814 Filed 2–4–99; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Partial Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended

In accordance with Department of Justice policy, 28 CFR 50.7, notice is hereby given that a proposed partial consent decree in the consolidated action entitled *United States of America* v. *Western Publishing Co., Inc., et al.,* Civil Action No. 94–CV–1247 (LEK/DNH) and *State of New York* v. *F.I.C.A. a/k/a Dutchess Sanitation Services, Inc., et al.,* Civil Action No. 86–CV–1136 (LEK/DNH) (N.D.N.Y.), was lodged on January 22, 1999, with the United States District Court for the Northern District of New York. The proposed partial consent decree resolves claims of the United States, on behalf of the U.S. Environmental Protection Agency, and the State of New York against defendants Golden Books Publishing Co., Inc. (formerly known as Western Publishing Co., Inc.), Hudson Valley Environmental Services, Inc., third-party defendant and fourth-party plaintiff Ford Motor Company, and fourth-party defendants Alfa Laval, Inc., Frye Tech, Inc., International Business Machines Corp., Kem Plastic Playing Cards, Inc. (who is participating in the settlement based upon a documented limited ability to pay), Poughkeepsie Newspaper Division of Gannett Satellite Information Network, Inc., the City of Poughkeepsie, and tesa tape inc., under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C 9601–9675 (''CERCLA''). These claims are for recovery of response costs incurred and to be incurred by the United States in connection with the Hertel Landfill Superfund Site (''Site''), located in the Hamlet of Clintondale, Town of Plattekill, Ulster County, New York.

Under the terms of the proposed partial consent decree, the settling defendants will pay to the United States $453,500 in reimbursement of past response costs and $125,000 in reimbursement of interim response costs incurred by the United States, and up to $300,000 in future oversight and all future non-oversight costs to be incurred by the United States with respect to the Site. Settling defendants also will pay to the State $3,814 toward reimbursement of the State's response costs. Pursuant to the proposed partial consent decree, the settling defendants also are required to implement the remedial design and remedial action set forth in the September 27, 1991 Record of Decision for the Site, including construction and operation and maintenance of a multi-layer cap over the landfill. The proposed partial consent decree provides the settling defendants with releases for civil liability under Sections 106 and 107(a) of CERCLA relating to the Site as consideration for the payments to be made and the work to be performed.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed partial consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States of America* v. *Western Publishing Co., Inc., et al.,* Civil Action No. 94–CV–1247 (LEK/DNH) and *State of New York* v. *F.I.C.A. a/k/a Dutchess Sanitation Services, Inc., et al.,* Civil Action No. 86–CV–1136 (LEK/DNH) (N.D.N.Y.), DOJ Ref. No. 90–11–2–767A.

The proposed partial consent decree may be examined at the Office of the United States Attorney, 445 Broadway, Room 231, Albany, New York 12207; the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, New York 10007–1866; and the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005, telephone (202) 624–0892. A copy of the proposed partial consent decree may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $36.75 (25 cents per page reproduction costs) made payable to Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–2716 Filed 2–4–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

[Civil No. 99–167–CIV–T–17F]

United States of America v. Federation of Certified Surgeons and Specialists, Incorporated and Pershing Yoakley & Associates, P.C.

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulations, and a Competitive Impact Statement have been filed with the United States District Court for the Middle District of Florida, Tampa Division, in *United States of America* v. *Federation of Certified Surgeons and Specialists, Inc., and Pershing Yoakley & Associates, P.C.*

The Complaint alleges that defendants entered into an agreement with the

purpose and effect of restraining price competition, in violation of Section 1 of the Sherman Act, 15 U.S.C. 1, by limiting competition among general vascular surgeons in Tampa. The proposed Final Judgment enjoins the continuance or resumption of this practice. Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspections in Room 215, 325 Seventh Street, N.W., United States Department of Justice, Washington, D.C. and at the Office of the Clerk of the United States District Court for the Middle District of Florida, Tampa Division, Tampa, Florida.

Public comment on the proposed Final Judgment is invited within 60 days of the date of this notice. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to Gail Kursh, Chief, Health Care Task Force, United States Department of Justice, Antitrust Division, 325 Seventh Street, N.W., Room 400, Washington, D.C. 20530 (telephone: (202) 307–5799).

Rebecca P. Dick,

Director of Civil Non-Merger Enforcement, Antitrust Division.

Notice of Filing a Proposed Final Judgment Pursuant to the Antitrust Procedures and Penalties Act

The United States submits this Notice summarizing the procedures regarding the Court's entry of the proposed Final Judgment. The proposed Final Judgment would settle this case pursuant to the Antitrust Procedures and Penalties Act (''Act''), 15 U.S.C. 16(b)–(h), which applies to civil antitrust cases brought and settled by the United States. Under the Act, the Final Judgment is not to be entered until the United States certifies compliance with the requirements of the Act and the Court concludes that entry of the Final Judgment is in the public interest.

Today, the United States has filed a civil antitrust Complaint charging the Federation of Certified Surgeons and Specialists, Inc., and Pershing Yoakley & Associates, P.C., with violating Section 1 of the Sherman Act. Also filed with the Complaint are a proposed Final Judgment, a Competitive Impact Statement, and Stipulations between the parties by which the defendants agree to the Court's entry of the proposed Final Judgment following compliance with the Act. The Competitive Impact Statement reflects the Act's requirement of filing a competitive impact statement explaining the nature of the case and the proposed relief.

Under the Act, the United States must publish the proposed Final Judgment and the Competitive Impact Statement in the **Federal Register** and publish for 7 days over a period of 2 weeks a summary of these pleadings in newspapers of general circulation in the Middle District of Florida and the District of Columbia. The Act provides for a 60-day period after publication for the public to submit comments to the Department of Justice regarding the proposed Final Judgment. The Act provides that the Department shall publish in the **Federal Register,** and file with the Court, any comments received and the Department's response to such comments. The defendants are required to file a description of certain communications with the government within 10 days after a proposed final judgment is filed. *See* 15 U.S.C. § 16(g).

Once all of the Act's requirements have been met, the United States will promptly file with the Court a Certificate of Compliance with the Act and a Motion for Entry of the Final Judgment (unless the United States decides to withdraw its consent to entry of the Final Judgment, as permitted by Paragraph 2 of the Stipulations). At that time, pursuant to Section 16(e)–(f) of the Act, the Court may enter the Final Judgment without a hearing, if it finds the Final Judgment is in the public interest.

Dated January 26, 1999.

For Plaintiff
United States of America

Charles R. Wilson,

United States Attorney.

By:

Whitney Schmidt,

Affirmative Civil Enforcement Coordinator, Assistant United States Attorney, Florida Bar No. 285706, 400 North Tampa Street, Suite 3200, Tampa, FL 33602, Tel: (813) 274–6332, Facsimile: (813) 274–6198

Denise E. Biehn,

Trial Counsel.

Steven Kramer,

Edward D. Eliasberg, Jr.,

Florida Bar No. 005725, Attorneys, Antitrust Division, U.S. Dept. of Justice, 325 Seventh St. N.W., Room 409, Washington, D.C. 20530, Tel: (202) 307–0808, Facsimile: (202) 514–1517.

Stipulation as to Defendant Federation of Certified Surgeons and Specialists, Inc.

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The Court has jurisdiction over the subject matter of this action and over each of the undersigned parties hereto, and venue of this action is proper in the Middle District of Florida;

2. The undersigned parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party, or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, and without further notice to either party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court;

3. Federation of Certified Surgeons and Specialists, Inc. (''FCSSI'') agrees to be bound by the provisions of this proposed Final Judgment pending its approval by the Court. Within ten days from the execution of this Stipulation, defendant FCSSI agrees to provide to all FCSSI physicians, as that term is defined in the proposed Final Judgment, copies of the proposed Final Judgment; and

4. If plaintiff withdraws its consent, or if the proposed Final Judgment is not entered pursuant to the terms of this Stipulation, this Stipulation shall be of no effect whatsoever, and the making of this Stipulation shall be without prejudice to any party in this or in any other proceeding.

Dated: January 15, 1998.

For Plaintiff
United States of America:

Joel I. Klein,

Assistant Attorney General.

Donna Patterson,

Deputy Assistant Attorney General.

Rebecca P. Dick,

Director of Civil, Non-Merger Enforcement.

Gail Kursh,

Chief,

Health Care Task Force.

David C. Jordan,

Ass't Chief, Health Care Task Force.

Denise E. Biehn,

Steven Kramer,

Edward D. Eliasberg, Jr.,

Attorneys, U.S. Dept. of Justice, 325 7th Street, N.W., Room 400, Liberty Place Bldg., Washington, D.C. 20530, (202) 305–2738.

For Defendant Federation of Certified Surgeons and Specialists, Inc.:

David A. Ettinger, Esquire,

Honigman, Miller, Schwartz and Cohen, 2290 First National Building, Detroit, MI 48226.

Emil Marquardt, Jr., Esquire,

MacFarlane Ferguson & McMullen, P.A., 625 Court Street, Clearwater, FL 33757.

Stipulation as to Defendant Pershing, Yoakley & Associates, P.C.

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The Court has jurisdiction over the subject matter of this action and over each of the undersigned parties hereto, and venue of this action is proper in the Middle District of Florida;

2. The undersigned parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party, or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, and without further motive to either party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court; and

3. Pershing, Yoakley & Associates, P.C. (''PYA''), agrees to be bound by the provisions of this proposed Final Judgment pending its approval by the Court. Within ten days from the execution for this Stipulation, defendant PYA agrees to provide to all of its shareholders, its agents, representatives, employees, officers, and directors (in such capacities only) who provides, or supervises the provision of, services to competing physicians with offices in Hillsborough, Pinellas or Pasco County, Florida, copies of the proposed Final Judgment; and

4. If plaintiff withdraws its consent, or if the proposed Final Judgment is not entered pursuant to the terms of the Stipulation, this Stipulation shall be of no effect whatsoever, and the making of this Stipulation shall be without prejudice to either party in this or in any other proceeding.

Dated: January 21, 1999.

For Plaintiff
United States of America:

Joel I. Klein,

Assistant Attorney General.

Donna Patterson,

Deputy Assistant Attorney General.

Rebecca P. Dick,

Deputy Director of Civil, Non-Merger Enforcement.

Gail Kursh,

Chief, Health Care Task Force.

David C. Jordan,

Ass't Chief, Health Care Task Force.

Denise E. Biehn,

Steven Kramer,

Edward D. Eliasberg,

Attorneys, U.S. Dept. of Justice, 325 7th Street, N.W., Room 400, Liberty Place Bldg., Washington, D.C. 20530, (202) 305–2738.

For Defendant Pershing, Yoakley & Associates, P.C.:

John J. Miles,

E. John Steren,

Ober, Kaler, Grimes & Shriver, 1401 H Street, N.W., 5th Floor, Washington, D.C. 20005–2110.

Final Judgment

Plaintiff, the United States of America, having filed its Complaint on _____ 1999, and plaintiff and defendant Federation of Certified Surgeons and Specialists, Inc., (''FCSSI'') and defendant Pershing Yoakley & Associates, P.C. (''PYA''), by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of fact or law;

And whereas defendants have agreed to be bound by the provisions of this Final Judgment;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law, and upon consent of the plaintiff and defendants, it is hereby **ordered, adjudged, and decreed:**

I. Jurisdiction

This Court has jurisdiction over the subject matter of and over the plaintiff and defendants to this action. The Complaint states a claim upon which relief may be granted against defendants under Section 1 of the Sherman Act, 15 U.S.C. § 1.

II. Definitions

As used in this Final Judgment:

(A) ''Communicate'' means to discuss, disclose, transfer, disseminate, or exchange information or opinion, formally or informally, in any manner;

(B) ''Competing physicians'' means two or more physicians in separate medical practices in the same county in the same specialty;

(C) ''Competitively sensitive information'' means

(1) Any participating physician's actual or possible view, intention, or position concerning the negotiation or acceptability of any proposed or existing payer contract or contract term, including the physician's negotiating or contracting status with any payer or the physician's response to a payer contract or contract term; or

(2) Any proposed or existing term of a payer contract that affects:

(a) The amount of fees or payment, however determined, that a participating physician charges, contracts for, or accepts from or considers charging, contracting for, or accepting from any payer for providing physician services;

(b) The duration, amendment, or termination of the payer contract;

(c) Utilization review; or

(d) The manner of resolving fee disputes between the participating physician and the payer,

(D) ''FCSSI'' means the Federation of Certified Surgeons and Specialists, Inc., located in Tampa, Florida; each of its present and former members, shareholders, directors, officers, agents, representatives, and employees (all such persons only in such capacities with FCSSI or with any successors or assigns of FCSSI); its successors and assigns, including any group organized directly or indirectly by two or more competing physicians (who serve or have served as a director or officer of FCSSI) for the purpose of negotiating with payers; and each entity over which it has control;

(E) ''FCSSI physician'' means all present and former physician shareholders and physician members of FCSSI;

(F) ''Messenger'' means a person that communicates to a payer any competitively sensitive information it obtains, individually, from a

participating physician or communicates, individually, to a participating physician any competitively sensitive information it obtains from a payer;

(G) ''Objective information'' or ''objective comparison'' means empirical data that are capable of being verified or a comparison of such data;

(H) ''Participating physician'' means a physician who is either in solo practice or a group practice, and who participates in a messenger arrangement, and any employee of such physician or group practice acting on the physician's or group practice's behalf in connection with a messenger arrangement.

(I) ''Payer'' means any person that purchases or pays for all or part of a physician's services for itself or any other person and includes but is not limited to independent practice associations, individuals, health insurance companies, health maintenance organizations, preferred provider organizations, and employers;

(J) ''Payer contract'' means a contract between a payer and a physician by which that physician agrees to provide physician services to persons designated by the payer;

(K) ''Person'' means any natural person, corporation, firm, company, sole proprietorship, partnership, joint venture, association, institute, governmental unit, or other legal entity; and

(L) ''PYA'' means Pershing Yoakley & Associates, P.C. with offices in Clearwater Florida; each of its shareholders, its agents, representatives, employees, officers, and directors (in such capacities only); its successors and assigns; and each entity it controls.

III. Applicability

Except where expressly limited to one defendant, this Final Judgment applies to:

(A) FCSSI;

(B) PYA, when providing, or supervising the provision of, services to any competing physicians in Hillsborough, Pinellas, or Pasco County, Florida; and

(C) All other persons who receive actual notice of this Final Judgment by personal service or otherwise and then act or participate in active concert with any of the above persons.

IV. Injunctive Relief

(A) FCSSI is enjoined, directly or indirectly, from:

(1) Participating in, encouraging, or facilitating any agreement or understanding between competing physicians about any competitively sensitive information;

(2) Acting as, or facilitating the use of, a messenger or any other agent or representative for any FCSSI physician for the purpose of negotiating or communicating with any payer on behalf of such FCSSI physician;

(3) Participating in, encouraging, or facilitating any agreement or understanding among competing physicians about using a messenger;

(4) Negotiating with any payer on behalf of any FCSSI physician;

(5) Communicating or facilitating the communication of any competitively sensitive information to, or in the presence of, competing physicians; and

(5) Participating in, encouraging, or facilitating any agreement or understanding among any competing physicians that FCSSI physicians will deal with a payer only through a messenger or other agent or representative.

(B) PYA is enjoined, directly or indirectly, from:

(1) Participating in, encouraging, or facilitating any agreement or understanding between competing physicians with offices in Hillsborough, Pinellas, or Pasco County, Florida, about any competitively sensitive information;

(2) Participating in, encouraging, or facilitating any agreement or understanding between competing physicians with offices in Hillsborough, Pinellas, or Pasco County, Florida, to deal with any payer exclusively through a messenger rather than individually or through other channels;

(3) Negotiating, collectively or individually, on behalf of competing physicians with offices in Hillsborough, Pinellas, or Pasco County, Florida, any actual or proposed payer contract or contract term with any payer;

(4) Making any recommendation to competing physicians with offices in Hillsborough, Pinellas, or Pasco County, Florida, about any actual or proposed payer contract or contract term or whether to accept or reject any such payer contract or contract term;

(5) Communicating competitively sensitive information in the presence of competing physicians with offices in Hillsborough, Pinellas, or Pasco County, Florida;

(6) Communicating to competing physicians with offices in Hillsborough, Pinellas, or Pasco County, Florida, any subjective opinion or subjective analysis, evaluation, or assessment about competitively sensitive information;

(7) Precluding or discouraging any competing physicians with offices in Hillsborough, Pinellas, or Pasco County, Florida, from exercising his, her, or their own independent business judgment in determining whether to negotiate, contract, or deal directly with any payer;

(8) Acting as, or using, a messenger on behalf of defendant FCSSI or any other group or groups of competing physicians with offices in Hillsborough, Pinellas, or Pasco County, Florida if present or former members of FCSSI constitute more than twenty percent of any individual group's membership or of all groups' total membership; and

(9) Acting as, or using, a messenger for any competing physicians with offices in Hillsborough, Pinellas, or Pasco County, Florida, unless:

(a) At the outset of its involvement with any payer as a messenger (or within 30 days of the entry of this Final Judgment for any ongoing involvement with a payer), and annually thereafter, it informs the payer in writing that, at any time, (i) the payer is free to decline to communicate with any participating physician through it, and (ii) any participating physician is free to communicate with the payer individually without its involvement;

(b) When first designated by any participating physician as a messenger (or within 30 days of the entry of this Final Judgment for any ongoing involvement, on behalf of a participating physician, with a payer), and annually thereafter, it informs the participating physician in writing that he or she is free at any time to communicate with any payer individually without its involvement;

(c) When first designated by any participating physician as a messenger and at the outset of its involvement with any payer as a messenger (or within 30 days of the entry of this Final Judgment for any ongoing involvement, on behalf of a participating physician, with a payer), and annually thereafter, it informs the participating physician and any payer with whom it communicates as a messenger on behalf of the participating physician in writing that it cannot negotiate, collectively or individually, for any participating physician any payer contract or contract term but can act only as a messenger as permitted by this Final Judgment;

(d) It informs the participating physician of any payer's decision not to communicate or to discontinue communicating with any participating physician through PYA;

(e) It communicates all competitively sensitive information that it receives from any payer separately to each participating physician designated by the payer;

(f) It does not communicate any competitively sensitive information obtained from any participating physician to anyone other than to payers;

(g) It ensures that (i) any oral communications between it and any payer or any participating physician is contemporaneously memorialized in writing and shows the date, participants to, and substance of the communication, and the person making the record; (ii) such memorialization and any written communications between it and any payer or participating physician are preserved for two years; (iii) any correspondence between it and a participating physician is addressed individually to that participating physician only; and (iv) no correspondence between it and a payer that includes the competitively sensitive information of a participating physician is sent to any other competing physician; and

(h) It does not violate any of the provisions of Section IV (B)(1)–(8) of this Final Judgment.

V. Notifications

(A) Within 30 days from the entry of this Final Judgment, FCSSI shall notify, in writing, each payer (1) with which FCSSI negotiated any contract or currently is attempting to negotiate any contract or (2) that FCSSI approaches on behalf of any FCSSI physician, that FCSSI will no longer represent any FCSSI physician in any manner relating to payer contracts or contract terms.

(B) Within 30 days from the entry of this Final Judgment, FCSSI shall notify, in writing, each payer with which FCSSI has negotiated a contract that any contract between FCSSI and the payer may be terminated by the payer upon written notice to FCSSI given within 30 days following FCSSI's written notification.

(C) After entry of this Final Judgment, FCSSI shall notify each payer that inquires about contracting through or with FCSSI that FCSSI does not represent any FCSSI physician in any manner relating to payer contracts or contract terms.

(D) FCSSI shall notify plaintiff at least 30 days prior to any proposed (1) dissolution of FCSSI, (2) sale or assignment of claims or assets of FCSSI resulting in the emergence of a successor corporation, or (3) change in corporate structure of FCSSI that may affect compliance obligations arising out of Section VII of this Final Judgment.

VI. Permitted Conduct

Notwithstanding any other provision of this Final Judgment, PYA may:

(A) At a participating physician's request, communicate to the participating physician accurate, factual, and objective information about a proposed payer contract offer or contract terms, including, if requested, objective comparisons with terms offered to that participating physician by other payers; and

(B) Engage in activities reasonably necessary to facilitate lawful activities by physician network joint ventures and muliprovider networks as those terms are used in Statements 8 and 9 of the 1996 Statements of Antitrust Enforcement Policy in Health Care, 4 Trade Reg. Rep. (CCH) ¶ 13,153.

VII. Compliance Program

(A) FCSSI shall maintain an antitrust compliance program (unless FCSSI dissolves without any successors or assigns) that shall include:

(1) Distributing, within 60 days from the entry of this Final Judgment, a copy of the Final Judgment and Competitive Impact Statement to all FCSSI physicians and distributing in a timely manner a copy of the Final Judgment and Competitive Impact Statement to any physician who subsequently joins FCSSI;

(2) Obtaining, within 120 days from the entry of this Final Judgment, and annually thereafter, and retaining for the duration of this Final Judgment, a certificate from each then current FCSSI physician that he or she has received, read, understands, and agrees to comply with the Final Judgment and understands that he or she may be held in civil or criminal contempt for failing to do so.

(B) PYA shall maintain an antitrust compliance program, which shall include:

(1) Distributing within 60 days from the entry of this Final Judgment, a copy of the Final Judgment and Competitive Impact Statement to all of its shareholders, agents, representatives, employees, officers, and directors (in such capacity only) who provide, or supervise the provision of, services to competing physicians;

(2) Distributing in a timely manner a copy of the Final Judgment and Competitive Impact Statement to any person who succeeds to a position described in Paragraph VII (B)(1);

(3) Holding an annual seminar explaining to all of its shareholders, agents, representatives, employees, officers, and directors (in such capacity only) who provide, or supervise the provision of, services to competing physicians, the antitrust principles applicable to their work, the restrictions contained in this Final Judgment, and the implications of violating the Final Judgment;

(4) Maintaining an internal mechanism by which questions from any of its shareholders, agents, representatives, employees, officers, and directors (in such capacity only) about the application of the antitrust laws to the presentation of competing physicians, whether as a messenger or as some other representative, can be answered by counsel as the need arises;

(5) Obtaining, within 120 days from the entry of this Final Judgment, and retaining for the duration of this Final Judgment a certificate from each of its shareholders, agents, representatives, employees, officers, and directors (in such capacity only) who provide, or supervise the provision of, services to competing physicians with offices in Hillsborough, Pinellas, or Pasco County, Florida, that he or she has received, read, and understands this Final Judgment, and that he or she has been advised and understands that he or she must comply with the Final Judgment and may be held in civil or criminal contempt for failing to do so.

(C) FCSSI and PYA shall maintain for inspection by plaintiff a record of recipients to whom this Final Judgment and Competitive Impact Statement have been distributed and from whom annual written certifications have been received.

VIII. Certification

(A) Within 75 days after entry of this Final Judgment, FCSSI and PYA shall certify to plaintiff that it has distributed the Final Judgment and Competitive Impact Statement as respectively required by Paragraph VII (A)(1) and VII (B)(1);

(B) For a period of ten years following the date of entry of this Final Judgment, unless they dissolve without any successors or assigns, FCSSI and PYA shall certify annually to plaintiff that they have complied with the provisions of this Final Judgment; and

(C) Within 75 days after entry of this Final Judgment, FCSSI shall certify to plaintiff that it has made the notifications required by Section V.

IX. Plaintiff's Access

(A) For the purposes of determining or securing compliance with this Final Judgment or determining whether this Final Judgment should be modified or terminated, and subject to any legally recognized privilege, authorized representatives of the Antitrust Division of the United States Department of Justice, shall upon written request of the Assistant Attorney General in charge of

the Antitrust Division and on reasonable notice to FCSSI or PYA, be permitted:

(1) Access during regular business hours to inspect and copy all records and documents in the possession, custody, or under the control of FCSSI or PYA, which may have counsel present, relating to any matters contained in this Final Judgment;

(2) To interview FCSSI's or PYA's members, shareholders, partners, officers, directors, employees, agents, and representatives, who may have counsel present, concerning such matters; and

(3) To obtain written reports from FCSSI or PYA under oath if requested, relating to any matters contained in this Final Judgment.

(B) FCSSI and PYA shall have the right to be represented by counsel in any process under this Section.

(C) No information or documents obtained by the means provided in this Section shall be divulged by the plaintiff to any person other than duly authorized representatives of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(D) If, at the time information or documents are furnished by defendant to plaintiff, defendant represents and identifies, in writing, the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendant will mark each pertinent page of such material, ''subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then 10-days notice shall be given by plaintiff to defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which defendant is not a party.

X. Jurisdiction Retained

This Court retains jurisdiction to enable any party to this Final Judgment, but no other person, to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions.

XI. Expiration of Final Judgment

This Final Judgment shall expire ten (10) years from the date of entry.

XII. Public Interest Determination

Entry of this Final Judgment is in the public interest.

Court approval subject to procedures of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16.

_____

United States District Judge

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b) (''APPA''), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On _____, the United States filed a civil antitrust Complaint alleging that defendants, the Federation of Certified Surgeons and Specialists, Inc. (''FCSSI'') and Pershing Yoakley & Associates, P.C. (''PYA''), participated in an agreement to negotiate jointly with managed care plans (''MCPs'') to obtain higher fees for FSSI's otherwise competing general and vascular surgeons in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The Complaint seeks injunctive relief to enjoin continuance or resumption of the violation.

The United States filed with the Complaint a proposed Final Judgment intended to resolve this matter. The Court's entry of the proposed Final Judgment will terminate this action, except that the Court will retain jurisdiction over the matter for any further proceedings that may be required to interpret, enforce, or modify the Final Judgment, or to punish violations of any of its provisions.

Plaintiff and defendants have stipulated that the Court may enter the proposed Final Judgment after compliance with the APPA unless, prior to entry, plaintiff withdraws its consent. In the Stipulations to the proposed Final Judgment, defendants have agreed to be bound by the provisions of the proposed Final Judgment pending its entry by the Court. The proposed Final Judgment provides that its entry does not constitute any evidence against, or admission by, any party concerning any issue of fact of law. The present proceeding is designed to ensure full compliance with the public notice and other requirements of the APPA.

II. Practices Giving Rise to the Alleged Violations

A. Defendants

Defendant FCSSI is a Florida corporation with its principal place of business in Tampa, Florida. FCSSI comprises 29 competing general and vascular surgeons in Tampa and is controlled by its member surgeons. In 1997, FCSSI's surgeons performed 87% of all general and vascular surgeries, and constituted over 83% of all general and vascular surgeons having operating privileges, at five of the seven hospitals in Tampa that provide general and vascular surgery services.

Defendant PYA, an accounting and consulting firm, is a Tennessee professional corporation with its principal place of business in Knoxville, Tennessee and with additional offices in Chattanooga and Nashville, Tennessee; Atlanta, Georgia; Washington, D.C.; and Clearwater, Florida

B. Defendants' Unlawful Activities

In May, 1997, FCSSI was formed to negotiate jointly on behalf of its member physicians with MCPs and to use their collective strength to improve ''overall managed care reimbursement'' to FCSSI surgeons, including ''[o]btaining contract terms more favorable than if each physician contracted separately.'' FCSSI retained PYA to coordinate FCSSI surgeons' MCP contracting activities. For these services, each FCSSI surgeon paid PYA $75 per month as a retainer and a set amount per MCP contract negotiated by PYA, providing for higher payments to PYA for higher contractual fee levels.

In July, 1997, PYA contacted United HealthCare (''United'') and made clear to United that it was representing FCSSI surgeons ''as a group.'' United made an offer to FCSSI surgeons through PYA. PYA recommended to FCSSI's board that it not accept United's contract offer and either make a counter offer or ''have all members terminate their [United contracts].'' FCSSI's board instructed PYA to make a counteroffer to United. PYA then informed United that unless United agreed to its demands, it would recommend that FCSSI surgeons terminate their United contracts. United agreed to PYA's contract demands, and FCSSI's board voted to accepted the revised contract. The jointly negotiated contracts paid FCSSI surgeons 30% more than United's first offer and represented an average annual increase in revenue of $5,013 for each FCSSI physician.

In September, 1997, PYA attempted to renegotiate FCSSI surgeons' existing contracts with Aetna US Healthcare (''Aetna''). PYA advised Aetna that if Aetna met PYA's proposed financial and contractual terms, PYA would recommend that FCSSI surgeons accept the Aetna contract. Aetna subsequently offered FCSSI surgeons a contract that

PYA viewed as ''no improvement'' and without ''concessions.'' PYA recommended that all FCSSI surgeons notify Aetna of their intent to terminate their contracts in order to allow PYA to negotiate higher fees. FCSSI's board of directors voted to accept PYA's recommendation and, on September 26, 1997, PYA notified each FCSSI surgeon of the board's decision and directed the surgeon to write a termination letter to Aetna. Twenty-eight of the twenty-nine FCSSI surgeons terminated their Aetna contracts. As a result of this group boycott, Aetna proposed increased payment levels for FCSSI surgeons.

By December 8, 1997, PYA had contacted four other MCPs on behalf of FCSSI surgeons. Upon learning of the Department of Justice's investigation of FCSSI's activities in December, 1997, however, FCSSI and PYA ceased negotiating contracts with those MCPs. Without the proposed relief, these negotiations would likely resume.

By contracting on behalf of all of its member surgeons or none at all, FCSSI forced some MCPs to pay FCSSI surgeons substantially higher fees and to contract with a greater number of general and vascular surgeons than the MCP had previously contracted with to service its members. According to the President of FCSSI, FCSSI's joint negotiating efforts ''produced extraordinary results,'' amounting to an increase in revenues of $14,097 on average for each FCSSI surgeon. As a result of FCSSI's and PYA's concerted actions, MCPs, employees, and individual consumers faced significantly higher healthcare costs and were deprived of the benefits of free and open competition among Tampa general and vascular surgeons in the purchase of their services.

C. FCSSI's and PYA's Improper Use of the ''Messenger Model''

While engaging in the unlawful conduct outlined above, FCSSI and PYA representatives attempted to cloak their illegal activities as those of a legitimate ''third-party messenger,'' which are described in the *Department of Justice and Federal Trade Commission Statements of Antitrust Enforcement Policy in Healthcare*, 4 Trade Reg. Rep. (CCH) ¶13,153 at 20,831 (August 28, 1996). However, defendant's illegal conduct is inconsonant with that of a legitimate messenger model. A legitimate messenger does not coordinate or engage in collective pricing activity for competing independent physicians, enhance their bargaining power, or facilitate the sharing of price and other competitively sensitive information among them.

III. Explanation of the Proposed Final Judgment

The proposed Final Judgment is intended to prevent FCSSI and PYA from restraining competition in the future among general and vascular surgeons in Tampa.

A. Scope of the Proposed Final Judgment

Section III of the proposed Final Judgment provides that the Final Judgment shall apply to FCSSI, including its member physicians; to PYA, when providing, or supervising the provision of, services to any competing physicians in Hillsborough, Pinellas, or Pasco County, Florida; and to all other persons who receive actual notice of the proposed Final Judgment by personal service or otherwise and then act or participate in active concert with any of the above persons.

B. Prohibitions and Obligations

Section IV of the proposed Final Judgment sets forth the substantive injunctive provisions. Section IV(A) is designed to prevent FCSSI from collectively negotiating or acting as a messenger or agent with any payer on behalf of any FCSSI or other competing physicians or in any way enhancing their bargaining power.[1] Thus, Sections IV(A)(1) and (5) prohibit FCSSI from facilitating an agreement between competing physicians about ''competitively sensitive information'' (as that term is defined in the Final Judgment) or communicating or facilitating the communication of ''competitively sensitive information'' to, or in the presence of, competing physicians. Sections IV(A)(2) and (3) prohibit FCSSI from acting as or using a messenger or agent to represent FCSSI surgeons in negotiations or communications with payers or from facilitating an agreement among competing physicians about the use of a messenger or about dealing only through a messenger. In addition, Section IV(A)(4) enjoins FCSSI from negotiating with any payer on behalf of any FCSSI physicians. Finally, Section IV(A)(6) prohibits FCSSI from facilitating any agreement among competing physicians that FCSSI will deal with a payer only through a particular agent.

Section IV(B) is designed to ensure that PYA does not engage in joint negotiations on behalf of competing physicians in the three counties around Tampa, Hillsborough, Pinellas, or Pasco Counties (the ''Tampa area''), where PYA has been active in seeking physician clients, and does not act as a messenger or agent for more than twenty percent of FCSSI's surgeons. Accordingly, Sections IV(B)(1) and (2) prohibit PYA from facilitating any agreement between competing physicians in the Tampa area about any competitively sensitive information or exclusively using a messenger. Sections IV(B)(3) and (4) prohibit PYA, in the Tampa area, from negotiating payer contracts on behalf of competing physicians and from making any recommendations to competing physicians about any payer contract or contract term. Moreover, pursuant to Sections IV(B)(5)–(7), PYA may not communicate competitively sensitive information in the presence of competing physicians in the Tampa area or communicate to competing Tampa area physicians any subjective opinion or analysis about competitively sensitive information or discourage any competing physician in the Tampa area from exercising his or her own business judgment in determining whether to negotiate, contract, or deal directly with any payer.

Section IV(B)(8) enjoins PYA from acting as or using a messenger on behalf of FCSSI or any group of competing physicians in the Tampa area if past or present members of FCSSI constitute more than twenty percent of any individual group's membership or all groups' total membership. Further, PYA may act as a messenger only if it complies with the provisions of Section IV(B)(9). Pursuant to Sections IV(B)(9)(a)–(c), PYA must (a) notify all payers with which it communicates as a messenger that the payer may communicate directly with the physicians; (b) inform all physicians for whom it acts as a messenger that he or she may communicate with any payer (without PYA) at any time; and (c) inform each physician and payer involved that it cannot negotiate collectively or individually for any physician who uses PYA as a messenger. Section IV(B)(9)(d) requires PYA to inform physicians of a payer's decision not to communicate through PYA. Under Sections IV(B)(9)(e) and (f), PYA must communicate all competitively sensitive information from a payer separately to each individual physician, and if a physician discloses competitively sensitive information to PYA, then PYA may disclose that information to payers only.

[1] Section II(F) defines a messenger to mean a person that communicates to a payer any competitively sensitive information it obtains, individually, from a participating physician or communicates, individually, to a participating physician any competitively sensitive information it obtains from a payer.

Finally, Section IV(B)(9)(g) requires PYA to memorialize in writing all oral communications between it and any payer and physician, preserve such records for two years, address all physician correspondence individually, and not send any correspondence that contains a physician's competitively sensitive information to any other physician.

Sections V(A)–(C) require FCSSI to notify each payer with which FCSSI negotiated or is negotiating a contract, that FCSSI approached on behalf of any FCSSI physician, or that inquires about contracting through FCSSI, that FCSSI will no longer represent any FCSSI physician in any manner relating to MCP contracts or contract terms. FCSSI shall also notify, in writing, each MCP with which FCSSI has negotiated a contract that any contract between FCSSI and that MCP may be terminated by the MCP upon written notice to FCSSI. Section V(D) obligates FCSSI to notify plaintiff at least 30 days before any dissolution of FCSSI, sale or assignment of its claims or assets, or change in corporate structure that may affect its compliance obligations under the proposed Final Judgment.

Section VI makes clear that PYA may, at a physician's request, communicate to the physician accurate, factual, and objective information about a proposed payer contract offer or terms and engage in activities reasonably necessary to facilitate lawful activities by physician network joint ventures and multiprovider networks.

Section VII of the Final Judgment sets forth various compliance measures. Sections VII(A) (1) and (2) and (C) require FCSSI to distribute a copy of the Final Judgment and Competitive Impact Statement to all current and future FCSSI physicians and to obtain and maintain records of written certifications that they have read, will abide by, and understand the consequences of their failure to comply with the terms of the Final Judgment.

Sections VII(B)(1), (2), and (5) and (C) requires PYA to distribute a copy of the Final Judgment and Competitive Impact Statement to all of its shareholders, agents, representatives, employees, officers, and directors who provide, or supervise the provision of, services to competing physicians, and to any of their successors, and to obtain and maintain records of written certifications that they have read, will abide by, and understand the consequences of their failure to comply with the terms of the Final Judgment.

Section VII(B)(3) requires PYA to hold an annual seminar for all of its shareholders, agents, representatives, employees, officers, and directors who provide, or supervise the provision of, services to competing physicians, explaining the antitrust principles applicable to their work, the Final Judgment's restrictions, and the implications of violating the Final Judgment. Section VII(B)(4) ensures that PYA maintains an internal mechanism of addressing questions from its personnel regarding the application of antitrust laws to the representation of competing physicians.

Section VII obligates FCSSI and PYA to certify that they have distributed the Final Judgment and Competitive Impact Statement as required by the Judgment and annually to certify their compliance with the Judgment's provisions. FCSSI is also required to certify that it has made the notifications required by Section V of the Judgment.

Finally, Section IX sets forth a series of measures by which Plaintiff may have access to information needed to determine or secure FCSSI's and PYA's compliance with the Final Judgment or to determine whether the Final Judgment should be modified or terminated. Section XI limits the term of the Final Judgment to ten years.

IV. Effect of the Proposed Final Judgment on Competition

The relief in the proposed Final Judgment is designed to remedy the violation alleged in the Complaint and prevent its recurrence. The Complaint alleges that FCSSI and PYA violated Section 1 of the Sherman Act by negotiating with MCPs jointly on behalf of otherwise competing FCSSI surgeons to obtain higher fees for their services and by boycotting MCPs that did not provide payments for FCSSI surgeons at a level substantially higher than those provided in individually negotiated contracts.

The proposed Final Judgment eliminates that restraint on competition among general and vascular surgeons in Tampa by enjoining (1) FCSSI from acting for FCSSI physicians as a negotiator, messenger, or agent or using PYA or any other agent as a negotiator; and (2) PYA from acting as a negotiator for FCSSI or any other competing physicians in the Tampa area. Moreover, PYA is not permitted to act as a messenger for more than twenty percent of FCSSI's physicians or for any competing physicians in the Tampa area if it does not comply with certain provisions designed to ensure that it does not facilitate any agreement between competing physicians about competitively sensitive information or in any way enhance their bargaining power.

The proposed Final Judgment contains provisions adequate to prevent further violations of the type upon which the Complaint is based and to remedy the effects of the alleged conspiracy. The proposed Final Judgment's injunctions should restore the benefits of free and open competition among general and vascular surgeons in the sale of their services in Tampa.

V. Alternative to the Proposed Final Judgment

The alternative to the proposed Final Judgment would be a full trial on the merits of the case. In the view of the Department of Justice, such a trial would involve substantial costs to the United States and defendants and is not warranted because the proposed Final Judgment provides all of the relief necessary to remedy the violation of the Sherman Act alleged in the Complaint.

VI. Remedies Available to Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages suffered, as well as costs and a reasonable attorney's fee. Entry of the proposed Final Judgment will neither impair nor assist in the bringing of such actions. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent lawsuit that may be brought against defendants in this matter.

VII. Procedures Available for Modification of the Proposed Final Judgment

As provided by Sections 2 (b) and (d) of the APPA, 15 U.S.C. 16 (b) and (d), any person believing that the proposed Final Judgment should be modified may submit written comments to Gail Kursh, Chief; Health Care Task Force; United States Department of Justice; Antitrust Division; 325 Seventh Street, N.W.; Room 400; Washington, D.C. 20530, within the 60-day period provided by the Act. All comments received, and the Government's responses to them, will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free, pursuant to Paragraph 2 of the Stipulation with each defendant, to withdraw its consent to the proposed Final Judgment at any time before its entry, if the Department should determine that some modification of the

Final Judgment is necessary to protect the public interest. Moreover, Section X of the proposed Final Judgment provides that the Court will retain jurisdiction over this action, and that the parties may apply to the Court for such orders as may be necessary or appropriate for the modification, interpretation, or enforcement of the proposed Final Judgment.

VIII. Determinative Documents

No materials and documents of the type described in Section 2(b) of the APPA, 15 U.S.C. § 16(b), were considered in formulating the proposed Final Judgment. Consequently, none are filed herewith.

Dated: January 26, 1999.

Respectfully submitted,

Denise E. Biehn,

Edward D. Eliasberg, Jr.,

Steven Kramer,

Attorneys, Antitrust Division, U.S. Dept. of Justice, 325 Seventh Street, N.W., Room 409, Washington, D.C. 20530, Tel: (202) 307–0808, Facsimile: (202) 514–1517.

[FR Doc. 99–2714 Filed 2–4–99; 8:45 am]

BILLING CODE 4401–11–M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Office of Community Oriented Policing Services

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

[OJP(OJJDP)–1208]

RIN 1121–ZB44

Notice of Intent To Make Funds Available for School Violence Prevention and Early Childhood Development Activities Under the Safe Schools/Healthy Students Initiative

AGENCIES: Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP); Department of Justice, Office of Community Oriented Policing Services (COPS); Department of Education, Office of Elementary and Secondary Education, Safe and Drug-Free Schools Program; Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS).

ACTION: Notice of intent to make funds available to enhance and implement comprehensive community-wide strategies for creating safe and drug-free schools and promoting healthy childhood development.

SUMMARY: The Departments of Justice, Education, and Health and Human Services are collaborating to provide students with enhanced comprehensive educational, mental health, law enforcement, and as appropriate, juvenile justice system services and activities designed to ensure the development of the social skills and emotional resilience necessary to avoid drug use and violent behavior and the creation of safe, disciplined, and drug-free schools.

Through a single application process, successful applicants will receive support for up to three years. Awards will be made to approximately 50 sites, ranging from up to $3 million per year for urban school districts, up to $2 million per year for suburban school districts, and up to $1 million per year for rural school districts and tribal schools designated as local education agencies by their states.

DATES: It is anticipated that the program solicitation and application will be available no later than March 15, 1999.

CONTACT: Detailed information regarding the Safe Schools Healthy/Students Initiative is available at: Internet:http://www.ed.gov/offices/OESE/SDFS Fax-on-Demand: Juvenile Justice Clearinghouse (800) 638–8736

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under the Omnibus Consolidated and Emergency Supplemental Appropriation Act of 1999, Public Law 105–277.

Background

The purpose of the Safe Schools/Healthy Students Initiative is to assist schools and communities to enhance and implement comprehensive community-wide strategies for creating safe and drug-free schools and promoting healthy childhood development. Eligible activities may include, but are not limited to, programs such as mentoring, conflict resolution, after school, multisystemic therapy, functional family therapy, social skills building, school-based probation, student assistance, teen courts, truancy prevention, alternative education, developing information sharing systems, staff professional development, hiring additional school resource officers, and treatment efforts that involve the juvenile justice system and schools. Interventions selected must have evidence of effectiveness.

To be eligible for funding, applicants must demonstrate evidence of a comprehensive community-wide strategy that at minimum consists of six general topic areas: (1) School safety, (2) drug and violence prevention and early intervention programs, (3) school and community mental health prevention and intervention services, (4) early childhood psychosocial and emotional development programs, (5) education reform, and (6) safe school policies. The plan must be developed by a partnership comprising the local education agency, local public mental health authority, local law enforcement agency, family members, students, and juvenile justice officials. The local education agency will be required to submit formal written agreements signed by the school superintendent, the head of the local public mental health authority, and the chief law enforcement executive to be certified as an eligible applicant. Applicants will be strongly encouraged to demonstrate partnerships with businesses, social services, faith communities, and other community-based organizations that support the educational, emotional and health needs of students in the school district.

Applicants must conduct a basic assessment of the community risks and assets related to children and adolescents and have a plan for continual updating of this assessment. Assessments shall include, but are not limited to, numbers or percentages of the following: Students engaged in alcohol and drug use and violent behavior, firearms brought to school, incidents of serious and violent crime in schools, suicide attempts, students suspended and/or expelled from school, students receiving probation services, and students in juvenile justice placements. Applicants must also provide an assessment of the community resources available for children and adolescents, including number of after school programs, percentage of youth served by programs to build social skills, and number and quality of community mental health and social service organizations available to provide services to children and adolescents.

Applicants must develop a plan for assessing the community-wide strategy and agree to participate in a national evaluation of this initiative. Applicants that do not have the capability to collect

data or develop a plan for assessing their strategy will be encouraged to join with a local university, research organization, or other appropriate entity to assist with these activities.

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

Joseph E. Brann,

Director, Office of Community Oriented Policing Services.

Gerald N. Tirozzi,

Assistant Secretary, Office of Elementary and Secondary Education.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 99–2824 Filed 2–4–99; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determination 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.

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

New York
NY990013 (Feb. 05, 1999)

Volume II

None

Volume III

None

Volume IV

Michigan
MI990002 (Feb. 05, 1999)
MI990003 (Feb. 05, 1999)
MI990005 (Feb. 05, 1999)
MI990012 (Feb. 05, 1999)
MI990030 (Feb. 05, 1999)
MI990031 (Feb. 05, 1999)
MI990046 (Feb. 05, 1999)
MI990047 (Feb. 05, 1999)
MI990049 (Feb. 05, 1999)
MI990060 (Feb. 05, 1999)
MI990062 (Feb. 05, 1999)
MI990063 (Feb. 05, 1999)
MI990069 (Feb. 05, 1999)
MI990071 (Feb. 05, 1999)
MI990074 (Feb. 05, 1999)
MI990078 (Feb. 05, 1999)
MI990081 (Feb. 05, 1999)
MI990082 (Feb. 05, 1999)
MI990084 (Feb. 05, 1999)

Volume V

None

Volume VI

None

Volume VII

California
CA990004 (Feb. 05, 1999)
CA990009 (Feb. 05, 1999)
CA990028 (Feb. 05, 1999)
CA990029 (Feb. 05, 1999)
CA990030 (Feb. 05, 1999)
CA990041 (Feb. 05, 1999)

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 28th day of January 1999.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 99–2498 Filed 2–4–99; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

101st Full Meeting of the Advisory Council on Employee Welfare and Pension Benefits Plan; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 105th open meeting of the full Advisory Council on Employee Welfare and Pension Benefit Plans will be held Wednesday, February 24, 1999, in Room S2508, U.S. Department of Labor Building, Third and Constitution Avenue, NW, Washington, DC 20210.

The purpose of the meeting, which will begin at 1:30 p.m. and end at approximately 3:00 p.m., is to consider the items listed below:

I. Welcome and Introduction and Swearing In of New Council Members
II. Assistant Secretary's Report
  A. PWBA Priorities for 1999
  B. Announcement of Council Chair and Vice Chair
III. Introduction of PWBA Senior Staff
IV. Summary of the Final Reports made by Advisory Council Working Groups for the 1998 Term
V. Determination of Topics to Be Addressed by Council Working Groups for 1999
VI. Statements from the General Public
VII. Adjourn

Members of the public are encouraged to file a written statement pertaining to any topics the Council may wish to study for the year concerning ERISA by submitting 20 copies on or before February 20, 1999 to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department Labor, Suite N–5677, 2000 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives of organizations wishing to address the Advisory Council should forward their requests to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to ten minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by February 20 at the address indicated.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before February 20, 1999.

Signed at Washington, DC this 2nd day of February, 1999.

Leslie Kramerich,

Deputy Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 99–2746 Filed 2–4–99; 8:45 am]

BILLING CODE 4510–29–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–293]

Boston Edison Company, Pilgrim Nuclear Power Station; Supplemental Notice

On January 26, 1999, the NRC published (64 FR 3984) a Notice of Consideration of Approval of Transfer of Facility Operating License and Materials License and Issuance of Conforming Amendment, and Opportunity for a Hearing, with regard to Boston Edison Company and the Pilgrim Nuclear Power Station. Although the notice stated that the Commission is considering approving the transfer of a materials license, in addition to Facility Operating License No. DPR–35, and approving a conforming amendment, the materials license inadvertently was not specifically identified and discussed further in the notice. This supplemental notice clarifies that the Commission is considering approving the transfer of NRC Materials License No. 20–07626–04, which authorizes the possession of materials in the form of contamination on reactor components, from Boston Edison Company to Entergy Nuclear Generation Company. The Commission is also considering issuing a conforming amendment to this license. Both Materials License No. 20–07626–04 and Facility Operating License No. DPR–35 are the subject of the underlying application for approval dated December 21, 1998, which is referenced in the original notice.

This supplemental notice does not extend the notice period of the original notice. The dates established in the original notice by which hearing requests, petitions for intervention, and written comments must be filed concerning the application for approval dated December 21, 1998, are unchanged.

Dated at Rockville, Maryland this 29th day of January 1999.

For the Nuclear Regulatory Commission.

William M. Dean,

Director, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 99–2748 Filed 2–4–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Environmental Assessment: Finding of No Significant Impact Related to Amendment to Materials License No. Sub–908, BP Chemicals, Inc., Lima, OH

The U.S. Nuclear Regulatory Commission is considering issuing an amendment to Materials License No. SUB–908, held by BP Chemicals, Inc. (BPC), to authorize the construction of Closure Cell No. 2 for onsite disposal of waste contaminated with depleted uranium (DU) and the remediation of the contaminated areas of the facility in Lima, Ohio.

Environmental Assessment Summary

Proposed Action

In connection with decontaminating and decommissioning its Lima, Ohio facility, the licensee is proposing to construct and use an onsite disposal cell, under 10 CFR Part 20.2002, at its facility in Lima, Ohio, for disposal of the wastes with DU concentrations up to the Option 2 limit in NRC's 1981 Branch Technical Position (1981 BTP): ''Disposal or Onsite Storage of Thorium or Uranium Wastes from Past Operations'' (46 FR 52061). The licensee will dispose of soils, debris, and sludge currently located in SWMU 102 (Solid Waste Management Unit 102), and AN–1 (Acrylo Nitrile-1) and containerized areas in the onsite disposal cell. The disposal will be in lined Closure Cell No. 2, designed and constructed according to the Resource Conservation and Recovery Act (RCRA) criteria.

Need for Proposed Action

The proposed action is necessary to complete disposal of existing DU contaminated materials from the pond

areas and for the disposal of wastes generated during remediation of SWMU 102, AN–1, and containerized areas.

Environmental Impacts of the Proposed Action

The NRC staff reviewed the levels of contamination, the proposed remediation and decommissioning methods, the licensee's preferred disposal option, and the radiological and environmental controls that will be used during the remediation and decommissioning. These controls include the as low as is reasonably achievable (ALARA) program, worker dosimetry, a bioassayed program for workers, air monitoring, routine surveys, and routine monitoring of both airborne and liquid effluent releases to meet 10 CFR part 20 radiation protection requirements. Worker and public doses will be limited so that exposures will not exceed 10 CFR part 20 requirements.

The licensee proposed to perform decommissioning in accordance with ''Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted Use or Termination of Licenses for Byproduct, Source, and Special Nuclear Materials,'' dated August 1987. The licensee also proposed disposal of the wastes contaminated with DU in the RCRA-designed onsite closure cells, in accordance with the 1981 BTP. Based on uranium solubility testing of the mixed wastes, the maximum depleted uranium concentration that is acceptable for disposal in the closure cells is 11.1 Bq/gm (300 pCi/gm) total DU.

The staff analyzed the radiological impacts to the public from the disposal of sludge, soils, and debris contaminated with DU in the proposed onsite closure cells. Radiological impacts on members of the public could result from inhalation and ingestion of releases of radioactivity in air and in water during the remediation operations, and direct exposure to radiation from radioactive materials at the site during remediation operations. The public could also be exposed to radiation as a result of the onsite disposals in the closure cells. Decommissioning workers will receive doses primarily by ingestion, inhalation, and direct exposure during the remediation activities. In addition to impacts from routine remediation activities, the potential radiological consequences of accidents were considered.

The licensee provided an estimate of the dose to the public from airborne effluents generated during the remediation activities and onsite disposal. During normal remediation activities, the licensee and the NRC staff expect airborne concentrations to be minimal, because the sludges and soils will be handled in a moist state.

Liquids discharged to the US Environmental Protection Agency (EPA) permitted deep well injection system will have concentrations less than the US EPA's proposed drinking water limits for uranium, and would result in doses less than 0.057 mSv/yr (5.7 mrem/yr) to individuals hypothetically consuming 2 liters of this water each day.

The licensee performed dose assessments for Closure Cell No. 2 using RESRAD computer code, Version 5.62. The RESRAD computer code estimates radiation dose impacts assuming a resident-farmer scenario, where an individual would live in a residence on the site, grow food, and consume all their drinking water from an onsite water well. The NRC staff verified the licensee's analyses. These dose assessments include the scenario with the proposed cover over the closure cells assumed to have been removed. The predicted doses are less than NRC's limit of 1 mSv/yr (100 mrem/yr) for radiation doses to the public in 10 CFR Part 20.

During the remediation and placement of the waste into Closure Cell No. 2, workers will receive doses from direct exposure and from the inhalation of airborne depleted uranium. The maximum estimated direct exposure is for workers standing on the contaminated soil from the ponds. The estimated exposure is 4.0E–05 mSv/hr (4.0E–03 mrem/hr). Based on a project schedule of approximately 52 weeks, the maximally exposed worker would receive an annual dose of 0.08 mSv/yr (8 mrem/yr). The resulting dose is a small fraction of the 50 mSv/yr (5000 mrem/yr) limit for workers (routine occupational exposure) in 10 CFR part 20.

Based on the above evaluations, radiation exposure of persons living or traveling near the site will be well within limits contained in NRC's regulations and will be small in comparison to natural background radiation.

The licensee and the NRC staff also evaluated the radiological impacts from potential accidents. The predicted maximum exposure to a member of the public (licensee employee not involved in the remediation project) from an accident scenario would be 0.07 mSv (7 mrem) internal exposure. This potential exposure would result when a truck, transporting contaminated soil, tipped over, spread fuel over the spilled soil, and caught fire. The exposed individual was assumed to be standing downwind of the accident at the controlled access area boundary. The calculated dose is a small fraction of the annual dose limit to the public of 1.0 mSv/yr (100 mrem/yr) in 10 CFR part 20. The NRC staff verified these calculations used by the licensee.

The predicted maximum exposure to a worker from an accident scenario, other than the above truck accident, would be 7.7E–04 mSv (7.7E–02 mrem). This is based on an explosion of the pug mill mixer, where the worker was immersed in a ''contaminated'' cloud of suspended sludge for 10 seconds while leaving the immediate area of the explosion. This resultant exposure is a small fraction of the 50 mSv/yr (5000 mrem/yr) annual exposure limit for radiation workers and would not significantly add to the worker's annual exposure. The NRC staff verified calculations used by the licensee.

Because no waste is expected to be shipped offsite to a licensed low-level waste disposal site, there are no expected impacts from the transportation or offsite disposal of radioactive materials.

The NRC staff also considered nonradiological impacts such as chemical, socioeconomic, air quality, land use, and water quality, and concluded that all such impacts are negligible.

The NRC staff examined the distribution of minority and low-income communities near the BPC site in accordance with NRC internal guidance. Based on the data and the NRC's internal guidance, there is no potential for environmental justice issues based on race, or income level because the percentage of minorities or low-income households in the study area does not exceed the State or County percentage by 20 percent or more. Because the site represents an insignificant risk to the public health and safety, and the human environment, any residual radioactivity left at the site is not expected to disproportionately impact minority or low-income populations near the licensee's site. The staff concludes that there are no environmental justice issues at the licensee's site.

Alternatives to the Proposed Action

Six alternatives were investigated that resulted in the selection of onsite disposal as the recommended and preferred option by BPC. They are:

- No action;
- On-site closure (with caps);
- Disposal at a commercial disposal site without treatment;

• Disposal at a commercial disposal site with treatment;

• On-site temporary storage followed by off-site permanent disposal at a future, commercial disposal site;

• On-site permanent disposal under 10 CFR Part 20.2002 (BPC's preferred option).

The advantages and disadvantages of these alternatives, are described in the Environmental Assessment available in the Public Document Room.

Conclusions

The onsite permanent disposal under 10 CFR Part 20.2002 (the licensee's preferred option) consists of removing the contaminated material, and disposing of the materials in Closure Cell No. 2 designed and constructed according to the RCRA criteria. This disposal option complies with the provisions of 10 CFR Part 20.2002.

The environmental and public health impacts will be insignificant. No additional lands are required. There will be no adverse impacts caused by off-site waste transportation because no off-site waste transport is involved. Also, occupational exposures will be minimized. The estimated cost for the decommissioning and on-site disposal project is $18.26 million.

The NRC staff concludes that there are no reasonably available alternatives to the licensee's preferred action that are obviously superior.

Agencies and Persons Consulted, and Sources Used

This environmental assessment was prepared entirely by NRC's Office of Nuclear Material Safety and Safeguards staff in Rockville, Maryland, and Region III staff in Lisle, Illinois. Review comments were solicited on the draft EA from the Ohio Department of Health, the Ohio Environmental Protection Agency, and the Allen County Combined Health District, Lima, Ohio.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant impact on the quality of the human environment. Accordingly the Commission has determined not to prepare an environmental impact statement for the proposed action.

Additional Information

For further details with respect to the proposed action, see: (1) BPC's license amendment application dated August 2, 1996, and BPC's responses dated September 17, 1996, February 2, 1998, and June 19, 1998, to the NRC comments; and (2) the complete Environmental Assessment. The documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555.

Dated at Rockville, Maryland, this 29th day of January 1999.

For the Nuclear Regulatory Commission.

John W.N. Hickey,

Chief, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–2750 Filed 2–4–99; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 101, SEC File No. 270–408, OMB Control No. 3235–0464

Rule 102, SEC File No. 270–409, OMB Control No. 3235–0467

Rule 103, SEC File No. 270–410, OMB Control No. 3235–0466

Rule 104, SEC File No. 270–411, OMB Control No. 3235–0465

Rule 17a–2, SEC File No. 270–189, OMB Control No. 3235–0201

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Rules 101 and 102 prohibit distribution participants, issuers, and selling security holders from purchasing activities at specified times during a distribution of securities. Persons otherwise covered by these rules may seek to use several applicable exceptions such as a calculation of the average daily trading volume of the securities in distribution, the maintenance of policies regarding information barriers between their affiliates, and the maintenance of a written policy regarding general compliance with Regulation M for de minimis transactions. The Commission estimates that 1,761 respondents collect information under rule 101 and that approximately 40,641 hours in the aggregate are required annually for these collections. In addition, the Commission estimates that 791 respondents collect information under rule 102 and that approximately 1,691 hours in the aggregate are required annually for these collections.

Rule 103 permits passive market making in Nasdaq securities during a distribution. A distribution participant that seeks use of this exception would be required to disclose to third parties its intention to engage in passive market making. The Commission estimates that 227 respondents collect information under Rule 103 and that approximately 227 hours in the aggregate are required annually for these collections.

Rule 104 permits stabilizing by a distribution participant during a distribution so long as the distribution participant discloses information to the market and investors. This rule requires disclosure in offering materials of the potential stabilizing transactions and that the distribution participant inform the market when a stabilizing bid is made. It also requires the distribution participants (i.e. the syndicate manager) to maintain information regarding syndicate covering transactions and penalty bids and disclose such information to the SRO. The Commission estimates that 641 respondents collect information under Rule 104 and that approximately 64.1 hours in the aggregate are required annually for these collections.

Rule 17a–2 requires underwriters to maintain information regarding stabilizing activities, syndicate covering transactions, and penalty bids. The Commission estimates that 641 respondents collect information under Rule 17a–2 and that approximately 3,205 hours in the aggregate are required annually for these collections.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will 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 collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of

Information Technology, Securities and Exchange Commission, 450 5th Street, N.W., Washington, DC 20549.

Dated: January 27, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–2737 Filed 2–4–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40998; File No. SR–CHX–98–27]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Crossing Orders of 25,000 Shares or More

January 29, 1999.

I. Introduction

On November 5, 1998, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to crossing orders of 25,000 shares or more.

The proposed rule change was published for comment in the **Federal Register** on December 15, 1998.[3] No comments were received on the proposal. This order approves the proposal.

II. Description of the Proposal

The Exchange's general auction market procedures are codified in CHX Article XX, Rule 16, which provides for the manner in which bids and offers at the same price will be sequenced for execution. A member who makes the first bid or offer at a particular price has ''priority'' at that price, which means that the member is the first one in the market to be entitled to receive an execution at that price. If no member can claim priority, all members who are bidding or offering at a particular price are deemed to be on ''parity'' with each other, or equivalent in status.[4] Unlike the rules of certain other exchanges,[5] however, the CHX does not currently permit bids and offers that have parity to obtain precedence based on size (a so-called ''size-out'' rule).[6] In addition, unlike some other exchanges,[7] the CHX does not currently have a ''clean cross'' rule (as an exception to the normal priority rules) that would permit a member to cross a large block of stock, without the cross being broken up, by permitting the cross to obtain priority over all other existing bids and offers at the same price, regardless of the size of such bids or offers.[8]

The purpose of the proposed rule filing is to add new interpretation and policy .02 to Article XX, Rule 23, to allow a member or member organization that has an order to buy and an order to sell 25,000 shares or more of the same security to cross those orders at a price that is at or within the prevailing quotation, without the transaction being broken up at the cross price so long as (i) the size of the proposed cross transaction is of a size that is greater than the aggregate size of all interest communicated on the Exchange floor at that price at the time of the proposed cross, and (ii) neither side of the cross is for the account of the executing member or member organization.

As is the case for cross transactions that are permitted under existing CHX rules, prior to effecting the cross under the new proposal, the member will be required to make a public bid and offer on behalf of both sides of the cross.[9] The offer must be made at a price which is higher than the bid by the minimum trading variation permitted for the security. Under the Proposal, another member may trade with either the bid or offer side of the cross transaction only to provide a price which is better than the cross price as to all or part of the bid or offer. A member who is providing a better price to one side of the cross transaction must trade with all other market interest having priority at that price before trading with any part of the cross transaction.

Because the proposal provides that the bid or offer of the member desiring to execute the cross would be entitled to priority at such price (over pre-existing bids and offers at that price) only if the size of the cross is greater than the aggregate size of all interest communicated on the Exchange floor (which includes the specialist's bid or offer—including any limit order reflected in such quote—and any communicated interest of floor brokers or market makers standing in the crowd), the proposed rule is more akin to a size-out rule than a special priority rule.

The difference between the CHX proposal and the size-out rules contained on other exchanges is that the priority of earlier bids and offers will not have to be removed, by means of a sale, before effecting the cross. In addition, a cross transaction effected in accord with the CHX proposal does not affect the priority of existing orders in a specialist's book, and once the cross is executed, the priority (based on time rather than size) shall remain as it was before the execution of the cross transaction. In this sense, the proposal does have some attributes of a special priority rule. However, unlike the special priority afforded certain crosses on other exchanges, which are reported to the tape as ''stopped stock,'' cross transactions effected under the proposed rule will be reported to the tape without a ''tape designator.''

The CHX proposal limits the types of orders eligible to be crossed. Specifically, as stated above, no part of the cross can include an order for the account of the executing member or member organization. Under the proposal, only customer orders of a floor broker (*i.e.*, orders in which the floor broker acts as agent) can be included in the cross. For purposes of this proposal, the term customer order includes professional orders not for the account of the executing member (*i.e.*, orders for the accounts of broker-dealers and other members or member organizations communicated from off the floor).

The proposal is intended to facilitate the execution of certain cross

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 40758 (December 8, 1998), 63 FR 69125

[4] Members are on parity with each other when two or more bids or offers are announced simultaneously, or after a trade takes place leaving several bids or offers unfilled at the same price as the executed trade. *See* CHX Art. XX, Rule 16 (b) and (c).

[5] *See* New York Stock Exchange (''NYSE'') Rule 72 and similar Philadelphia Stock Exchange and Boston Stock Exchange rules. The American Stock Exchange (''Amex'') has a modified version of a ''size out'' rule for crosses of 25,000 shares or more. *See* Amex Rule 126(g), commentary .01 and .02.

[6] Under a typical size-out rule, the priority of existing bids and offers are first removed by means of a sale so that all bids and offers are on parity. Then, a person desiring to execute a cross can usually do so by claiming precedence based on size, so long as the size of the cross is greater than any other single bid or offer at that price.

[7] *See, e.g.*, NYSE Rule 72(g) which gives priority to an agency cross transaction of 25,000 shares or more that is executed at or within the prevailing quotation, without regard to the size or price of existing bids or offers on the floor. Other members can typically interact with the cross only by bettering one side of the cross, and even then, can only do so after satisfying all other existing bids or offers at that price. The Pacific Exchange, Inc. (''PCX'') and Amex have similar crossing rules.

[8] While the CHX does have a crossing rule, Article XX, Rule 23, this rule only permits crosses *between* (and not at) the CHX disseminated market. Thus, under current rules, assuming a specialist has properly reflected all limit orders from his book in his quote, the crossing rule does not have any effect on the Exchange's general priority, parity and precedence rules because all crosses must be at a better price than the disseminated market. Therefore, they are entitled to priority because of price (and not because of a special priority rule giving certain crosses priority over other bids and offers).

[9] *See* CHX Art. XX, Rule 23.

transactions on the CHX. The Exchange asserts that confining the proposed size threshold to block size orders of 25,000 shares or more will limit the effects of the rule primarily to actively traded, liquid securities.

The CHX further believes that the proposal, as drafted, furthers the important auction market principle of price improvement by allowing another member, under certain conditions, to trade with either the bid or offer side of the cross transaction to provide a price that is better than the proposed cross price.

Finally, the Exchange believes that limiting the proposal to crosses not involving principal transactions of the executing broker (*i.e.*, limiting the proposal to orders in which the floor broker is acting as agent), is consistent with Section 11(a)(1)(G) of the Act [10] as well as portions of other crossing rules at other exchanges. For example, in approving a crossing rule for the PCX, the Commission stated that it ''believes that the [PCX] proposal would not grant priority, parity or precedence to the order of a member in a manner inconsistent with Section 11(a)(1)(G) of the Act or Rule 11a1–1(T)(a)(3) thereunder.'' [11] The PCX proposal defined customer to include any order that the broker represents in an agency capacity, including a professional order that is not for an account associated with the executing broker. The Commission concluded that because ''this definition of customer order excludes, and thus does not grant priority to, an order for an account over which the broker or an associated person of the broker exercises investment discretion, the Commission is satisfied that the proposed rule change complies with Section 11(a).'' [12]

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act [13] and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Sections 6(b) and 11A of the Act.[14] Specifically, the Commission believes that the proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of the Act and is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.[15] The Commission also believes that the proposed rule change is consistent with Section 11A of the Act,[16] in that it will enable the CHX to better compete with the other exchanges markets.

The Commission believes that the proposed rule change should enhance CHX's ability to compete for block business and could enhance the depth and liquidity of CHX's market. That said, the Commission also believes that limiting the proposed size threshold to block-size orders of 25,000 shares or more should limit the effects of the rule primarily to actively traded, liquid securities.

The Commission believes that the proposed rule change should increase the opportunities for the efficient execution of block-sized agency cross transactions. Specifically, the proposed rule change should facilitate the ability of CHX members to execute block agency transactions on the CHX by giving such orders priority over orders at or within the prevailing quotation.

The Commission notes that the proposed rule change also preserves the auction market principle of price improvement by prohibiting the cross transaction from being broken up unless a member is willing to provide price improvement to the cross price (either all or part of such bid or offer). The proposal also preserves the principle of priority by requiring that a member who breaks up a cross by providing a better price must first satisfy all existing market interest having priority at that better price before trading with any part of the cross.

The Commission recognizes that approval of the clean cross proposal could disadvantage smaller orders with time priority which are on the book, or in the trading crowd, as the same price as the cross transaction. The Commission, however, believes that the proposal restricts sufficiently the circumstances in which members may execute clean cross transactions on the Exchange. In particular, the Commission believes that the share size threshold of 25,000 shares or more should help ensure that the clean cross proposal will apply primarily to large block-sized orders where the depth of the prevailing bid or offer may be less likely to satisfy either side of the clean cross. In addition, the proposal is limited to agency orders only and, therefore, it should not give any special advantage to members, member organizations, and non-member broker-dealers in their proprietary trading.

The Commission notes that similar rules are in place at the Amex, NYSE, and PCX.[17] The rules of the Amex, NYSE, and PCX, like the CHX proposal, give priority to agency cross transactions of 25,000 shares or more and permit such crosses to be broken up only if price improvement will result therefrom. The Commission notes, however, that the CHX's proposed rule is more restrictive than the rules of the Amex, NYSE, or PCX in that it allows for an agency block-sized cross transaction to occur without being broken up at the cross price as long as the size of the proposed cross transaction is of a size greater than the aggregate size of all interest communicated on the Exchange Floor at that price at the time of the cross.

Finally, the Commission believes that because the CHX proposal is limited to crosses not involving principal transactions of the executing broker (*i.e.*, limited to orders in which the floor broker acts as agent) it would not grant priority, parity or precedence to the order of a member inconsistent with Section 11(a)(1)(G) of the Act [18] or Exchange Act Rule 11a1–1(T)(a)(3) thereunder.[19] For purposes of the proposed rule change, the CHX has defined the term ''customer order'' as an order that a broker represents in an agency capacity, including a professional order that is not for an account associated with the executing broker. Because the definition of ''customer order'' excludes (and, thus does not grant priority to) an order for an account over which the broker or an associated person of the broker exercises investment discretion, the Commission is satisfied that the proposed rule change complies with Section 11(a) of the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (SR–CHX–98–27) is approved.

[10] 15 U.S.C. 78k(a)(1)(G).

[11] *See* Exchange Act Release No. 33391 (December 28, 1993), 59 FR 336 (January 4, 1994) (order approving SR–PSE–91–11). The PCX changed its name in 1997 from Pacific Stock Exchange to Pacific Exchange.

[12] *Id*.

[13] In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b) and 78k–1.

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78k–1(a)(1)(C)(ii).

[17] *See* Amex Rule 126(g), Commentary .02; NYSE Rule 72(b)(Priority of Agency Cross Transactions); PCX Rule 5.14(b), Commentary .05.

[18] 15 U.S.C. 78k(a)(1)(G).

[19] 17 C.F.R. 240.11a1–1(T)(a)(3).

[20] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–2736 Filed 2–4–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41004; File No. SR–MBSCC–93–03]

Self-Regulatory Organizations; MBS Clearing Corporation; Order Granting Approval of a Proposed Rule Change Increasing the Number of Directors

January 29, 1999.

On November 5, 1998, MBS Clearing Corporation (''MBSCC'') filed with the Securities and Exchange (''Commission'') the proposed rule change (File No. SR–MBSCC–98–03) pursuant to Section 19(b)(1) of the Securities and Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on November 30, 1998.[2] For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The rule change amends Article 3, Section 3.1 of MBSCC's By-laws to increase the number of directors on its board from thirteen to fifteen.[3] Currently, MBSCC has thirteen directors divided into three classes. Classes I and II each consist of four directors, and Class III consists of five directors. Under the rule change, each class will now consist of five directors.

MBSCC's shareholders agreement provides that one director represents management, one director represents the National Securities Clearing Corporation, and the remaining directors represent MBSCC's participants. Under the rule change, the two additional directors will represent MBSCC's participants.

II. Discussion

Section 17A(b)(3)(C)[4] provides that the rules of a clearing agency must provide for the fair representation of its shareholders or members and participants in the selection of directors. The Commission believes that the increase in the size of MBSCC's board is consistent with the Act's fair representation requirements because the addition of two directors will increase the opportunity for participants to be represented on MBSCC's board and should allow the board to more accurately reflect its membership.

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. MBSCC–98–03) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–2735 Filed 2–4–99; 8:45 am]

BILLING CODE 8010–01–M

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] Securities and Exchange Act Release No. 34–40702 (November 23, 1998) 63 FR 65831.

[3] Article 3, Section 3.1 governs the number, election, and term of office of directors.

[4] 15 U.S.C. 78q–1(b)(3)(C).

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40992; File No. SR–NASD–98–94]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Adjudication of Clearly Erroneous Transactions

January 28, 1999.

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 National Association of Securities Dealers, Inc. (''NASD''), through its wholly-owned regulatory subsidiary, NASD Regulation, Inc. (''NASD Regulation''), 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 NASD Regulation. 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

NASD Regulation is proposing to amend NASD Rule 11890 (''Rule'') to conform the time frame for requesting a clearly erroneous adjudication for pre-opening transactions to the 30-minute time frame that applies to trades that occur after 10:00 a.m. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

11890. Clearly Erroneous Transactions

(a) No Change

(b) Procedures for Reviewing Transactions

(1) Any member or person associated with a member that seeks to have a transaction reviewed pursuant to paragraph (a) hereof, shall submit a written complaint, via facsimile or otherwise, to Nasdaq Market Operations in accordance with the following time parameters:

(A) For transactions occurring *at or after 9:30 a.m., Eastern Time, but* prior to 10:00 a.m., Eastern Time, complaints must be submitted by 10:30 a.m., Eastern Time; and

(B) For transactions occurring [on] *prior to 9:30 a.m., Eastern Time and those occurring at* or after 10:00 a.m., Eastern Time, complaints must be submitted within thirty minutes.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation 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. NASD Regulation has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Rule sets forth the process through which The Nasdaq Stock Market, Inc. (''Nasdaq'') may review certain transactions and declare them null and void or otherwise modify their terms. In early 1998, the Commission approved changes to the rule to make this process more efficient and fair (''Amendments'').[3] Among other things, the rule was amended to shorten the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 39550 (January 14, 1998), 63 FR 4333 (January 28, 1998) (approving SR–NASD–96–51).

time period to submit erroneous transaction complaints—from any time during the trading day to within 30 minutes of the erroneous transaction. This was done to reduce the potential for firms to wait until the end of the day to decide whether an erroneous trade became unprofitable, and to ensure that firms give the counterparty adequate notice in close proximity to the time of execution.

Because of the high volume of trading commencing at the 9:30 a.m. opening, however, the NASD intended to provide additional time to submit adjudication requests for trades occurring between 9:30 a.m. and 10:00 a.m. Specifically, the NASD intended that members have until 10:30 a.m. to request an adjudication for trades occurring between the 9:30 a.m. open and 10:00 a.m. The rule, however, currently only references trades that occur between 10:00 a.m., and is silent as to trades that occur before the 9:30 a.m. opening. Consequently, a literal reading of the Rule accords additional time to pre-9:30 a.m. transactions as well as those that occur between 9:30 and 10:00.

The NASD staff identified this issue at the time the Commission approved the Amendments, but agreed, in consultation with Commission staff, to wait and observe the operation of the amended Rule. After administering the Rule for eight months under the new time parameters, the NASD has confirmed its original belief that this additional time is not necessary with respect to pre-opening transactions, and reiterates its view that it is in fact inconsistent with the original intent of the Amendments.

In particular, the NASD notes that of 27 requests for adjudication pre-opening trades received to date since the Amendments, more than half were submitted by members within 30 minutes (in several instances within ten minutes) even though they had as long as 90 minutes to do so in some cases. More importantly, virtually all of these requests (23 of 27) were made after the market opened and thus after the requesting party had an opportunity to observe the direction of the market. While the NASD still believes that it is appropriate to provide additional time to request an adjudication for erroneous trades that occur following the opening, the NASD does not believe members should be provided with this additional time for pre-opening transactions. Such additional time is inconsistent with the intent of the Amendment, and leaves the potential for the same abuses and risks that the Amendments sought to address.

Accordingly, this proposed rule change merely conforms the pre-opening time frame to the same 30-minute standard that applies to trades occurring on or after 10:00 a.m.

2. Statutory Basis

NASD Regulation believes the proposed rule change, by helping to ensure that clearly erroneous transactions are quickly corrected or nullified and properly reported to the public, is consistent with the Act and in particular with Sections 15A(b)(6) [4] and 11A(a)(1)(C) [5] of the Act. Among other things, Section 15A(b)(6) requires that the rules of a national securities association be designed to remove impediments to and perfect the mechanisms of a free and open market and a national market system and in general to protect investors and the public interest. Section 15A(b)(6) also provides that the rules of the association not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Section 11A(a)(1)(C) provides that, among other things, it is in the public interest to assure the availability of information with respect to quotations for and transactions in securities to brokers, dealers, and investors.

In the proposed rule change, NASD Regulation provides greater specificity in the procedures for resolving pre-opening clearly erroneous transactions. NASD Regulation believes that the proposed amendments to the NASD's procedures to review these transactions should benefit market participants by promoting fair and efficient resolution of disputes involving clearly erroneous transactions. In addition, the proposed rule change addresses concerns raised by the Commission in its August 8, 1996, Report Pursuant to Section 21(a) of the Securities Exchange Act of 1934 Regarding the NASD and The Nasdaq Stock Market regarding the fairness of the clearly erroneous review process. NASD Regulation believes that the proposed rule change will make the process for resolving clearly erroneous transaction complaints more fair and more efficient. In this regard, the proposal is consistent with Section 15A(b)(6) of the Act because it helps to ensure that the Rule does not permit unfair discrimination between customers, issuers, brokers, or dealers.

Further, it is important for the proper functioning of the securities markets that investors be able to rely on reported transactions as accurately reflecting the current state of the market and actual executions. When clearly erroneous transactions are publicly reported, it is important that, whenever possible, Nasdaq correct these errors and the inaccurate information that was disseminated in the market about these transactions as quickly as possible.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NASD Regulation did not solicit or receive written comments on the proposal.

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, Secretaries and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for

[4] 15 U.S.C. 78*o*–3(b)(6).

[5] 15 U.S.C. 78k–1(a)(1)(C).

inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–98–94 and should be submitted by February 26, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–2733 Filed 2–4–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40994; File No. SR–PCX–98–63]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to the OptiMark System and Stop Orders

January 28, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 24, 1998, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend Rules 5.8(j) and 5.32(a) to clarify the responsibilities of PCX members regarding the handling of stop orders relative to executions resulting from the PCX Application of the OptiMark System.

The text of the proposed rule change is available at the Office of the Secretary, PCX and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rules 5.8(j) and 5.32(a) to clarify the responsibilities of PCX members regarding the handling of stop orders relative to executions resulting from the PCX Application of the OptiMark System. The proposed amendments clarify that all round-lot stop orders in dually-traded securities that are afforded primary market protection (''PMP'') will not be elected and executed based on transactions that emanate from the OptiMark System. The Exchange believes that the proposed rule change will clarify the treatment of stop orders under PCX's rules, thereby promoting a more effective and orderly market operation.

The Exchange proposes changes to Rules 5.8(j) and 5.32(a) for the following reasons:

First, stop orders are not eligible for entry as profiles in the OptiMark System. Consequently, a specialist or floor broker cannot interact with the trade results that are generated from a single call cycle in order to comply with the execution requirements for stop orders (prints resulting from an OptiMark call cycle occur in an uninterrupted batch).

Second, a stop order is contingent on its election and execution occurring in a continuous sequence of trades in an auction market. OptiMark is a call market in which executions occur on a periodic basis and, as a result, it is not conducive to the election and execution of such orders.

Third, since an OptiMark match cycle generates trades at a range of prices, the election of a stop order by including OptiMark prints may result in a customer receiving an unfavorable execution, particularly if the traditional primary market (New York Stock Exchange (''NYSE'') or American Stock Exchange (''AMEX'')) would not reach the election price.

Fourth, given PCX technology in the current trading environment, the Specialists are unable to distinguish between OptiMark and non-OptiMark prints that occur on the PCX.

Finally, the proposal is consistent with the interpretation of PCX Rule 5.8(j) in that stop orders have, in practice, been elected and executed based on transactions emanated from the primary markets (NYSE and AMEX).

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b)[2] of the Act in general and further objectives of Section 6(b)(5)[3] in particular, because it is designed to promote just and equitable principles of trade, to facilitate transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and to protect investors and the public interest.[4]

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange and therefore, has become effective pursuant to Section 19(b)(3)(A)(i) of the Act[5] and subparagraph (e)(1) of Rule 19b–4 thereunder.[6]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing; including whether the proposed rule change is consistent with the Act.

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78f(b).

[3] 15 U.S.C. 78f(b)(5).

[4] In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78s(b)(3)(A)(i).

[6] 17 CFR 240.19b–4(e)(1).

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–PCX–98–63 and should be submitted by February 26, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–2734 Filed 2–4–99; 8:45 am]

BILLING CODE 8010–01–M

[7] 17 CFR 200,30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3153]

State of Tennessee

As a result of the President's major disaster declaration on January 19, 1999, and an amendment thereto on January 23, I find that Benton, Carroll, Crockett, Decatur, Dickson, Hardeman, Haywood, Henderson, Humphreys, Lauderdale, Madison, Maury, Montgomery, and Perry Counties in the State of Tennessee constitute a disaster area due to damages caused by severe storms, tornadoes, and high winds beginning on January 18, 1999 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on March 19, 1999 and for economic injury until the close of business on October 19, 1999 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Cheatham, Chester, Dyer, Fayette, Gibson, Giles, Hardin, Henry, Hickman, Houston, Lawrence, Lewis, Marshall, McNairy, Robertson, Stewart, Tipton, Wayne, Weakley, and Williamson Counties in Tennessee; Mississippi County, Arkansas; Christian and Todd Counties in Kentucky; and Alcorn, Benton, and Tippah Counties in Mississippi.

The interest rates are:

	Percent
For Physical Damage:	
HOMEOWNERS WITH CREDIT AVAILABLE ELSEWHERE	6.375
HOMEOWNERS WITHOUT CREDIT AVAILABLE ELSEWHERE	3.188
BUSINESSES WITH CREDIT AVAILABLE ELSEWHERE	8.000
BUSINESSES AND NON-PROFIT ORGANIZATIONS WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000
OTHERS (INCLUDING NON-PROFIT ORGANIZATIONS) WITH CREDIT AVAILABLE ELSEWHERE	7.000
For Economic Injury:	
BUSINESSES AND SMALL AGRICULTURAL COOPERATIVES WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000%

The number assigned to this disaster for physical damage is 315311. For economic injury the numbers are 9A8300 for Tennessee, 9A8400 for Arkansas, 9A8500 for Kentucky, and 9A8600 for Mississippi.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 27, 1999.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 99–2708 Filed 2–4–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3155]

State of Washington (and a Contiguous County in Oregon, #3156)

Pacific County and the contiguous counties of Grays Harbor, Lewis, and Wahkiakum in the State of Washington, and Clatsop County in the State of Oregon constitute a disaster area as a result of a hotel fire which occurred on November 5, 1998 in the Town of Raymond. Applications for loans for physical damage from this disaster may be filed until the close of business on March 29, 1999 and for economic injury until the close of business on October 27, 1999 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 4 Office, P. O. Box 13795, Sacramento, CA 95853–4795

The interest rates are:

	Percent
For Physical Damage:	
HOMEOWNERS WITH CREDIT AVAILABLE ELSEWHERE	6.750
HOMEOWNERS WITHOUT CREDIT AVAILABLE ELSEWHERE	3.375
BUSINESSES WITH CREDIT AVAILABLE ELSEWHERE	8.000
BUSINESSES AND NON-PROFIT ORGANIZATIONS WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000
OTHERS (INCLUDING NON-PROFIT ORGANIZATIONS) WITH CREDIT AVAILABLE ELSEWHERE	7.000
For Economic Injury:	
BUSINESSES AND SMALL AGRICULTURAL COOPERATIVES WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000

The numbers assigned to this disaster for physical damages are 315505 for Washington and 315605 for Oregon. For economic injury the numbers are 9A9600 for Washington and 9A9700 for Oregon.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 27, 1999.

Fred P. Hochberg,

Acting Administrator.

[FR Doc. 99–2709 Filed 2–4–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

SBA Equity Partners, Inc. (License No. 05/05–0233), Notice of Surrender of License

Notice is hereby given that SBC Equity Partners, Inc. One South Wacker Drive, Chicago, Illinois 60606, has surrendered their license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). SBC Equity Partners, Inc. was licensed by Small Business Administration on February 26, 1998.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on this date, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No.59.11, Small Business Investment Companies)

Dated: January 28, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–2707 Filed 2–4–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Chairs-Regional Fairness Boards 1–10 Meeting

The Small Business Administration Chairs-Regional Fairness Board 1–10 Meeting Located in the geographical area of Chicago, IL, will hold a strategy meeting at 8:30 a.m. on Saturday, February 9, 1999 at SBA National Ombudsman's Office, 500 W Madison St., Suite 1240, Chicago, IL 60661, to collect Fairness Board Chairs' comments on the 1999 draft Report To Congress, as well as to obtain recommendations and other input for the annual Report to Congress.

For further information, contact, Gary P. Peele (312) 353–0880.

Shirl Thomas,

Director, Office of External Affairs.

[FR Doc. 99–2779 Filed 2–4–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region VI—Houston District Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration—Region VI—Houston Advisory Council, located in the geographical area of Houston, Texas will hold a public meeting at 1:00 p.m. on Tuesday, March 2, 1999. The meeting will be conducted in the Conference Room at the Small Business Administration, 9301 Southwest Freeway, Suite 550, Houston, Texas 77074. This meeting will be conducted to discuss such business as may be presented by members of the District Advisory Council, the staff of the U.S. Small Business Administration, and other attending.

For further information, write to Milton Wilson, Jr. District Director, at the Small Business Administration, 9301 Southwest Freeway, Suite 550, Houston, Texas 77074–1591 or call (713) 773–6500.

Shirl Thomas,

Director, Office of External Affairs.

[FR Doc. 99–2778 Filed 2–4–99; 8:45 am]

BILLING CODE 8025–01–M

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

In compliance with PL. 104–13, the Paperwork Reduction Act of 1995, SSA is providing notice of its information collection packages that require submission to the Office of Management and Budget (OMB). SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, comments and recommendations regarding these information collections would be most useful if received by the Agency within 60 days from the date of this publication. Comments should be directed to the SSA Reports Clearance Officer at the address listed at the end of the notices.

1. Application for Benefits Under a U.S. International Social Security Agreement—0960–0448. The information collected on form SSA–2490 is used by the Social Security Administration to determine a claimant's eligibility for U.S. Social Security benefits under the provisions of an international social security agreement. It is also used to take an application for benefits from a foreign country under an agreement. The respondents are individuals who are applying for benefits from either the United States and/or a foreign country with which the United States has an agreement. The United States currently has 17 such agreements.

Number of Respondents: 20,000.

Frequency of response: 1.

Average Burden per response: 30 minutes.

Estimated Annual Burden: 10,000 hours.

2. 0960–NEW. Public Law 105–277 authorizes SSA to conduct a Medicare buy-in demonstration project to evaluate means to promote the Medicare buy-in programs targeted to elderly and disabled individuals under titles XVIII and XIX of the Social Security Act. A lack of awareness about the Medicare buy-in programs appears to be one of the major obstacles to enrollments. Other obstacles to enrollment include the confusion of potential eligibles as to how to apply for these programs and a preference for dealing with SSA field offices rather than with local Medicaid offices.

SSA will screen respondents voluntarily for potential Medicare Part B buy-in eligibility using a screening guide developed for this purpose. The screening guide will collect information from SSA beneficiaries regarding income, resources, marital status and living arrangements and also ask questions about their awareness of Medicare Part B buy-in programs. SSA will gather this information to identify and overcome obstacles to Medicare Part B buy-in enrollments and to screen for potential eligibility for Medicare Part B benefits. The demonstration project ends on December 31, 1999.

Number of Respondents: 130,000.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 43,334 hours.

II. The information collections listed below have been submitted to OMB for clearance. Written comments and recommendations on these information collections would be most useful if received within 30 days from the date of this publication. Comments should be directed to the SSA Reports Clearance Officer and the OMB Desk Officer at the addresses listed after these notices.

1. Authorization to Obtain Earnings Data from the Social Security Administration—0960–NEW. SSA collects this information when a wage earner or a third party requests detailed earnings information pertaining to the wage earner from the Social Security Administration. The information provided on form SSA–581 is used by SSA to verify the authorization to access earnings record data and to produce an itemized statement for release to the third party named on the form. The information is provided by the wage earner and/or the third party.

Number of Respondents: 60,000.

Frequency of Response: 1.

Average Burden Per Response: 2 minutes.

Estimated Annual Burden: 2,000 hours.

2. Organization Profile—0960–NEW. The Social Security Administration (SSA) will use the information collected on the Organization Profile questionnaire to create a database of third party stakeholders. This database will support the delivery of information about Social Security programs to these interested parties, and enable SSA to target relevant information to those organizations while restricting unwanted material. The respondents are community organizations, State and

local government agencies, advocacy groups and community service organizations.

Number of Respondents: 10,000.

Frequency of Response: 1.

Average Burden Per Response: 7 minutes.

Estimated Annual Burden: 1,167 hours.

You can obtain a copy of the collection instruments or the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965–4145 or by writing to him at the address below.

(SSA)

Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235

(OMB)

Attn: Lori Schack, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503

Dated: February 1, 1999.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 99–2738 Filed 2–4–99; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending January 29, 1999

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–99–5052

Date Filed: January 27, 1999

Parties: Members of the International Air Transport Association

Subject:

PTC23 EUR–SEA 0064 dated December 18, 1998

Europe-South East Asia Expedited Resos

r–1—002q, r–3—071hh, r–5—078o

r–2—015v, r–4—076tt, r–6—084cc

Intended effective date: February 1, 1999

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–2724 Filed 2–4–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1999–5042]

Agency Information Collection Activities Under OMB Review

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520, the Coast Guard intends to request the Office of Management and Budget's (OMB) approval for the renewal of five Information Collection Requests (ICR). These ICRs include: (1) The Tank Vessel Examination Letter (CG–840S–1&2), Certificate of Compliance, Boiler/Pressure Vessel Repairs, Cargo Gear Records, and Shipping Papers; (2) Self-propelled Liquefied Gas Vessels; (3) Alternate Compliance Program—Record of Inspections; (4) Requirements for Lightering of Oil and Hazardous Materials Cargoes; and (5) Instructional Material for Lifesaving, Fire Protection and Emergency Equipment. Before submitting the ICRs to OMB, the Coast Guard is asking for comments on the collections described below.

DATES: Comments must reach the Coast Guard on or before April 6, 1999.

ADDRESSES: You may mail comments to the Docket Management Facility, (USCG–199–), 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 10 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 document. 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.

Copies of the complete Information Collection Request are available through this docket on the Internet at http:dms.dot.gov and also from Commandant (G–SII–2), U.S. Coast Guard Headquarters, room 6106, (Attn: Barbara Davis), 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is 202–267–2326.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document. Should there be questions on the docket, contact Pat Chesley, Coast Guard Dockets Team Leader, or Dorothy Walker, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–9330.

Request for Comments

The Coast Guard encourages interested persons to submit written comments. Persons submitting comments should include their names and addresses, identify this document (USCG–1999–) and the specific Information Collection Request (ICR) to which each comment applies, and give the reason(s) 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. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

Information Collection Requests

1. *Title:* Tank Vessel Examination Letter (CG–840S–1 & 2), Certificate of Compliance, Boiler/Pressure Vessel Repairs, Cargo Gear Records, and Shipping Papers.

OMB Control Number: 2115–0504.

Summary: The information in this report is collected to ensure compliance with U.S. regulations as part of the Coast Guard's Marine Safety Program.

Need: Title 46 United States Code (USC) 3301, 3305, 3306, 3702, 3703, 3711, and 3714 authorizes the Coast Guard to establish marine safety regulations to protect life, property, and the environment. Title 46 Code of Federal Regulations (CFR) prescribe these Coast Guard regulations.

The requirements for reporting Boiler/Pressure Valve Repairs, maintaining Cargo Gear Records, maintaining Shipping Papers, issuance of Certificates of Compliance and Tank Vessel Examination Letters (CG–840S–1/CG–840S–2, as appropriate) provide the marine inspector with available information as to the condition of a vessel and its equipment. It also contains information on the vessel owner and lists the type and amount of cargo that has been or is being transported. These requirements all relate to the promotion of safety of life at sea and protection of the marine environment.

Respondents: Vessel owners and operators.

Frequency: On occasion.

Burden: The estimated burden is 21,531 hours annually.

2. *Title:* Self-propelled Liquefied Gas Vessels.

OMB Control Number: 2115–0113.

Summary: The information in this report is needed to ensure compliance with U.S. regulations for the design and operation of liquefied gas carriers.

Need: Title 46 U.S.C. 3703 and 9101 authorizes the Coast Guard to establish regulations to protect life, property, and the environment from the hazards associated with the carriage of bulk liquid dangerous cargoes. Title 46 CFR, part 154 prescribes the Coast Guard regulations for the carriage of liquefied gases in bulk on self-propelled vessels by establishing rules for the design, construction, equipment, personnel safety, and operation of these vessels.

Respondents: Vessel owners and operators.

Frequency: On occasion.

Burden: the estimated burden is 4,070 hours annually.

3. *Title:* Alternate Compliance Program—Record of Inspections.

Summary: The information for this report is only collected when an owner/operator of an inspected vessel voluntarily decides to participate in the U.S. Coast Guard's Alternate Compliance Program (ACP). The information collected will be used to assess compliance prior to issuance of a Certificate of Inspection.

Need: Title 46 U.S.C. 3306, 3316, and 3703 authorizes the Coast Guard to establish vessel inspection regulations and inspection alternatives. Title 46 CFR, part 8 prescribes the Coast Guard regulations for recognizing classification societies and enrollment of U.S. flag vessels in ACP.

Respondents: Classification societies.

Frequency: On Occasion.

Burden: The estimated burden is 190 hours annually.

4. *Title:* Requirements for Lightering of Oil and Hazardous Material Cargoes.

OMB Control Number: 2115–0539.

Summary: The information for this report allows the U.S. Coast Guard to provide timely response to an emergency and minimize the environmental damage from an oil or hazardous material spill. The information also allows the Coast Guard to control the location and procedures for lightering activities.

Need: Title 46 U.S.C. 3715 authorizes the Coast Guard to establish lightering regulations. Title 33 CFR 156.200 to 156.330 prescribes the Coast Guard regulations for lightering, including pre-arrival notice, reporting of incidents and operating conditions.

Respondents: Vessel owners and operators.

Frequency: On occasion.

Burden: The estimated burden is 315 hours annually.

5. *Title:* Instructional material for Lifesaving, Fire Protection and Emergency Equipment.

OMB Control Number: 2115–0576.

Summary: The information for this report allows crew members of U.S. vessels to provide proper and timely response to an emergency, to minimize personnel injuries or deaths and to prevent environmental damage from an oil or hazardous material spill. The information is used during training sessions and during emergencies.

Need: Title 46 U.S.C. 3306 authorizes the Coast Guard to establish regulations concerning lifesaving, fire protection and other equipment. Title 46 CFR, subchapters Q and W prescribes regulations that include the instructional materials needed to ensure a vessel's crew has the necessary information on the proper use of lifesaving, fire protection and emergency equipment.

Respondents: Equipment manufacturers.

Frequency: On occasion.

Burden: The estimated burden is 8,512.

Dated: January 28, 1999.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Director of Information and Technology.

[FR Doc. 99–2828 Filed 2–4–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA, Inc.; Governmental/Industry Free Flight Steering Committee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for an RTCA Government/Industry Free Flight Steering Committee meeting to be held February 19, 1999, starting at 1:00 p.m. The meeting will be held at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 20591 in the Bessie Coleman Conference Center, Second Floor.

The agenda will include: (1) Welcome and Opening Remarks; (2) Review Summary of the Previous Meeting; (3) Discuss GPS/WAAS Sole Means Risk Assessment final report from John Hopkins University Applied Physics Laboratory; (4) Schedule Update for the GPS WAAS Program; (5) Report on Free Flight Phase 1 Technology Schedules; (6) Other Business; (7) Date and Location of Next Meeting; (8) Closing Remarks.

Attendance is open to the interested public but limited to space availability. With the approval of the co-chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statement or obtain information should contact the RTCA, Inc., at (202) 833–9339 (phone), (202) 833–9434 (facsimile), or *dclarke@rtca.org* (e-mail).

Members of the public may present a written statement at any time.

Issued in Washington, DC, on January 26, 1999.

Janice L. Peters,

Designated Official.

[FR Doc. 99–2832 Filed 2–4–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on PFC Application 99–04–C–00–OTH To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at North Bend Municipal Airport, Submitted by the City of North Bend, North Bend, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use, the revenue from a PFC at North Bend Municipal Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before March 8, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: J. Wade Bryant, Manager; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW., Suite 250, Renton, Washington 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Gary LeTellier, Airport Manager, at the following address: North Bend Municipal Airport, P.O. Box B, North Bend, OR 97459.

Air carriers and foreign air carriers may submit copies of written comments previously provided to North Bend Muncipal under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Vargas, (425) 227–2660; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW., Suite 250; Renton, WA 98055–4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application 99–04–C–00–OTH to impose and use, the revenue from a PFC at North Bend Municipal Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On January 29, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of North Bend, North Bend, Oregon, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 5, 1999.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: November 1, 2001.

Proposed charge expiration date: December 1, 2003.

Total estimated net PFC revenue: $103,610.

Brief description of proposed project(s): Impose and Use: Construction of hangar access, taxiway, and taxilanes; Rehabilitation of main PCC apron; Airport rescue and fire fighting equipment purchase.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air taxi/commercial operators utilizing aircraft having a seating capacity of less than twenty passenger, emergency medical flights, and other nonscheduled air taxi/commercial operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Regional, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at North Bend Municipal Airport,

Issued in Renton, Washington on January 29, 1999.

Carolyn T. Reed,

Acting Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 99–2831 Filed 2–4–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–98–5021]

Notice of Request for Clearance of a New Information Collection: Motor Carrier Scheduling Practices and Their Influence on Driver Fatigue

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirement in section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of the FHWA to request the Office of Management and Budget (OMB) to approve a new information collection related to the research project ''Motor Carrier Scheduling Practices and Their Influence on Driver Fatigue.'' This information collection will be in the form of a survey comprised of multiple parts designed to collect information from interstate motor carrier executives, dispatchers, safety directors, and drivers of commercial motor vehicles carrying passengers and property.

DATES: Comments must be submitted on or before April 6, 1999.

ADDRESSES: All signed, written comments should refer to the docket number that appears in the heading of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10:00 a.m. to 5:00 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Philip J. Roke, Project Manager, (202) 366–5884, Federal Highway Administration, Office of Motor Carrier Research and Standards, 400 7th Street S.W., Room 3107, Washington, D.C. 20590. Office hours are from 7:30 a.m. to 4:00 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Motor Carrier Scheduling Practices and Their Influence on Driver Fatigue.

Background: The Office of Motor Carriers (OMC) is endeavoring to develop and implement a commercial motor vehicle safety program that is consistent with the direction and intent of the Congress, as specified in the Conference Report 104–286 to accompany House Report 2002 to the Department of Transportation's Appropriations Bill (Public Law 104–50). In this Conference Report, the Congress directed the FHWA to contract during FY1996 with the American Trucking Associations Foundation's (ATAF) Transportation Research Institute (TRI), to perform applied research in an amount not less than $4 million to address a number of safety issues of concern, such as: driver fatigue and alertness; the application of emerging technologies to ensure safety, productivity and regulatory compliance; commercial driver licensing, training and education. Within this legislative authority, the FHWA awarded a cooperative agreement to the ATAF's TRI on a noncompetitive basis.

The TRI has participated in several research partnerships with the FHWA's OMC designed to identify causes of commercial motor vehicle driver fatigue and to develop effective countermeasures. Such research has indicated that developing an understanding of current operational scheduling requirements is fundamental to any attempt to facilitate change toward better shift systems that take into account the needs of drivers, while at the same time account for the economic realities of their employers and their customers—shippers and receivers. Therefore, this study of key participants in motor carriage by TRI's subcontractor Iowa State University has two objectives: (1) To assess the operational scheduling requirements of interstate motor carriers of passengers and property; and (2) to identify motor carrier scheduling requirements that have a positive effect on safety performance.

The research methodology employed includes the use of a comprehensive literature review in conjunction with first-hand knowledge obtained from industry focus groups. Together, the information, insights, and other input derived from these carefully selected focus groups are essential to the development of meaningful, comprehensive and logical survey instruments specific to motor carrier upper-level management, safety directors, dispatchers, and drivers of passengers and property. The surveying

by mail method of research is necessary to generate the data that allows the Iowa State University of Science and Technology researchers to determine the actual extent of various scheduling and other safety-related practices and the operational requirements in the various industry segments.

Additionally, the data generated from representative samples of the interstate motor carrier industry will be analyzed to develop causal inferences about or relationships between scheduling and related practices and safety performance.

Respondents: The respondents to the planned survey will include selected interstate motor carrier executives, dispatchers, safety directors, and drivers of commercial motor vehicles carrying passengers and property.

Estimated Average Burden Per Response: The estimated average burden per response is 19 minutes. This includes the time needed for reviewing the survey instructions, searching existing data sources, completing the appropriate survey instrument, reviewing the collection of information, and returning the information to the FHWA in the prepaid mailer.

Estimated Total Annual Burden: The estimated total annual burden is 1,225 hours. This total is based on the respective burdens that will be imposed on the following categories of survey respondents:

Organizational Executives; 500 entities at 7 minutes each = 3,500 minutes
Safety Directors; 500 entities at 15 minutes each = 7,500 minutes
Dispatchers; 800 entities at 15 minutes each = 12,000 minutes
Drivers (Long Version); 1,500 entities at 29 minutes each = 43,500 minutes
Drivers (Short Version); 500 entities at 14 minutes each = 7,000 minutes

Frequency: The survey will be conducted once.

Public Comments Invited: Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to: (1) The necessity and utility of the information collection for the proper performance of the functions of the FHWA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Electronic Access: Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov*. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at telephone number 202–512–1661. Internet users may reach the **Federal Register**'s home page at *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara*.

Authority: 23 U.S.C. Section 504.

Issued on: January 27, 1999.

George S. Moore, Jr.,

Associate Administrator for Administration.

[FR Doc. 99–2725 Filed 2–4–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Cooperative Agreements With National Organizations To Support the Buckle Up America Campaign

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Announcement of discretionary cooperative agreement program in conjunction with the Buckle Up America Campaign.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces a discretionary cooperative agreement program to solicit highly visible support for mobilizing America to buckle up children during special emphasis periods of the Buckle Up America Campaign. The Campaign is a nationwide call to action in response to the Presidential Initiative to Increase Seat Belt Use Nationwide. High priority is given to education and enforcement efforts to buckle up children.

NHTSA seeks the participation and support of national organizations and their state and local affiliates to take a leadership role in the Campaign by speaking out in support of the Campaign initiatives, and mobilizing community level activity. This notice solicits applications from for-profit or not-for-profit national organizations. In addition, NHTSA is particularly interested in gaining the interest and involvement of organizations that represent constituencies who are hard to reach through mainstream delivery channels and/or have low seat belt use rates. Only applications submitted by the national office representing the organization will be considered.

DATES: Applications must be received at the office designated below on or before March 26, 1999, at 2:00 P.M., Eastern Standard Time.

ADDRESSES: Applications must be submitted to the National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30), ATTN: Rose Watson, 400 7th Street, S.W., Room 5301, Washington, D.C. 20590. All applications submitted must include a reference to NHTSA Program No. NTS–01–9–05068.

FOR FURTHER INFORMATION CONTACT: General administrative questions may be directed to Rose Watson, Office of Contracts and Procurement at (202–366–9557). Programmatic questions relating to this grant program should be directed to Ann Mitchell, National Outreach Division (NTS–22), NHTSA, 400 7th Street, SW., Washington, DC 20590 by e-mail at amitchell@nhtsa.dot.gov or by phone (202–366–2690). Interested applicants are advised that no separate application package exists beyond the contents of this announcement.

SUPPLEMENTARY INFORMATION:

Background

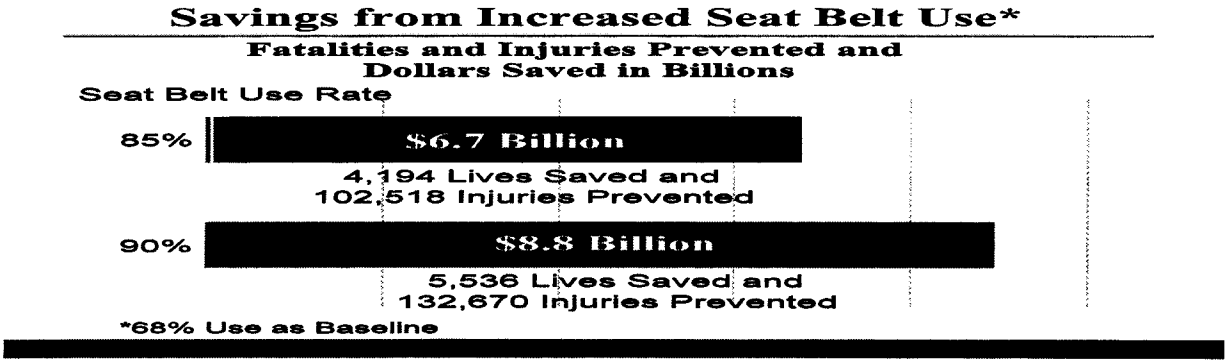
For the last three years, seat belt use has leveled off in the upper 60's percentile. According to state-reported observational surveys, seat belt use moved from 68 percent in 1995–96 to 69 percent as of the end of 1997. In 1996, the President directed the Secretary of the U.S. Department of Transportation to prepare a plan to increase the use of seat belts nationwide. In response, the Presidential Initiative to Increase Seat Belt Use Nationwide was issued and the Buckle Up America Campaign set into action.

The Buckle Up America Campaign places high priority on the need to buckle up children. Our children are America's most valuable investment, therefore it is every American's responsibility to protect them. Unbuckled drivers endanger kids by setting bad examples for them to follow. When a driver is unbuckled, 70 percent of the time children riding in that vehicle are also unbuckled. We all have a stake in this problem and we are all part of the solution. We must all buckle ourselves, buckle our children and call upon others to do the same.

The goals of NHTSA's Buckle Up America Campaign are to increase seat belt use to 85 percent by the year 2000 and 90 percent by 2005; and to reduce child occupant fatalities (0–4 years) by 15 percent in 2000 and by 25 percent in

2005. These aggressive goals can have tremendous payoffs, if achieved.

To achieve these goals will require an increase in visible support coming from the community for buckling up and the need to enforce occupant protection laws before social change can occur. This will take the collective efforts of many people and organizations speaking out from various sectors in the community in a unified voice to help create a public attitude that ''unbelted is unacceptable'' in our society.



The Presidential Initiative to Increase Seat Belt Use Nationwide calls on all Americans to take an active role—It's everyone's problem and everyone is a part of the solution. Individuals must take responsibility for themselves and for their child passengers by making certain everyone in the vehicle is properly buckled up—every time and on every trip. This is the bottom line.

The President's Initiative focuses on a strategy composed of four elements proven to be effective in increasing seat belt use. These are: (1) Building public-private partnerships of organizations and individuals committed to taking action, (2) enacting strong legislation including primary/standard enforcement provisions for seat belt laws and ''closing the gaps'' in child passenger safety laws, (3) embracing active, high visibility law enforcement, and (4) conducting well-coordinated, effective public education. These strategies work and NHTSA's Buckle Up America Campaign is committed to and focused on activities that support these proven strategies.

Buckle Up America proposes to harness the efforts of the public, private, cultural, and ethnic sectors to reach into each State, community, and household, and to touch each individual. Every new person buckling up is an important step towards reaching our goal. It takes approximately two million new users to raise the national average one percentage point.

Now, the task becomes persuading groups with lower seat belt and child safety seat usage rates to buckle up. Since teens, young males, pickup truck drivers, rural residents, low income populations, Hispanics, African Americans, and Native Americans could protect themselves and their families better, efforts need to be targeted to these groups to persuade them to develop a simple habit for life. The needs and safety of our children are not to be ignored. Although child safety seat use for infants and toddlers is high overall, low income populations still have very low use use rates. Misuse of these devices is a huge problem as well, and use rates drop sharply as children get older. Many people are unaware that when children outgrow their toddler seat, they should be riding a booster seat if they are between 40–80 lbs. and under 4′9″ tall. Many are either prematurely using an adult seat belt or not buckled up at all.

Messages and programs designed for ''mainstream America'' often are not effective for those populations most at risk or hardest to reach. Language, cultural, and other barriers need to be considered if we are to make a significant impact in increasing usage among low use groups through the development of targeted messages and alternate delivery channels. This will require the support and cooperation of organizations that represent these populations to influence their members and constituencies to buckle up.

Buckle Up America Campaign

The Buckle Up America Campaign is designed to energize, mobilize, and recognize active participants in the effort to increase seat belt use nationwide. First, we need to energize ourselves and everyone else to embrace three simple concepts: (1) this is a problem that touches the lives of every American, because we all pay the enormous health care and other societal costs of transportation deaths and injuries; (2) we all can be part of the solution because we touch the lives of so many fellow Americans, and we can reach out to energize them, too; and, (3) in America, we need to change the social norm to make riding unbuckled socially unacceptable. Next, we need to mobilize ourselves and everyone else, by informing other Americans of the risks they run by not buckling up, and also by lending our strong support for more effective seat belt and child passenger safety laws and aggressive enforcement. And finally, we have to recognize the good work that others are doing to increase seat belt use and publicly praise that good so others will emulate it.

In view of these concepts, Buckle Up America participants are asked to establish programs and conduct activities that fulfill these needs. Many public and private sector organizations and agencies have signed on to the campaign both formally and informally and are already busy conducting various types of activities. However, much of the activity to date has centered on isolated public information and education efforts that have little potential for increasing seat belt usage. Organizations respected and influential in specific cultures are needed to take an active role in supporting the campaign and directing activity towards the hard-to-reach populations and targeting those who are not buckling up.

To heighten visibility of all the activities associated with the Buckle Up America Campaign, NHTSA has identified four quarterly emphasis periods to mobilize coordinated, concentrated activity synchronized nationwide. Based on the tremendous success of highly visible enforcement programs conducted during 1998 to increase seat belt use, two of these emphasis periods will include

enforcement mobilization efforts (Operation ABC: America Buckles Up Children) and concentrated Buckle Up America Campaign support by participating organizations. The critical activity needed from organizations during these two periods is ''endorsement for enforcement'' to create public awareness and support for the enforcement efforts which will be conducted nationwide. The two alternate emphasis periods are more focused on high visibility public awareness/education activity throughout the quarter, with concentration on the specific issue/age groups identified for that particular period. The four Buckle Up America emphasis periods are:

Buckle Up America (April, May, June) focuses on getting everyone to wear their seat belt. It peaks with National Buckle Up America! Week, May 24–31, 1999, and puts an emphasis on enforcement of all occupant protection laws. (The first of the two Operation ABC enforcement mobilization periods.)

School Days (July, August, September) targets school aged children from kindergarten through college. For them, this is the beginning of a new year and programs are designed to encourage their use of seat belts and to become advocates for seat belt use. Let's help them graduate safely by making sure they are always buckled up.

Safe Holiday Travel (October, November, December) concentrates on the time of year when so many Americans travel to spend time with family and friends. Enforcement efforts to see that all children are buckled up will be conducted nationwide. (Operation ABC mobilization takes place during Thanksgiving Holiday Week, November 22–28, 1999.)

Child Passenger Safety (January, February, March) centers on the needs of children, ages 0–12 and peaks with National Child Passenger Safety Week, February 14–20, 1999. Special emphasis will be given to education about the need to use booster seats for children 50 to 80 lbs. and under 4′9″ tall. These children often ride either unrestrained because they are no longer covered under the state's child passenger safety law, or they are placed in an adult seat belt, which could cause injuries because of improper fit.

As noted above, two of the emphasis periods focus on the Operation ABC Mobilization America Buckles Up Children—which is organized by the Air Bag and Seat Belt Safety Campaign in partnership with NHTSA. In addition to participation by law enforcement agencies, we hope to engage at least 1,000 organizations across the country to extend their ''endorsement for enforcement'' during these mobilization periods. High-visibility enforcement occurs during designated periods of time (waves), and combines intensive enforcement with aggressive publicity and media outreach efforts. This combination allows law enforcement to notify the community that officers are stepping up enforcement of the state's laws and will be issuing tickets to everyone who doesn't comply: no exceptions, no excuses.

High-visibility enforcement has been used successfully in Canada, in states like North Carolina, Georgia, Maryland, and Washington, and in numerous communities throughout the country. Publicizing community support for the enforcement effort through earned media activities (i.e., news stories) builds momentum and a sense of urgency among the community, the media, opinion leaders and policy makers. The effects of high-visibility campaigns are not short-lived. This proven formula of highly publicized, aggressive enforcement backed by visible community support produces higher seat belt and child seat use by the motoring public. Each mobilization gives law enforcement a better base upon which to build the next time the model is implemented—and decreases the overall number of part-time users and non-users of seat belts. The 1998 May mobilization is testament that this approach can be effective in moving the needle on a national scale. In May 1998, more than 4,200 law enforcement agencies in all 50 states and the District of Columbia united in a week-long, high visibility enforcement drive to buckle up children. The combined nationwide media outreach efforts of law enforcement agencies, organizations and the national Campaign produced tremendous results and reached an estimated audience of more than 200 million people throughout the week. In one week, these efforts increased seat belt use by three percentage points nationwide and moved six million additional drivers to buckle up. Such an increase will translate into an annual savings of more than 600 lives, both children and adults. These gains did not dissipate after the mobilization. By Thanksgiving, national usage had increased by another five percentage points.

Operation ABC Mobilization is the only nationally coordinated effort by law enforcement to conduct high-visibility enforcement of child passenger safety and seat belt use laws. The effort continues to grow bigger and more effective with each wave. Coordination among partners is key to this success. Prior to the 1998 May mobilization, NHTSA's Regional Offices conducted law enforcement summits to solicit their support and participation in the mobilization. This resulted in 2,700 more law enforcement agencies signing on to participate in 1998 compared to the first mobilization in 1997. Preceding the November 1998 mobilization, NHTSA Regional Offices again held a series of partnership summits in 23 States. These summits were expanded to include not only high-ranking law enforcement executives but also business and industry leaders, local and state government officials, safety advocates, educators, media spokespersons, state affiliates of national organizations, prominent members of the clergy and other influential community leaders. Two national Buckle Up America leadership conferences were held in Washington, DC as well, where national organizations were encouraged to lend their support for law enforcement during the mobilization periods. As a result of these and other efforts to gain new partners in the Campaign, more than 1,000 organizations submitted endorsements supporting the 1998 Thanksgiving Week Mobilization. Similar partnership summits and leadership conferences will be held for upcoming mobilizations. Grantees and their participating state and local representatives are encouraged to attend these regional and national meetings and to work with their State Highway Safety Offices to coordinate their activities with other groups in their state supporting the Buckle Up America Campaign.

The goal of this cooperative agreement program is to further expand participation in and media exposure of the next series of mobilizations and educational emphasis periods. We are seeking organizations that will take a leadership role in mobilizing their members and constituency to provide visible support for law enforcement and to conduct media outreach activities. The two educational emphasis periods in between the enforcement mobilizations will help keep the issue in the forefront of the American public as a reminder and reinforcement of the importance of buckling up.

Purpose

The primary purpose of this cooperative agreement program is to generate highly visible support for the Buckle Up America Campaign from national organizations and their local affiliates in conjunction with quarterly emphasis periods. The program is designed to generate specific support for

Buckle Up America Campaign initiatives, primarily for law enforcement efforts during the two Operation ABC mobilizations and/or media and educational initiatives during the Campaign's Child Passenger Safety and School Days emphasis periods. The objective of this initiative is to organize and deliver public statements of support from national and local leaders of respected organizations and community sector representatives that will provide the support needed by law enforcement and elected officials and other local leaders to aggressively enforce occupant protection laws. Concentrated activity in the six identified opportunity states is encouraged.

One way to stimulate support for efforts to increase seat belt and child safety seat usage is to stimulate the development of sustained traffic safety efforts at the local level. For the past three years, NHTSA has been promoting a community-based motor vehicle injury prevention program known as Safe Communities. This model encourages communities to analyze data, consult with citizens and collaborate with a multi-disciplinary set of partners to prioritize problems and identify solutions. Applicants are encouraged to coordinate any proposed Buckle Up America efforts with any existing Safe Communities programs and use this as the basis for long-term involvement. In those locations where no Safe Communities exist, applicants are encouraged to participate in the Buckle Up America program and its enforcement efforts as an initial activity in the formation of a sustained Safe Communities program.

Eligibility Requirements

Applications may be submitted by public and private, non-profit and for-profit organizations. An eligible organization must be national in scope and have established and effective affiliate relationships at the state and local level capable of carrying out the effort. Organizations can satisfy this criterion by showing that they will work through their own state and local affiliates (i.e., units or chapters specifically organized to carry out the organization's mission) and/or with other affiliates participating the Buckle Up America Campaign (i.e. State Highway Safety Agencies, other national organization(s), law enforcement associations, etc.), NHTSA is particularly interested in engaging organizations that represent target populations who have typically lower seat belt use and/or special needs relative to message delivery, cultural issues, or other factors. Organizations that assume a leadership and respected role by hard-to-reach, high risk, and predominately low belt use constituencies are sought to participate in this effort. Target organization applications will be competed separate from other national organization applications. In essence, the applications will be divided into two categories—(1) target population and (2) all others, and will be evaluated within the appropriate category. Therefore, it is important that organizations identify the category for which they are to be considered on their application. Interested applicants are advised that no fee or profit will be allowed under this cooperative agreement program.

Eligible projects will also be limited to specific activity areas outlined below. The grantee shall design and implement specific activities throughout its national and affiliate chapters to gain public awareness of, publicize support for, and generate participation in 2–4 of the Buckle Up America emphasis periods during 1999, described in the Buckle Up America section of this Notice, above. Specifically, the activity shall focus on four key elements:

1. Public statements of support for Operation ABC enforcement efforts and/or the child passenger safety and school days emphasis periods. This can include, but is not limited to: writing letters in support of enforcement and/or educational emphasis efforts to elected officials, such as, Governors, mayors, and other local leaders, and heads of law enforcement; publishing editorials and articles in newspapers, newsletters, and other publications; issuing resolutions and proclamations in support of Operation ABC and Buckle Up America Campaign, participating in meetings and conferences on mobilization efforts. It can also include efforts to make the public *aware* of planned enforcement efforts and the rationale for them. This may be particularly appropriate for target groups whose constituency may be sensitive to enforcement-related issues.

2. Media Outreach. This can include, but is not limited to: distribution of sample news releases regarding mobilization/emphasis period efforts, letters to the Editor/Op Ed pieces, talking points, etc. to national and local representatives and encouraging their use to gain national and local media attention and public awareness for the issues involved.

3. Community action activities and events by local representatives. This can include, but is not limited to: support to local chapters to conduct local dialogues or to organize/participate in media events with law enforcement representatives and/or other community leaders; conducting/participating in educational initiatives to complement enforcement efforts, such as participating in checkpoints, conducting/participating in community educational activities, posting information, etc.; taking a leadership role in gathering community support and partners, attending and/or sponsoring meetings to organize mobilization/emphasis activity.

4. Project Evaluation. The grantee shall also evaluate the quantity and quality/scope of participation of the national organization and local affiliates, including: national outreach/support initiatives, number of editorials and opinion/editorial features published, information/materials developed/distributed; number of local affiliates participating and activities conducted in the three areas listed above; and participation in and promotion of the Safe Communities Program in conjunction with this effort.

Additional Resources

The following is a list of resources for information on the Buckle Up America Campaign. All items may be ordered either directly from the NHTSA web site at: *www.nhtsa.dot.gov* by E-Mail to Webmaster (see bottom of home page) or by sending a fax request to: Media and Marketing Division at 202–493–6062. All requests should include the name, address, and telephone number of the person to receive the materials.

1. *Item* # 1P1049 Presidential Initiative to Increase Seat Belt Use Nationwide, Recommendations from the Secretary of Transportation.* NHTSA. April 1997. DOT HS 808 576. The Secretary's plan for implementing President Clinton's directive and attaining seat belt and child safety seat use goals for years 2000 and 2005.

2. *Item* # 1P1084 Buckle Up America, The Presidential Initiative for Increasing Seat Belt Use Nationwide, First Report to Congress. NHTSA. January 1998. DOT HS 808 667. First Biannual Report to the House and Senate Appropriations Committees on the progress of the activities which have been conducted in pursuit of the national goals outlined in the Presidential Initiative to Increase Seat Belt Use Nationwide.

3. *Item* # 1P1063 Buckle Up America Campaign Action Kit.* NHTSA. September 1997. DOT HS 808 628. Information and resource portfolio to solicit participation in the Buckle Up America Campaign.

4. *Item* # 1P0837 Operation ABC Mobilization Organizational Action Kit

(OAK)*. NHTSA. September 1998. Information, resources, and sample materials for organizations participating in and supporting November 23–29, 1998, Operation ABC Mobilization: *A*merica *B*uckles *U*p *C*hildren.

5. Safe Communities Service Center, c/o NHTSA Region VI, 819 Taylor Street, Room 8A38, Fort Worth, Texas 76102, Phone: 817–978–3633, Fax: 817–978–8339, or E-Mail: Safe.Communities@nhtsa..dot.gov. Also visit the Safe Communities web site on the Internet (*http://www.nhtsa.dot.gov/safecommunities*). These resources provide information on best practices, Safe Communities and traffic safety materials, and access to technical assistance sources.

6. *Item* # 5P0026 Safe Communities folio package. NHTSA. 1997. DOT HS 808 578. Contains technical assistance materials on various topics including getting started, coalition building, partnering with traffic safety specialists and evaluation and monitoring tips.

Application Procedures

Each applicant must submit one original and two copies of the application package to: NHTSA, Office of Contracts and Procurement (NAD–30), ATTN: Rose Watson, 400 7th Street, S.W., Room 5301, Washington, DC 20590. An additional three copies will facilitate the review process, but are not required. Applications must be typed on one side of the page only. Applications must include a reference to NHTSA Program #NTS–01–9–05068, and identify if you are applying as a general or target population applicant.

Only complete packages received on or before March 26, 1999 at 2:00 P.M. Eastern Standard Time will be considered.

Application Contents

1. The application package must be submitted with OMB Standard Form 424 (Rev. 4–88), Application for Federal Assistance, including 424A, Budget Information—Nonconstruction Programs, and 424B, Assurances—Nonconstruction Programs with the required information filled in and the certified assurances included. The OMB Standard Forms SF–424, SF–424A, and SF–424B may be downloaded directly from the OMB Internet web site, *http://www.whitehouse.gov/WH/EOP/OMB/Grants/*. While the Form 424–A deals with budget information, and section B identifies Budget Categories, the available space does not permit a level of detail which is sufficient to provide for a meaningful evaluation of the proposed costs. A supplemental sheet should be provided which presents a detailed, itemized breakdown by cost category (such as hourly rates, unit purchase costs, overhead rates, etc.) of the proposed costs, as well as any costs which the applicant proposes to contribute in support of this effort.

2. Applications shall include a program narrative statement which:

A. Identifies the organizational membership, purpose, and structure; defines the constituency the organization represents and services; demonstrates the organization's commitment to supporting the initiatives of the Buckle Up America Campaign, provides examples of how the organization is involved community outreach activities, and states how this assistance will enable the organization to augment state and local affiliate involvement in this effort. Supporting documentation from concerned interests, partner organizations, and/or affiliates can be used to show level of commitment and interest.

B. Outlines a plan of action pertaining to the scope and detail on how the proposed work will be accomplished, noting how many and which emphasis periods will be targeted, strategies for marketing to state and local affiliates, seeking participation, and gaining high visibility public awareness of the effort. The Action Plan should include a time line of projected activity and milestones including dissemination of information, product development, targeted event schedules, reporting dates, and/or other major tasks associated with the project.

C. Specifies deliverables and due dates including products and reports. The organization should also identify any specific NHTSA materials and quantities which will be requested to support the project and how these will be used and distributed.

D. Describes an Evaluation Plan for determining and documenting activity conducted. This should include a system or mechanism for obtaining timely feedback from participating affiliates on their activities conducted and media coverage obtained during the emphasis period(s).

Project Review Procedures and Criteria

Upon receipt, applications will be screened to ensure that they meet the eligibility requirements. Applications meeting the requirements will be reviewed by a panel using the criteria outlined below. In preparing the application package, applicants should organize the package to follow the outline provided by the review criteria.

Application Review Process and Evaluation Factors

Each application package will initially be reviewed to confirm that the applicant is an eligible recipient and that the application contains all of the items specified in the Application Contents section of this announcement. Each complete application from an eligible recipient will then be evaluated by an evaluation committee. The applications will be evaluated using the following criteria:

1. Understanding of the Buckle Up America Campaign and the role of the organization as a partner in the Campaign (20 %)

The degree to which the applicant has demonstrated an understanding of the Buckle Up America campaign and has described its role as a partner in the campaign.

2. The organization's ability to disseminate the Campaign nationwide and influence participation of its membership (20%)

The status of the applicant as a national organization with a regional, state and/or local chapter structure that covers the nation; the degree to which the proposed effort is designed to actively engage regional, state and/or local chapters of the organization in the proposed effort.

3. Commitment to support the four Buckle Up America emphasis periods (35%)

The degree to which the proposal describes activities by the national organization and its field structure for at least two and up to four emphasis periods that focus on the following key elements:

- Public statements of support for Operation ABC mobilization efforts and/or the child passenger safety and school days emphasis periods;
- Media outreach in support of the mobilizations and the child passenger safety and school days emphasis periods;
- Community action activities and events by local representatives designed to support and complement law enforcement efforts, and draw attention to the child passenger safety and school days emphasis periods.

4. Documentation and Process Evaluation (15%)

The proposal includes a process evaluation design and plans for how the effort will be documented to facilitate NHTSA efforts to provide information to other organizations interested in replicating the proposed activity and to compile Buckle Up America Campaign activity for required Reports to Congress and the President.

*These items may be found directly on NHTSA's web site at: www.nhtsa.dot.gov.

5. Safe Communities (10%)

The degree to which this project promotes the Safe Communities model to members of the national organization and encourages them to utilize this effort as an opportunity to join existing Safe Communities program, integrate this effort into an existing program, or build a new Safe Communities program.

Availability of Funds and Period of Support

Contingent on the availability of funds and satisfactory performance, cooperative agreements will be awarded for a project period of 12 to 15 months. A total of $590,000 is anticipated to be awarded. It is anticipated that individual award amounts, based upon demonstrated need, may range between $10,000 and $50,000. This stated range does not establish minimum or maximum funding levels.

In each project, some portion of the funding requested must be dedicated to evaluation activities. Given the amount of funds available for this effort, applicants are strongly encouraged to seek other funding opportunities to supplement the federal funds. Preference will be given to applicants with cost-sharing proposals from within or outside their organization.

NHTSA Involvement

NHTSA will be involved in all activities undertaken as part of the cooperative agreement program and will:

1. Provide a Contracting Officer's Technical Representative (COTR) to participate in the planning and management of this Cooperative Agreement and to coordinate activities between the Grantee and NHTSA.
2. Provide information and technical assistance from government sources within available resources and as determined appropriate by the COTR.
3. Serve as a liaison between NHTSA Headquarters, Regional Offices and others (Federal, state and local) interested in Buckle Up America Campaign and the activities of the grantee as appropriate.
4. Stimulate the transfer of information among Cooperative Agreement recipients and others engaged in Buckle Up America activities.
5. Provide campaign information and materials to support activities.

Special Award Selection Factors

While not a requirement of this announcement, applicants are strongly urged to seek funds from other federal, state, local and private sources to augment those available under this announcement. For those applications that are evaluated as meritorious for consideration for award, preference may be given to those that have proposed cost-sharing strategies and/or have other proposed funding sources in addition to those in this announcement. In-kind services provided by the applicant organization may be included as a contribution.

Terms and Conditions of Award

1. Prior to award, each grantee must comply with the certification requirements of 49 CFR part 20, Department of Transportation New Restrictions on Lobbying, and 49 CFR part 29, Department of Transportation government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug Free Workplace (Grants).
2. Reporting Requirements and Deliverables:

A. Quarterly Progress Reports should include a summary of the previous quarter's activities and accomplishments, as well as the proposed activities for the upcoming quarter. Any decisions and actions required in the upcoming quarter should be included in the report. The grantee shall supply the progress report to the Contracting Officer's Technical Representative (COTR) every ninety (90) days following date of award.

B. Program Implementation and Evaluation Plan: The grantee shall submit a revised program implementation and evaluation plan, incorporating comments received from the NHTSA COTR, no more than 1 month after award of this agreement. The NHTSA COTR will review and comment, if necessary.

C. Draft Final Report: The grantee shall prepare a Draft Final Report that includes a description of the project, media outreach initiatives, and local affiliate participation and activity, results and findings from the program evaluation. In terms of information transfer, it is important to know what worked and did not work, under what circumstances, and what can be done to avoid potential problems in future projects. The grantee shall submit the Draft Final Report to the COTR 60 days prior to the end of the performance period. The COTR will review the draft report and provide comments to the grantee within 30 days of receipt of the document.

D. Final Report: The grantee shall revise the Draft Final Report to reflect the COTR's comments. The revised final report shall be delivered to the COTR 15 days before the end of the performance period. The grantee shall supply the COTR:

—Four hard copies of the final document.

E. A Briefing to NHTSA and a presentation to at least one national meeting (e.g., Lifesavers * * *).

F. Preparation and submission of a paper for publication in a professional journal. This paper will be submitted to NHTSA initially in draft format and will be circulated for review and comment to NHTSA and others, as appropriate.

3. During the effective performance period of cooperative agreements awarded as a result of this announcement, the agreement as applicable to the grantee, shall be subject to the NHTSA's General Provisions for Assistance Agreements, dated July 1995.

Issued on: February 2, 1999.

Rose A. McMurray,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 99–2827 Filed 2–4–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–20919]

Greyhound Lines, Inc., et al.—Acquisition—Autobus Turismos Rapidos, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving finance application

SUMMARY: Greyhound Lines, Inc. (Greyhound), a motor carrier of passengers, Sistema Internacional de Transporte de Autobuses, Inc. (SITA), a wholly owned, non-carrier subsidiary of Greyhound, and Americanos U.S.A., L.L.C. (Americanos), a motor carrier controlled by SITA, jointly seek approval under 49 U.S.C. 14303 for the acquisition of the operating authority and certain other properties of Autobus Turismos Rapidos, Inc. (ATR), a motor carrier of passengers. Persons wishing to oppose the application must follow the rules under 49 CFR part 1182 (effective October 1, 1998). The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by March 22, 1999. Applicants may file a reply by April 6, 1999. If no comments are filed by March 22, 1999, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC–F–20919 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, send one copy of any comments to applicants' representative: Fritz R. Kahn, Suite 750 West, 1100 New York Avenue, NW., Washington, DC 20005–3934.

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

SUPPLEMENTARY INFORMATION: Greyhound holds nationwide, motor passenger carrier operating authority under Docket No. MC–1515.[1] SITA holds no operating authority, but controls Americanos (MC–309813)[2] and proposes to acquire ATR through Americanos. SITA also controls three other motor passenger carriers: Gonzalez, Inc., d/b/a Golden State Transportation Company (Gonzalez) (MC–173837), operating in the Southwest; Los Rapidos, Inc. (MC–293638), operating in California, Nevada, and Arizona; and Autobuses Amigos, L.L.C. (Amigos) (MC–340462), operating between Mexican border crossing points in Texas and points throughout the United States. ATR holds authority in Docket No. MC–181016, to conduct scheduled, regular-route, passenger operations in California, Colorado, New Mexico, Arizona, and Texas. According to applicants, their purchase of ATR has already been consummated, but SITA has placed all of its ''membership interests'' in Americanos into a voting trust established pursuant to 49 CFR part 1013.

Applicants state that the aggregate gross operating revenues for Greyhound and its affiliates exceeded $2 million during the 12 months preceding the filing of this application. They assert that access to applicants' financial resources will permit ATR's business, specializing in transportation markets addressing Spanish speaking passengers, to grow and will strengthen its competitive position. They state that this will improve service to the traveling public, integrate ATR's services with those of Greyhound, permit both carriers to offer reasonable and reduced fares, and enhance competition.[3] They indicate that the transaction will have little or no effect on Greyhound's total fixed charges, and that ATR's drivers and other employees will be offered the opportunity to apply for positions with Americanos.

Applicants certify that: (1) Greyhound and its affiliates hold ''satisfactory'' safety ratings (except for Americanos and Amigos, which have not yet been rated, and Gonzalez, which has a ''conditional'' rating); (2) Americanos and Greyhound have appointed appropriate agents for service of process in each state in which they operate, in accordance with 49 U.S.C. 13303 and 13304 and 49 CFR part 366.1 *et seq.*, and maintain sufficient liability insurance as required by 49 U.S.C. 13906 and 40 CFR part 387.1, *et seq.*; (3) Greyhound, SITA, Americanos, and ATR are not domiciled in Mexico and are not owned or controlled by a person of that country; and (4) approval of the transaction will not significantly affect either the quality of the human environment or the conservation of energy resources.

Under 49 U.S.C. 14303(b), we must approve and authorize a transaction that we find consistent with the public interest, taking into consideration at least: (1) the effect of the proposed transaction on the adequacy of transportation to the public; (2) the total fixed charges that result from the proposed transaction; and (3) the interest of carrier employees affected by the proposed transaction.

On the basis of the application, we find that the proposed acquisition is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed to be vacated, and unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed acquisition is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed to be vacated.

3. This decision will be effective on March 22, 1999, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, NW., Washington, DC 20530; and (2) the U.S. Department of Transportation, Office of Motor Carriers-HIA 30, 400 Virginia Avenue, SW., Suite 600, Washington, DC 20024.

Decided: February 1, 1999.

By the Board, Chairman Morgan and Vice Chairman Clyburn.

Vernon A. Williams,

Secretary.

[FR Doc. 99–2812 Filed 2–4–99; 8:45 am]

BILLING CODE 4915–00–P

[1] *In Laidlaw, Inc. and Laidlaw Transit Acquisition Corp.—Merger—Greyhound Lines, Inc.*, STB Docket No. MC–F–20940 (STB served Dec. 17, 1998) (63 FR 69710), we tentatively approved the merger of Greyhound with Laidlaw Transit Acquisition Corp., a wholly owned subsidiary of Laidlaw Inc.

Greyhound also controls several regional motor passenger carriers: Valley Transit Company, Inc. (MC–74), operating in Texas; Carolina Coach Company, Inc. (MC–13300), operating in Delaware, Virginia, and North Carolina; Texas, New Mexico & Oklahoma Coaches, Inc. (MC–61120), operating in Texas, New Mexico, Colorado, Kansas, and Oklahoma; Continental Panhandle Lines, Inc. (MC–8742), operating in Oklahoma and Texas; Vermont Transit Co., Inc. (MC–45626), operating in Maine, Vermont, Massachusetts, and New York; and PRB Acquisition, LLC, doing business as Peoria Rockford Bus Co. (MC–66810), operating in Illinois.

[2] Americanos is authorized to conduct scheduled, regular-route, passenger operations between border crossing points such as San Ysidro/Tijuana, Calexico/Mexicali, and Nogales/Nogales, and such cities as Los Angeles, Seattle, Dallas, Houston, Chicago, Atlanta, and Miami, but it did not conduct any passenger transportation operations before consummation of the purchase of ATR's properties.

[3] According to applicants, SITA has minority ownership interests in two Mexican motorbus operators that connect with Americanos at the Mexican/U.S. border crossing points and this transaction will permit SITA, through Americanos, to use the operating authority and other property of ATR to ease and simplify Mexico/U.S. transborder passenger transportation.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33699 (Sub–No. 1)]

The Burlington Northern and Santa Fe Railway Company—Trackage Rights Exemption—Union Pacific Railroad Company

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: The Board, under 49 U.S.C. 10502, exempts the trackage rights described in STB Finance Docket No. 33699[1] to permit the trackage rights to

[1] On January 5, 1999, BNSF filed a notice of exemption under the Board's class exemption procedures at 49 CFR 1180.2(d)(7). The notice covered the agreement by Union Pacific Railroad Company (UP) to grant temporary overhead trackage rights to The Burlington Northern and Santa Fe Railway Company over UP's rail line between (1) Kern Junction, CA, in the vicinity of UP's milepost 313.6 (Fresno Subdivision), and Calwa, CA, in the vicinity of UP's milepost 209.1

expire on February 12, 1999, in accordance with the agreement of the parties.

DATES: This exemption is effective on February 12, 1999.

ADDRESSES: An original and 10 copies of all pleadings referring to STB Finance Docket No. 33699 (Sub-No. 1) must be filed with the Office of the Secretary, Case Control Unit, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of all pleadings must be served on petitioners' representatives (1) Yolanda M. Grimes, The Burlington Northern and Santa Fe Railway Company, 3017 Lou Menk Drive, P.O. Box 961039, Fort Worth, TX 76161–0039, and (2) Joseph D. Anthofer, Esq., Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179.

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

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC NEWS & DATA, INC., Suite 210, 1925 K Street, N.W., Washington, DC 20006. Telephone: (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 565–1695.]

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: February 1, 1999.

By the Board, Chairman Morgan and Vice Chairman Clyburn.

Vernon A. Williams,

Secretary.

[FR Doc. 99–2813 Filed 2–4–99; 8:45 am]

BILLING CODE 4915–00–P

(Fresno Subdivision); and (2) Los Angeles, CA, in the vicinity of UP's milepost 485.0 (Wilmington Subdivision), and San Jose, CA, in the vicinity of milepost 45.7 (Coast Subdivision). *See The Burlington Northern and Santa Fe Railway Company—Trackage Rights Exemption—Union Pacific Railroad Company*, STB Finance Docket No. 33699 (STB served Jan. 21, 1999). The trackage rights operations under the exemption became effective and were scheduled to be consummated on January 12, 1999.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33686]

Dallas, Garland & Northeastern Railroad, Inc.—Lease Exemption—Union Pacific Railroad Company

Dallas, Garland & Northeastern Railroad, Inc. (DGNO), a Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 to lease from Union Pacific Railroad Company (UP) approximately 54.74 miles of rail lines located in the State of Texas:[1] (i) between milepost 741.3, at Carrollton, and milepost 729.5, at Lake Dallas; (ii) between milepost 285.1, near Spring Creek Parkway, and milepost 324.84, at South Sherman Junction; and (iii) the industrial lead between UP's Mockingbird Yard and the Brookhollow Industrial Park, in Dallas.

In conjunction with the lease of these rail lines, DGNO will acquire approximately 117.76 miles of incidental trackage rights over rail lines located in the State of Texas as follows: (1) local trackage rights over rail lines owned by Dallas Area Rapid Transit: (a) between milepost 758.04, at Dallas, and milepost 741.3, at Carrollton; (b) between milepost 603.5, at Carrollton, and milepost 580.19, at Wylie; and (c) between milepost 281.1, at Plano, and milepost 285.1, at Spring Creek Parkway; (2) overhead trackage rights over a rail line owned by The Burlington Northern and Santa Fe Railway Company (BNSF) between BNSF milepost 646.39, at Sherman, and BNSF milepost 711.0, at Irving; and (3) overhead trackage rights over a rail line owned by RAILTRAN between milepost 634.7, at Irving, and milepost 643.8, at North Junction.

Because the projected revenues of the rail lines to be operated will exceed $5 million, DGNO certified to the Board, on December 1, 1998, that the required notice of its rail line acquisition was sent to the national offices of all labor unions representing employees on the lines and was posted at the workplace of the employees on the affected lines on December 1, 1998. *See* 49 CFR 1150.42(e). The transaction is expected to be consummated on January 30, 1999.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

[1] DGNO will be the operator of the property.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33686, 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 Karl Morell, Esq., BALL JANIK LLP, 1455 F Street, NW, Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: January 29, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–2665 Filed 2–4–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 27, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 8, 1999 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0203.

Form Number: IRS Form 5329.

Type of Review: Extension.

Title: Additional Taxes Attributable to IRAs, Other Qualified Retirement Plans, Annuities, Modified Endowment Contract, and MSAs.

Description: This form is used to compute and collect taxes related to early distributions from individual retirement arrangements (IRAs) and other qualified retirement plans; distributions from education (ED) IRAs not used for educational expenses; excess contributions to traditional IRAs, ED IRAs, and medical savings accounts (MSAs); and excess accumulations in qualified retirement plans.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 1,000,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—1 hr., 59 min.
Learning about the law or the form—42 min.
Preparing the form—1 hr., 0 min.
Copying, assembling and sending the form to the IRS—14 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 1,042,400 hours.

OMB Number: 1545–1552.

Form Number: IRS Form 8839.

Type of Review: Extension.

Title: Qualified Adoption Expenses.

Description: Section 23 of the Internal Revenue Code allows taxpayers to claim a nonrefundable tax credit for qualified adoption expenses paid or incurred by the taxpayer. Code section 137 allows taxpayers to exclude amounts paid or expenses incurred by an employer for the qualified adoption expenses of the employee which are paid under an adoption assistance program. Form 8839 is used to figure the credit and/or exclusion.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 50,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—46 min.
Learning about the law or the form—20 min.
Preparing the form—1 hr., 31 min.
Copying, assembling, and sending the form to the IRS—35 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 159,500 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. 99–2704 Filed 2–4–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 99–13

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 Revenue Procedure 99–13, Section 403(b) Plan Corrections and Closing Agreements.

DATES: Written comments should be received on or before April 6, 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 revenue procedure should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Section 403(b) Plan Corrections and Closing Agreements.

OMB Number: 1545–1645.

Revenue Procedure Number: Revenue Procedure 99–13.

Abstract: This revenue procedure provides a comprehensive system of correction programs and procedures for an employer that offers an employee retirement plan that is intended to satisfy the requirements of Internal Revenue Code section 403(b), but has failed to satisfy those requirements because of operational, demographic, or eligibility failures. This system permits an employer to correct these failures, and thereby provide its employees with retirement benefits on a tax-favored basis.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 3 hrs., 48 mins.

Estimated Total Annual Burden Hours: 1,899.

The following paragraph applies to all of the collections of information covered by this notice:

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: January 26, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–2696 Filed 2–4–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974, New Routine Use Statement

AGENCY: Department of Veterans Affairs.

ACTION: Notice; New routine use statement.

SUMMARY: As required by the Privacy Act of 1974, 5 U.S.C. 552a(e), notice is hereby given that the Department of Veterans Affairs (VA) is adding a new routine use to the system of records entitled ''Veterans and Beneficiaries Identification and Records Location Subsystem—VA'' 38VA23.

DATES: Interested persons are invited to submit written comments, suggestions, or objections regarding the new routine use. All relevant material received

before March 8, 1999, will be considered. All written comments received will be available for public inspection at the Office of Regulations Management (02D), 810 Vermont Ave., NW., Room 1158, Washington, DC 20420, only, between 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). If no public comment is received during the 30 day review period allowed for public comment, or unless otherwise published in the **Federal Register** by VA, the routine use included herein is effective 30 days after publication in the **Federal Register**.

ADDRESSES: Written comments concerning the new routine use may be mailed to the Director, Office of Regulations Management (O2D), 810 Vermont Avenue, NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Bill Lanson, Legal Consultant, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7267. The Internet e-mail address for Mr. Lanson is capblans@vba.va.gov.

SUPPLEMENTARY INFORMATION: The Department of Veterans Affairs (VA) has decided, as a matter of policy, to provide to National and State Veterans Service Organizations access to information contained in the Benefits Delivery Network (BDN) concerning which organization or individual holds a Power of Attorney to represent a claimant even though the service organization accessing the information does not hold a Power of Attorney for the claimant in question. VA will also provide access to information that a claimant does not have a recognized power of attorney, when such is the case.

Currently, a veteran may ask a veterans' service organization for assistance with a claim for benefits by executing a power of attorney naming the organization as the veteran's representative for purposes of prosecuting his or her claim. Some veterans represent themselves in claim matters. If a veteran names a service organization as his or her representative, the service organization may obtain information concerning the claimant from the BDN in order to assist the veteran with the veteran's claim.

At present, unless a claimant has provided a service organization with a power of attorney, that organization cannot obtain any information concerning the claimant from the Benefits Delivery Network (BDN) because of the restrictions of the Privacy Act. This includes information that the claimant does not have an appointed power of attorney or the name of the organization or individual who has been given a power of attorney for the claimant.

Sometimes, a veteran may later ask another service organization either for information on the status of the claim or for assistance. Also, a veteran who is not represented by a service organization may ask one for information about his or her claim. In either case, the service organization that the veteran has asked for help cannot access information on the veteran's claim on the BDN, and, therefore, cannot tell the veteran anything about the veteran's claim or its status or assist the veteran with the claim.

If the service organization is provided information through BDN as to who has been provided a power of attorney, it will permit the service organization being contacted to direct the claimant to his or her appointed representative. Alternatively, if the claimant does not have an appointed power of attorney, it will enable the service organization to inform the claimant what he or she must do to obtain representation or to direct the claimant to seek assistance from regional office employees.

VA has determined that the release of information under the circumstances described above is a necessary and proper use of the information in this system of records and that the specific routine use proposed for the transfer of this information is appropriate.

An altered system of records report and a copy of the revised system notice have been sent to the House of Representatives Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) and guidelines issued by OMB (59 FR 37906, 37916–18 (7–25–94)).

The proposed routine Use will be added to the system of records entitled ''Veterans and Beneficiaries Identification and Records Location Subsystem—VA.'' 38VA23 published at 49 FR 38095, August 26, 1975, and amended at 41 FR 11631, March 19, 1976, 43 FR 23798, June 1, 1978, 45 FR 77220, November 21, 1980, 47 FR 367, January 5, 1982, 48 FR 45491, October 5, 1983, 50 FR 13448, April 4, 1985, 60 FR 32210, June 20, 1995, and 63 FR 7196, February 12, 1998, is amended by adding the information as shown below:

* * * * *

20. The power of attorney of a claimant for VA benefits or the information that a power of attorney has not been appointed by the claimant may be disclosed from the Benefits Delivery Network to any recognized veterans service organization even though the service organization does not hold a current power of attorney for the claimant.

Approved: January 11, 1999.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

Report of Intention To Alter Federal Notice of System of Records for ''Veterans and Beneficiaries Identification and Records Location Subsystem—VA'' (38VA23)

Purpose

Amending this system of records will provide National and State Veterans Service Organizations with access to information contained in the Benefits Delivery Network (BDN) concerning which organization or individual holds a power of attorney to represent a claimant even though the service organization accessing the information does not hold a power of attorney for the claimant in question. VA will also provide the service organizations with access to information contained in the BDN that a claimant does not have a power of attorney, when such is the case.

Authority

''Veterans and Beneficiaries Identification and Records Location Subsystem—38VA23''

Probable Privacy Impact

This routine use will have minimal effect on the privacy rights of individuals. The change will provide information to the service organization contacted to enable it to direct the claimant to his or her appointed power of attorney. Alternatively, if the claimant does not have an appointed power of attorney, it will enable the service organization to inform the claimant what he or she must do to obtain representation or to direct the claimant to seek assistance from regional office employees. No other information concerning the claimant or his or her claim will be provided to the service organization unless that organization obtains a power of attorney from the claimant.

Risk Assessment

VA will safeguard individual records as required by the Privacy Act of 1974. Physical access to the computer rooms with the VA facility (VA regional office or medical facility) is generally limited to appropriate locking devices and restricted to authorized VA employees

and vendor personnel. Access to the VA Automation Center (VAC) in Austin, Texas is restricted to VAC employees, custodial personnel, Federal Protective Service, and other security personnel. Access to the automated VA records by VA employees and authorized representatives of claimants requires clearance by the site security officer. Electronic access to data is controlled by a series of individually unique passwords/codes as a part of each data message, and employees and service organization personnel are limited to only that information in the file(s) that is needed in the performance of their official duties.

Routine Uses

This new routine use enables VA to provide National and State Veterans Service Organizations with access to information contained in the Benefits Delivery Network (BDN) concerning which organization or individual holds a power of attorney to represent a claimant even though the service organization accessing the information does not hold a power of attorney for the claimant in question. VA will also provide access to information contained in the BDN that a claimant does not have a power of attorney, when such is the case.

Information Collection Requirements

This amendment requires no new information collection requirements.

[FR Doc. 99–2726 Filed 2–4–99; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 64, No. 24

Friday, February 5, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-445 and 50-446]

TU Electric; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

Correction

In notice document 99–1847 beginning on page 4148 in the issue of Wednesday, January 27, 1999, make the following correction(s):

On page 4151, in the second column, in the third line, ''February 28, 1999'' should read ''February 26, 1999''.

[FR Doc. C9–1847 Filed 2–4–99; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 249

[Release Nos. 34-40934; IC-23640; File No. S7-18-97]

RIN 3235-AG97

Rulemaking for EDGAR System

Correction

In rule document 99–1043 beginning on page 2843 in the issue of Tuesday, January 19, 1999, make the following correction(s):

PART 249–[CORRECTED]

On page 2853, beginning in the second column, Form 13F is reprinted in its entirety.

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

Form 13F Cover Page

Report for the Calendar Year or Quarter Ended: _____

Check here if Amendment [ ]; Amendment Number: ____

This Amendment (Check only one.):

☐ is a restatement.

☐ adds new holdings entries.

Institutional Investment Manager Filing this Report:

Name: _____

Address: _____

_____

_____

Form 13F File Number: 28-_____

The institutional investment manager filing this report and the person by whom it is signed hereby represent that the person signing the report is authorized to submit it, that all information contained herein is true, correct and complete, and that it is understood that all required items, statements, schedules, lists, and tables, are considered integral parts of this form.

Person Signing this Report on Behalf of Reporting Manager:

Name: _____

Title: _____

Phone: _____

Signature, Place, and Date of Signing:

_____

[Signature]

_____

[City, State]

_____

[Date]

Report Type (Check only one.):

☐ 13F HOLDINGS REPORT. (Check here if all holdings of this reporting manager are reported in this report.)

☐ 13F NOTICE. (Check here if no holdings reported are in this report, and all holdings are reported by other reporting manager(s).)

☐ 13F COMBINATION REPORT. (Check here if a portion of the holdings for this reporting manager are reported in this report and a portion are reported by other reporting manager(s).)

List of Other Managers Reporting for this Manager: [If there are no entries in this list, omit this section.]

Form 13F File Number 28– _____

Name _____

[Repeat as necessary.]

Form 13F Summary Page

Report Summary:

Number of Other Included Managers: _____

Form 13F Information Table Entry Total: _____

Form 13F Information Table Value Total: $_____ (thousands)

List of Other Included Managers:

Provide a numbered list of the name(s) and Form 13F file number(s) of all institutional investment managers with respect to which this report is filed, other than the manager filing this report. [If there are no entries in this list, state ''NONE'' and omit the column headings and list entries.]

No. _____

Form 13F File Number 28– _____

Name _____

[Repeat as necessary.]

FORM 13F INFORMATION TABLE

Column 1	Column 2	Column 3	Column 4	Column 5			Column 6	Column 7	Column 8		
Name of issuer	Title of class	CUSIP	Value (x$1000)	Shrs or prn amt	SH/PRN	Put/Call	Investment discretion	Other managers	Voting authority		
									Sole	Shared	None

FORM 13F INFORMATION TABLE—Continued

Column 1	Column 2	Column 3	Column 4	Column 5			Column 6	Column 7	Column 8		
Name of issuer	Title of class	CUSIP	Value (x$1000)	Shrs or prn amt	SH/PRN	Put/Call	Investment discretion	Other managers	Voting authority		
									Sole	Shared	None

[Repeat as necessary]

§ 249.326 Including Form 13F–E [Removed]

8. Section 249.326 including Form 13F–E is removed.

By the Commission.

Dated: January 12, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. C9–1043 Filed 2–4–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 555

[Docket No. NHTSA-99-4993]

RIN 2127–AH51

Temporary Exemption From Motor Vehicle Safety Standards; Bumper Standard

Correction

In rule document 99–933 beginning on page 2858 in the issue of Tuesday, January 19, 1999, make the following correction(s):

§ 555.6 [Corrected]

On page 2861, in the third column, amendatory instruction 9. should read:

''9. Sections 555.6(a), introductory text, 555.6(a)(2)(v), last sentence in parenthesis, 555.6(b), introductory text, 555.6(b)(1), 555.6(b)(2), introductory text, 555.6(b)(2)(i), 555.6(b)(2)(iii), 555.6(b)(4), 555.6(c), introductory text, 555.6(c)(1), 555.6(c)(2), introductory text, 555.6(c)(2)(iv), 555.6(d), introductory text, 555.6(d)(1), introductory text, 555.6(d)(1)(ii), 555.6(d)(1)(iv), and 555.6(d)(1)(v) are revised to read as follows:''

[FR Doc. C9–933 Filed 2–4–99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Friday
February 5, 1999

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 679

Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Recordkeeping and Reporting Requirements; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 981224323–8323–01; I.D. 120198B]

RIN 0648–AL23

Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Recordkeeping and Reporting Requirements

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS is proposing revisions to several sections of regulations that pertain to permits, recordkeeping, and reporting requirements for groundfish fisheries of the Exclusive Economic Zone (EEZ) off Alaska. The proposed changes are necessary to clarify and simplify existing text, facilitate management of the fisheries, promote compliance with regulations, and facilitate enforcement efforts. This action is intended to further the goals and objectives of the fishery management plans (FMPs) for Groundfish of the Gulf of Alaska (GOA) and the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands (BSAI) Area.

DATES: Comments must be received by February 22, 1999.

ADDRESSES: Comments must be sent to Sue Salveson, Assistant Administrator, Sustainable Fisheries Division, NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to Federal Building, Fourth Floor, 709 West 9th Street, Juneau, AK, and marked Attn: Lori Gravel. Copies of the Regulatory Impact Review (RIR) prepared for this action may be obtained from the same address or by calling the Alaska Region, NMFS, at 907–586–7228. Send comments on collection-of-information requirements to the same address and to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), Washington, DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

NMFS manages the groundfish fisheries in the EEZ off Alaska under authority of the FMPs. These FMPs are implemented by regulations at 50 CFR part 679. General regulations that also pertain to these fisheries appear in subpart H to 50 CFR part 600. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson-Stevens Fishery Conservation and Management Act.

With this rulemaking, NMFS proposes revisions to several sections of the implementing regulations for these FMPs that pertain to permits, recordkeeping, and reporting. The proposed changes are intended to clarify existing regulatory text, facilitate management of the fisheries, promote compliance with regulations, and facilitate enforcement efforts. Most of the proposed revisions address technical edits and clarifications to existing recordkeeping and reporting (R&R) requirements and are described under the section-by-section analysis. Those proposed revisions that are more substantial, in that they would alter current recordkeeping and reporting procedures, are highlighted in this document.

NMFS/ADF&G Integrated Species List

All retained fish, not just NMFS-managed groundfish, would be recorded in the logbooks and in the weekly production reports (WPRs) using an expanded and combined Alaska Department of Fish & Game (ADF&G)/NMFS species code list. This change would facilitate the U.S. Coast Guard's and NMFS Enforcement's compliance monitoring of maximum retainable incidental catch percentages being used on all retained catch, not just catch of federally managed species, and would facilitate agreement of a fisherman's harvest records between NMFS reports and ADF&G fish tickets that are required for species managed by the State of Alaska.

NMFS/International Pacific Halibut Commission (IPHC) Combined Logbooks

NMFS, in cooperation with the IPHC, ADF&G, the fishing industry, and the Alaska Fisheries Science Center (AFSC), Auke Bay Laboratory, would develop separate logbook formats for nontrawl catcher vessels equal to or greater than 60 ft (18.3 m) length overall and nontrawl catcher processors that are participating in both groundfish and Individual Fishing Quota (IFQ) fisheries. Operators of these vessels currently maintain two logbooks, one for NMFS and one for the IPHC, often duplicating data entries. NMFS is providing this combined logbook partially at the request of the fishing industry to decrease the burden on the fishing industry, and to improve data collection on sablefish and halibut. The revised format would allow the vessel operator to maintain just one logbook rather than two separate logbooks when fishing for both groundfish and Pacific halibut. The combined logbook also would collect additional information for NMFS scientists to augment sablefish stock assessment work.

To implement this change, § 679.5(a)(1)(v) would be added to define logbook requirements for participants in IFQ fisheries. The new combined NMFS/IPHC logbook format would be introduced for use by catcher vessels and catcher/processors that participate in both the groundfish fisheries of the GOA or BSAI, and sablefish or halibut IFQ fisheries during the same fishing year.

To accommodate this rulemaking and printing and distribution schedules, the Administrator, Alaska Region, NMFS (Regional Administrator) would revise sections 679.5(c)(3) and would issue standard groundfish logbooks to all catcher vessels and catcher/processors, including those that will participate in 1999 sablefish or halibut IFQ fisheries. Prior to the start of the 1999 IFQ fishery, the Regional Administrator would send a combined groundfish/IFQ logbook to all catcher vessels over 60 ft (18.3 m) LOA that reported groundfish and IFQ harvest in 1998 and to all catcher/processors that reported groundfish and IFQ harvest in 1998. The operator of a vessel that plans to participate in 1999 IFQ fisheries would use the standard groundfish logbook until the combined groundfish/IFQ logbook was received. Once the combined groundfish/IFQ logbook is received, the operator would be required to use the combined logbook for the remainder of the fishing year.

DCPL Zeroed-out Cumulative Totals

Section 679.5(a)(9)(ii)(B) and (a)(9)(iii) would be revised to require that in addition to the beginning of each weekly reporting period, the cumulative totals be ''zeroed out'' in the catcher/processor and mothership daily cumulative production logbooks (DCPL) after offload or transfer of all fish or fish product onboard if such offload occurs prior to the end of a weekly reporting period.

End of Year WPR

Section 679.5(i)(2) would be redesignated as section 679.5(i)(2)(i) and a new section 679.5(i)(2)(ii) would be added to require the submittal of a year-end WPR by December 31 regardless of where that date falls in the weekly

reporting period. This change is designed to provide a clear distinction in the data base between the old fishing year and the new fishing year.

Mothership Check-in/Check-out Report

Sections 679.5(h)(2)(ii)(B)(*1*) and (h)(3)(i)(A)(*3*) would be revised to require motherships to record the reporting areas where groundfish were harvested to replace the current requirement to record the reporting area where the mothership begins to receive groundfish.

Weekly Cumulative Mothership ADF&G Fish Ticket Distribution

Section 679.5(m)(3)(ii)(A) through (C) would be added to present additional information on distribution of the mothership weekly cumulative multi-copy ADF&G fish ticket.

Removal of Sunset Date From Pacific Cod Reserve Release and Removal of In-text Table

Section 679.20(b)(1)(v) would be revised by removing the date from the paragraph title and extending it indefinitely. This provision was originally added in January 1994 to implement Amendment 24 to the BSAI FMP. Amendment 24 contained a sunset date of December 31, 1996, and was replaced by Amendment 46 in 1996, which permanently extended the management measures established by Amendment 24. Through an oversight caused by the recent consolidation of the groundfish fishery regulations, section 679.5(b)(1)(v) was not included in either the proposed or final rulemaking for Amendment 46. In order to correct this oversight and implement the Council's intent when it adopted Amendment 46, the sunset date would be removed from section 679.5 (b)(1)(v). Additionally, the in-text table at section 679(g)(3) would be removed. The information within the in-text table is found at Table 3.

Community Development Quota (CDQ) Fisheries and Buying Stations

Section 679.5(n) would be revised to incorporate the changes made under the multi-species CDQ program and to reformat regulatory text to be more uniform with the rest of this section. Sections 679.5(n)(1)(i); 679.30(a)(5)(i)(B); and 679.32(c), (c)(3), (d)(1), (e)(3), and (e)(5) would be revised by removing reference to a buying station, because a buying station is not required to submit CDQ delivery reports or CDQ catch reports.

Section-by-Section Analysis

NMFS proposes to alter the format of the regulatory text in several places to provide a more logical flow of information, to clarify text, and to add paragraph titles and cross references where needed.

Definitions (§ 679.2)

Added Definitions

The following additions to the definitions in § 679.2 are proposed:

ADF&G fish ticket number. The term ''ADF&G fish ticket number'' would be added because this term is used extensively in § 679.5.

CDQ Delivery number. The term ''CDQ Delivery number'' would be added to mean a sequential number assigned by the catcher vessel operator during a calendar year, that uniquely identifies each CDQ delivery. The sequence of CDQ delivery numbers begins with the first fishing activity during a year under a multispecies CDQ, and the number would be incrementally adjusted with each delivery of fish during that year.

Fish product. The term ''fish product'' would be added as a cross reference to ''groundfish product.''

Haul. The term ''haul'' would be added as a cross reference to gear retrieval.

Non-chinook salmon. The term ''non-chinook salmon'' would be added to mean coho salmon, pink salmon, sockeye salmon, or chum salmon.

Other gear. The term ''other gear'' would be added to mean any gear other than ''authorized fishing gear.''

Revised Definitions

The following revisions to the definitions in § 679.2 are proposed:

Authorized fishing gear. The term ''authorized fishing gear'' would be amended by renumbering the terms of this definition; revising the introductory paragraph; revising the definition of longline to include free-floating line with hooks attached and to include handline; adding definitions for troll, handline, and pot; and revising the definition of longline to include anchored and unanchored gear types. These proposed revisions are intended to standardize the use of gear terms throughout the regulations at 50 CFR part 679.

Buying station. The term ''buying station'' would be revised by adding the words ''land-based'' before the word ''person.''

CDQ number. The term ''CDQ number'' would be revised to include an additional requirement to record this information in logbooks.

Chinook Salmon Savings Area of the BSAI. The term ''Chinook Salmon Savings Area of the BSAI'' would be revised by updating the cross reference and by adding a cross reference to Figure 8 to this part.

Chum Salmon Savings Area of the BSAI CVOA. The term ''Chum Salmon Savings Area of the BSAI CVOA'' would be revised by updating the cross reference and by adding a cross reference to Figure 9 to this part.

Forage fish. The term ''forage fish'' would be revised by adding a cross reference to Table 2 to this part.

Gear deployment. The term ''gear deployment'' would be revised to conform with the revised definition of ''authorized fishing gear,'' specifically to change the terms ''jig/troll, hook-and-line, or longline gear'' to read ''longline gear'' and to change the term ''pot-and-line gear'' to read ''pot gear.''

Nearshore Bristol Bay Trawl Closure Area of the BSAI. The term ''Nearshore Bristol Bay Trawl Closure Area of the BSAI'' would be revised by adding a cross reference to Figure 12 to this part.

Person. The term ''person'' would be clarified by adding titles to paragraphs (1) through (3) to read: *IFQ and CDQ Programs and General Usage, High Seas Salmon Fishery permits, and Vessel moratorium (Applicable through December 31, 1998.*

Set. The term ''set'' would be clarified to include a test set, unsuccessful harvest, or improperly working gear hauled in empty. A cross reference to the definition of ''gear deployment'' would be added.

Steller Sea Lion Protection Areas. The term ''Steller Sea Lion Protection Areas'' would be revised to provide a cross reference to new Figure 16 to this part. Cross references to Tables 4, 5, and 6 would be removed, and several cross references to regulatory text would be changed.

Stem. The term ''stem'' would be revised by adding a cross reference to Figure 6.

Stern. The term ''stern'' would be revised by adding a cross reference to Figure 6.

Tender vessel. The term ''tender vessel'' would be corrected by removing the words ''or buying station'' from the end of the sentence. A tender vessel is a buying station, and buying stations do not deliver to other buying stations; they deliver only to motherships and shoreside processors. A cross reference is added to the definition of buying station, since a tender vessel is defined as a buying station.

U.S. citizen. The term ''U.S. citizen'' would be revised by adding a new paragraph (1) *General Usage* and by

redesignating existing paragraphs (1) and (2) to read as paragraphs (2)(a) and (2)(b), and by adding a title to new paragraph (2) *IFQ program*, as this definition applies only to the IFQ Program.

Permits (§ 679.4).

Paragraph (b)(2) would be revised to clarify that a Federal fisheries permit must be obtained by a catcher vessel owner or operator participating in a non-groundfish fishery when retention of incidentally caught groundfish is required by regulations.

If a permit is surrendered, current regulations require the permit to be submitted to the NMFS Enforcement Office. Paragraph (b)(4)(ii) would be revised such that a permit would be submitted to the Assistant Administrator of the NMFS Restricted Access Management (RAM) Program when surrendered.

Paragraph (b)(5)(iv)(D) would be revised to require that a mothership or catcher/processor operating in the GOA must indicate on the permit application whether it will be participating in the inshore or offshore component.

Paragraphs (b)(5)(v) and (f)(2)(vi) would be revised to allow an agent of a vessel owner or shoreside processor owner to sign the permit application for the owner.

Cross references to the halibut/sablefish CDQ permits and CDQ cards in paragraph (e) would be revised to read § 679.32(f)(3) and (4).

Recordingkeeping and Reporting (§ 679.5)

Paragraph (a)(1)(vi) would be added to provide instructions on which logbook to use when participating in a CDQ fishery.

Paragraph (a)(3)(iii) would be revised by removing the requirement to sign the logbook within a certain time limit and adding that requirement within paragraphs (c)(2)(i)(C), (c)(2)(ii)(D), (d)(2)(iv), (e)(2)(v), and (f)(2)(v).

Paragraphs (a)(4)(ii) and (iii) would be added to clarify the recordkeeping and reporting requirements for reinstatement of a surrendered Federal fisheries permit or a Federal processor permit within the same fishing year. The operator or manager would be required to ensure that maintenance of all recordkeeping and reporting requirements is continuous throughout that year, without interruption of records.

Paragraph (a)(6)(iii)(B)(*1*) would be revised to clarify the requirements for recording date information in the new combined NMFS/IPHC catcher vessel daily fishing logbook (DFL).

Paragraph (a)(6)(iii)(B)(*2*) would be redesignated as paragraph (a)(6)(iii)(B)(*3*) and a new paragraph (a)(6)(iii)(B)(*2*) would be added to clarify the requirements for recording date information in the groundfish catcher vessel DFL.

Paragraphs (a)(7)(ii)(B), (a)(7)(iii)(A), (a)(7)(v)(A)(*2*)(*i*), (a)(7)(v)(A)(*3*)(*i*), (a)(7)(v)(B)(*2*)(*i*), and (a)(7)(v)(E)(*5*) would be revised by replacing the words ''logbook page'' with ''logsheet.''

The introductory text to paragraph (a)(7)(v)(A) and paragraphs (a)(7)(v)(A)(*4*) and (a)(7)(v)(A)(*5*) would be removed. Paragraphs (a)(7)(v)(A)(*1*) through (a)(7)(v)(A)(*3*) would be revised to reorganize paragraph (a)(7)(v)(A), to include gear type requirements for a buying station, and to remove the gear type ''PTR TRANSFER'' from recordkeeping and reporting.

Paragraph (a)(7)(v)(B) would be revised to clarify the requirements for recording reporting area on logbooks and forms.

Paragraph (a)(7)(v)(C) would be redesignated as (a)(7)(v)(C)(*1*) and revised to clarify the requirements for recording numbers of observers on logbooks. In addition to recording the number of observers, paragraph (a)(7)(v)(C)(*2*) would add a requirement to record the name of the observer and the observer cruise number in the new combined groundfish/IFQ logbook.

Paragraph (a)(7)(v)(D) would be revised to clarify the requirements for recording the number of crew on logbooks and forms.

Paragraph (a)(7)(v)(E) would be revised to clarify the requirements for recording CDQ program information on logbooks and forms in response to the new multi-species CDQ program and to add a new requirement to record CDQ delivery number on logbooks and forms.

Paragraph (a)(7)(v)(F) would be added to clarify requirements for recording the experimental fisheries number in the CDQ number block on logbooks and forms.

Paragraph (a)(14)(i)(B) would be revised to add the option of submitting a data file to NMFS by e-mail.

Paragraph (a)(14)(iii)(A), (a)(14)(iii)(B), and (a)(14)(iv)(B)(*1*) would be revised to add the logsheet distribution of the new combined groundfish/IFQ logbooks, to instruct on submittal of the yellow logsheets from both groundfish and groundfish/IFQ logbooks to NMFS in 1999 so that each fishing day of the year is accounted for without duplication.

Paragraph (a)(14)(iv)(E) would be added to provide instructions on the submittal of the green copy of the combined groundfish/IFQ logbooks.

Introductory paragraph (c)(2)(i) would be redesignated as (c)(2)(i)(A), paragraphs (c)(2)(i)(A) through (C) would be redesignated as (c)(2)(i)(A)(1) through (3), respectively, and paragraph (c)(2)(i)(D) would be redesignated as paragraph (c)(2)(i)(B).

Paragraph (c)(3) would be revised by adding a new paragraph (c)(3)(i) on requirements of the combined groundfish/IFQ catcher vessel and catcher/processor logbooks for use by vessel operators who participate in both the IFQ and groundfish fisheries. A new paragraph (c)(3)(ii) would be added that would include requirements from former paragraphs (c)(3)(i) through (vi) on groundfish logbook requirements to be used by operators of catcher vessels and catcher/processors who participate only in the groundfish fisheries. The requirement at current paragraph (c)(3)(vii) for a catcher vessel operator to record pollock and Pacific cod would be removed; and paragraphs (c)(3)(viii) through (x) that formerly described IFQ fields would be removed.

Paragraphs (e)(1)(iii) and (f)(1)(ii)(C) would be revised to clarify that motherships and shoreside processors should not record in the DCPL those discards that occur during processing of groundfish received from another processor through a processor transfer report (PTR).

Paragraph (f)(1)(iii) would be added to require that when groundfish product is received by a shoreside processor and subsequently transferred offsite before processing, the manager of a shoreside processor must record those groundfish in both the landings and productions sections of the DCPL. This procedure would ensure that the NMFS data comparisons between landings and product will be more accurate; otherwise estimated values for product would be less than estimated values for landings.

Paragraph (h) would be amended as follows. First, paragraph (h)(1)(iii) would be added and (h)(2)(i)(C) would be revised to clarify the requirements for CDQ fishery check-in/check-out reports for each CDQ group. Second, a new paragraph (h)(2)(ii)(D) would be added and paragraph (h)(2)(i)(B)(*1*) would be revised to indicate that a buying station check-in/check-out report is required specifically from a vessel buying station and not a land-based buying station. Third, paragraph (h)(2)(i)(B)(*2*) and (h)(3)(i)(A)(*3*) would be revised to change the requirement for mothership check-in. With these changes, a mothership would check-in to each reporting area from which harvest is received from catcher vessels. Fourth, (h)(2)(ii)(D) would be removed because

the requirement for land-based buying stations to submit check-in and check-out reports is unnecessary because many land-based buying stations are trucks or small shacks temporarily set up to receive groundfish from catcher vessels. The check-in/check-out reports from the associated shoreside processor are considered adequate for data collection purposes. Fifth, the heading for paragraph (h)(2)(ii)(F) would be revised. Finally, paragraph (h)(3)(i)(D)(*1*) would be revised to specify requirements for a vessel buying station and paragraphs (h)(3)(i)(D)(*2*) and (h)(3)(ii)(D) would be removed.

Paragraph (k)(2)(ii)(A) would be revised to change the words ''Table 8'' to read ''Table 5.''

Paragraph (l)(5)(vi) would be revised and the in-text table removed and placed as Table 9 to this part, to allow this table of ports to be more easily accessible.

Experimental fisheries (§ 679.6). Paragraph (g) would be added to include the requirement that recordkeeping and reporting requirements at § 679.5(a) through (k) would also be required for participants in experimental fisheries.

Prohibited species bycatch management (§ 679.21). Paragraph (b)(5) would be added to include a cross reference to § 679.24. Paragraph (e)(7)(vi)(A) would be revised to correct a cross reference.

Closures (§ 679.22). Paragraphs (a)(7), (a)(8), and (b)(2), which describe Steller Sea Lion Protection Areas of the Bering Sea Subarea and Bogoslof District, Aleutian Islands Subarea, and GOA, would be removed and combined into a new paragraph (g) to present these areas in one section. Paragraphs (a)(9) and (a)(10) would be redesignated to read (a)(7) and (a)(8), respectively; and newly redesignated paragraph (a)(8) would be revised to correct a cross reference. Paragraph (b)(2) would be added to include an existing provision that prohibits the use of gear other than nontrawl gear in the Southeast Outside District of the GOA. Finally, the heading to paragraph (h) would be revised to add the word ''closures.''

Gear limitations (§ 679.24). Paragraphs (b)(1)(i) and (ii) would be removed and would be redesignated as subparagraphs (7)(a) and (b) to the definition for the term ''pot'' under the term ''authorized fishing gear'' in § 679.2. This proposed change is necessary in order to have all of the paragraphs describing ''pot'' gear in one place. As a result of this proposed change, paragraph (b)(1)(iii) would be redesignated as (b)(1) and paragraphs (b)(1)(iii)(A) and (B) would be redesignated as (b)(1)(i) and (ii).

Equipment and operational requirements for catch weight measurement (§ 679.28). Paragraph (b)(5)(i) would be revised by replacing the words ''daily cumulative production logbook'' with ''DCPL'' for consistency of regulatory text, and the last line of the sentence would be removed, because the same requirement is duplicated in the first line of the following paragraph (b)(5)(ii).

General CDQ regulations (§ 679.30). Paragraph (a)(1)(iv) would be revised to change the words ''Table 7'' to read ''Table 4.'' Paragraph (a)(5)(i)(B) would be corrected to remove ''buying station'' from regulatory text. Section 679.30(a)(5)(i) contains requirements for listing eligible vessels and processors within a CDQ group's fishing plan. The buying station was incorrectly included in this paragraph because it does not process fish and is not required to have a Federal processor permit.

CDQ reserves (§ 679.31). Paragraph (b)(3), which provides for the halibut CDQ reserves from halibut regulatory areas, would be revised by adding a cross reference to Figure 15, IPHC halibut regulatory areas.

CDQ catch monitoring (§ 679.32). Paragraphs (c) and (e)(4) would be revised by replacing the outdated term ''shoreside processing plant'' with ''shoreside processor.'' Paragraph (c)(1)(i) would be revised to add a cross reference to § 679.5(n). Paragraph (c)(1)(ii) would be corrected to remove the words ''trawl catcher/processors or'' and ''catcher/processor or'' because catcher vessel deliveries are not made to catcher/processors as defined at § 679.2.

Paragraphs (d)(1), (e)(3) through (e)(5), and (f)(3) would be revised by removing references to buying stations. As stated earlier, the buying station was incorrectly included in these paragraphs. Paragraph (f)(3) would be further revised by replacing the words ''for the duration of the CDP'' with ''for the fishing year'' because the CDQ permits are issued annually.

Paragraph (f)(7) would be revised by replacing the words ''logbooks and weekly production reports'' with the words ''DFLs, DCPLS, and WPRs'' for consistency of regulatory text.

Paragraph (f)(8) would be added to add a cross reference to § 679.23, and (f)(9) would be added to add a cross reference to § 679.43.

Limitations on use of QS and IFQ (§ 679.42). Paragraphs (c)(2)(i), (ii), (iii), and the in-text table would be removed.

Tables

Table 1, which describes product codes, would be revised. Product code 96 would be revised to read: ''Flea-infested fish, parasite-infested fish, decomposed, or previously discarded fish.'' Also, a new discard code 93 ''Whole fish/damaged'' would be added to read: ''Whole fish discarded due to damage caused by observer's sampling procedures.''

Table 2, which describes species codes, would be revised to incorporate the ADF&G species codes with the NMFS species codes. As a result of this integration, the species code for Pacific sand fish would be changed from 210 to 206, and code 210 would read ''eels or eel-like fish.''

Table 3, which describes product recovery rates, would be revised to remove two incorrect values for octopus and squid under product code 37. New values will be added when available.

Tables 4, 5, and 6, which describe Steller Sea Lion protection areas in the BSAI and GOA, would be removed and combined into a new table of coordinates for new Figure 16 to this part.

Tables 7 through 11 would be redesignated as Tables 4 through 8.

Table 9 would be added to present the list of primary IFQ ports formerly found at § 679.5(l)(3)(viii).

Table 10 would be added to present the IFQ/CDQ gear codes and descriptions needed for electronic submittal of IFQ reports.

Figures

Figures 1 through 5 and 7 through 13 would be reissued with an improved format. The title of Figure 9 would be corrected.

A new Figure 16 would be added to present the Steller Sea Lion Protection Areas in the EEZ off Alaska and the combined coordinates from existing Tables 4, 5, and 6. Regulations would be revised by removing paragraphs § 679.22(a)(7), (a)(8), and (b)(2) and by adding a new paragraph (g). This change is intended to consolidate Steller Sea Lion information within one location. The action proposed in 63 FR 60288 (November 11, 1998) would be incorporated into Figure 16 to extend the seaward 20-nm no-trawl zone around the Seguam Island and Agligadak Island rookeries in the Eastern District of the Aleutian Islands into a year-round closure. Changes that are proposed for Figure 16 to this part are affected by other emergency interim rulemaking (64 FR 3437, January 22, 1999) and may be revised by NMFS prior to the final rule for recordkeeping and reporting.

Finally, new Figures 17 and 18 would be added presenting the BSAI *C. opilio* and *C. bairdi* tanner crab and the BSAI king crab endorsement areas,

respectively. This change is necessary to implement requirements of the upcoming License Limitation Program.

Classification

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). OMB approval for the majority of information collected under 50 CFR 679.5 has been obtained under OMB control numbers 0648–0206, –0213, –0269, and –0272. Proposed additions and revisions to the collection under 0648–0213 with this rulemaking have been submitted to OMB for review and approval.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB Control Number.

Approved under 0648–0206—Alaska Permits: No new forms are proposed with this rulemaking. The regulatory text at 679.4(b)(5)(iv)(D) would be revised to require that all motherships and catcher/processors indicate whether they are participating in the inshore or offshore component, regardless of target fishery; originally inshore/offshore indication was required only if the vessel operator planned to target pollock and Pacific cod. This change does not require revision of the forms.

Two questions are removed from the Federal fisheries permit application form that determine the size of logbook to be sent to a catcher vessel; in 1999 only one size logbook is available for catcher vessels.

Approved under 0648–0213—Alaska Region Logbook Family of Forms. A summary of logbook and form requirements approved under 0648–0213 is presented in two categories: (1) Those that have changes in requirements that may or may not result in new response times and (2) those that have no changes in requirements with existing response times.

Requirements With Changes

Buying Station Check-in/Check-out Report (0.08 hr or 5 minutes per response; no change in response time, change is in number of respondents from 100 to 217); Shoreside Processor Check-in/Check-out Report (0.13 hr or 8 minutes per response; no change in response time, change is in number of respondents from 176 to 142); Product transfer report (0.18 hr or 11 minutes per response; no change in response time, change is in number of respondents from 170 to 310); Catcher vessel daily fishing logbook (change is in format; instead of one logbook format (0.30 hr or 18 minutes per response), now there are two—one for groundfish (0.28 hr or 17 minutes per response) and one for groundfish/IFQ (0.47 hr or 28 minutes per response); Catcher/processor daily cumulative production logbook (change is in format; instead of one logbook format (0.50 hr or 30 minutes per response), now there are two—one for groundfish (0.52 hr or 31 minutes per response) and one for groundfish/IFQ (0.68 hr or 41 minutes per response); Shoreside processor DCPL (change in response time from 0.40 hr or 24 minutes per response to 0.52 hr or 31 minutes per response and in number of respondents, from 176 to 142); and Buying Station Daily Cumulative Logbook (no change in response time 0.38 hr or 23 minutes per response; change is in number of respondents from 100 to 217).

Requirements Without Changes

Weekly Production Report (0.28 hr or 17 minutes per response); Daily Production Report (0.18 hr or 11 minutes per response); Mothership or Catcher/processor Check-in/Check-out Report (0.12 hr or 7 minutes per response); U.S. Vessel Activity Report (0.23 hr or 14 minutes per response); Weekly Cumulative Mothership ADF&G Fish Tickets (0.58 hr or 35 minutes per response); and Mothership DCPL (0.52 hr or 31 minutes per response).

Approved under 0648–0269—Multispecies CDQ program. No new forms or revisions to forms are proposed with this rulemaking.

Approved under 0648–0272—IFQs for Pacific halibut and sablefish. No new forms are proposed with this rulemaking. The IFQ registered buyer's permit (not considered a form) would be revised to remove recordkeeping and reporting requirements from the back of the permit, since these requirements would be added to the regulations. Two proposed combined groundfish/IFQ logbooks under 0648–0213 would require recording of IFQ information in those logbooks by the catcher vessel operator or the catcher/processor operator participating in both groundfish and IFQ fisheries.

The estimated response times shown include the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

Public comment is sought regarding whether this proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including the use of automated collection techniques or other forms of information technology.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to NMFS and to OIRA, OMB (see **ADDRESSES**).

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows.

Recordkeeping and reporting requirements apply to almost all of the vessels currently participating in Alaska groundfish fisheries. This is a ''substantial number'' of small entities, as NMFS has interpreted this term to mean 20 percent of the total universe of small entities affected by the regulation. However, the proposed action would not impose any additional compliance costs on small entities. This conclusion is demonstrated in several ways. First, the large majority of proposed changes are minor technical changes designed to clarify and simplify existing regulatory text by providing a more logical flow of information. Second, this proposed rule makes no changes to the general recordkeeping and reporting logbooks and forms used in the 1998 groundfish fisheries that would increase reporting requirements for small entities. The only changes proposed for the general logbooks and forms for the 1999 fishing year are removals of fields that have been determined to be unnecessary collections of information. Third, the new combined groundfish/IFQ logbooks are designed to reduce compliance costs by eliminating the duplication of some recordkeeping data, thereby reducing the burden on IFQ fishermen, many of whom are considered small entities under the Regulatory Flexibility Act. Fishermen that participate in both the groundfish and IFQ fisheries are currently required to maintain two logbooks, one for NMFS and one for the IPHC. The combined groundfish/IFQ logbook is being proposed partially at the request of the fishing industry to reduce the current reporting burden and allow the operator to maintain one logbook. Fourth, the integrated species code list would not increase compliance costs for small entities in that fishermen currently keep track of all the fish harvested regardless of whether it is managed by the State of Alaska or NMFS, and the proposed change would allow fishermen to record all of this data in one logbook. NMFS had prohibited the entry of State of Alaska

species codes into Federal groundfish logbooks because the NMFS data entry computer system was not programmed to recognize species codes other than Federal species codes. The data entry system has been updated to recognize State species codes.

Based on the above description, NMFS has determined that this action would not have a ''significant impact'' as NMFS has interpreted that term to mean: (1) More than a 5-percent decrease in annual gross revenues; (2) annual compliance costs (e.g., annualized capital, operating, reporting) that increase total costs of production by more than 5 percent; (3) compliance costs as a percent of sales that are 10 or more percent higher for small entities than compliance costs for large entities; (4) capital costs of compliance that represent a significant portion of capital available to small entities, considering internal cash flow and external financing capabilities; or (5) the regulation is likely to result in 2 or more percent of the small entities affected being forced to cease business operations. Therefore, a regulatory flexibility analysis was not prepared.

The President has directed Federal agencies to use plain language when communicating with the public, through regulation or otherwise. Therefore, NMFS seeks public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: January 25, 1999.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In 50 CFR part 679, change the words ''of this part'' following a figure number or table number to read ''to this part'', as follows: in the definitions, ''Aleutian Islands Subarea (AI),'' ''Bering Sea and Aleutian Islands Management Area (BSAI),'' ''Bering Sea Subarea,'' ''Bogoslof District,'' ''Bycatch limitation zone 1 (Zone 1),'' ''Bycatch limitation zone 2 (Zone 2),'' ''Catcher Vessel Operational Area (CVOA),'' ''Central Aleutian District,'' ''Eastern Aleutian District,'' ''Gulf of Alaska (GOA),'' ''Length overall (LOA),'' ''PRR,'' ''Regulatory area,'' ''Round-weight equivalent,'' ''Southeast Outside District,'' ''Statistical area,'' ''Steller Sea Lion Protection Areas,'' ''Trawl test areas,'' ''U.S.-Russian boundary,'' ''West Yakutat District,'' ''Western Aleutian District,'' and at paragraphs 679.20(h)(1), (h)(2), (h)(2)(i), and (h)(2)(ii); paragraphs 679.22(a)(7)(i), (a)(7)(ii), (a)(8)(i), (a)(8)(ii), (b)(1)(i), (b)(1)(ii), (b)(2)(i), (b)(2)(ii); and paragraph 679.24(d)(4).

3. In § 679.2, the definitions for ''ADF&G fish ticket number,'' ''CDQ delivery number,'' ''Fish product,'' ''Haul,'' ''Non-chinook salmon,'' and ''other gear'' are added in alphabetical order; the definitions for ''Authorized fishing,'' ''Buying station,'' ''CDQ number,'' ''Chinook Salmon Savings Area of BSAI,'' ''Chum Salmon Savings Area of the BSAI CVOA,'' Gear deployment,'' ''Nearshore Bristol Bay trawl closure area of the BSAI,'' ''Set,'' ''Steller Sea Lion Protection Areas,'' ''Stem,'' ''Stern,'' ''Tender vessel,'' and ''U.S. citizen'' are revised; the definition of ''Person'' is amended by revising paragraph (1) and by adding headings to paragraphs (2) and (3) and the definition for ''Forage fish'' is amended by inserting the phrase ''(see also Table 2 of this part)'' to read as follows:

§ 679.2 Definitions.

* * * * *

ADF&G fish ticket number means a nine-digit number of the groundfish series of fish tickets designated by one alpha letter (i.e., G), two numbers that identify the year (i.e., 98), and 6 numbers.

* * * * *

Authorized fishing gear (see also paragraph 679.24 for gear limitations) means trawl gear, fixed gear, longline gear, pot gear, and nontrawl gear as follows:

(1) *Fixed gear* means:

(i) For sablefish harvested from any GOA reporting area, all hook-and-line gear and, for purposes of determining initial IFQ allocation, all pot gear used to make a legal landing.

(ii) For sablefish harvested from any BSAI reporting area, all hook-and-line gear and all pot gear.

(iii) For halibut harvested from any IFQ regulatory area, all fishing gear comprised of lines with hooks attached, including one or more stationary, buoyed, and anchored lines with hooks attached.

(2) *Hand troll gear* means one or more lines with lures or hooks attached, drawn through the water behind a moving vessel, and retrieved by hand or hand-cranked reels or gurdies and not by any electrically, hydraulically, or mechanically-powered device or attachment.

(3) *Handline gear* means a hand-held line, with one or more hooks attached, that may only be operated manually.

(4) *Hook-and-line gear* means a stationary, buoyed, and anchored line with hooks attached, or the taking of fish by means of such a device.

(5) *Jig gear* means a single, non-buoyed, non-anchored line with hooks attached, or the taking of fish by means of such a device.

(6) *Longline gear* means hook-and-line, jig, troll, and handline or the taking of fish by means of such a device.

(7) *Longline pot* means a stationary, buoyed, and anchored line with two or more pots attached, or the taking of fish by means of such a device.

(8) *Nonpelagic trawl* means a trawl other than a pelagic trawl.

(9) *Nontrawl gear* means pot and longline gear.

(10) *Pelagic trawl gear* means a trawl that:

(i) Has no discs, bobbins, or rollers;

(ii) Has no chafe protection gear attached to the footrope or fishing line;

(iii) Except for the small mesh allowed under paragraph (10)(ix) of this definition:

(A) Has no mesh tied to the fishing line, headrope, and breast lines with less than 20 inches (50.8 cm) between knots and has no stretched mesh size of less than 60 inches (152.4 cm) aft from all points on the fishing line, headrope, and breast lines and extending past the fishing circle for a distance equal to or greater than one half the vessel's LOA; or

(B) Has no parallel lines spaced closer than 64 inches (162.6 cm) from all points on the fishing line, headrope, and breast lines and extending aft to a section of mesh, with no stretched mesh size of less than 60 inches (152.4 cm) extending aft for a distance equal to or greater than one half the vessel's LOA;

(iv) Has no stretched mesh size less than 15 inches (38.1 cm) aft of the mesh described in paragraph (10)(iii) of this definition for a distance equal to or greater than one half the vessel's LOA;

(v) Contains no configuration intended to reduce the stretched mesh sizes described in paragraphs (10) (iii) and (iv) of this definition;

(vi) Has no flotation other than floats capable of providing up to 200 lb (90.7 kg) of buoyancy to accommodate the use of a net-sounder device;

(vii) Has no more than one fishing line and one footrope for a total of no more than two weighted lines on the bottom of the trawl between the wing tip and the fishing circle;

(viii) Has no metallic component except for connectors (e.g., hammerlocks or swivels) or a net-

sounder device aft of the fishing circle and forward of any mesh greater than 5.5 inches (14.0 cm) stretched measure;

(ix) May have small mesh within 32 ft (9.8 m) of the center of the headrope as needed for attaching instrumentation (e.g., net-sounder device); and

(x) May have weights on the wing tips.

(11) *Pot gear* means a portable structure designed and constructed to capture and retain fish alive in the water. This gear type includes longline pot and pot-and-line gear. Each groundfish pot must comply with the following:

(i) *Biodegradable panel.* Each pot used to fish for groundfish must be equipped with a biodegradable panel at least 18 inches (45.72 cm) in length that is parallel to, and within 6 inches (15.24 cm) of, the bottom of the pot, and that is sewn up with untreated cotton thread of no larger size than No. 30.

(ii) *Tunnel opening.* Each pot used to fish for groundfish must be equipped with rigid tunnel openings that are no wider than 9 inches (22.86 cm) and no higher than 9 inches (22.86 cm), or soft tunnel openings with dimensions that are no wider than 9 inches (22.86 cm).

(12) *Pot-and-line gear* means a stationary, buoyed line with a single pot attached, or the taking of fish by means of such a device.

(13) *Power troll gear means* one or more lines, with hooks or lures attached, drawn through the water behind a moving vessel, and originating from a power gurdy or power-driven spool fastened to the vessel, the extension or retraction of which is directly to the gurdy or spool.

(14) *Trawl gear* means a cone or funnel-shaped net that is towed through the water by one or more vessels. For purposes of this part, this definition includes, but is not limited to, beam trawls (trawl with a fixed net opening utilizing a wood or metal beam), otter trawls (trawl with a net opening controlled by devices commonly called otter doors), and pair trawls (trawl dragged between 2 vessels) and is further described as pelagic and nonpelagic trawl.

(15) *Troll gear* means one or more lines with hooks or lures attached drawn through the water behind a moving vessel. This gear type includes hand troll and power troll gear.

* * * * *

Buying station means a tender vessel or land-based entity that receives unprocessed groundfish from a vessel for delivery to a shoreside processor or mothership and that does not process those fish.

* * * * *

CDQ delivery number means a sequential number assigned by the catcher vessel operator that uniquely identifies each CDQ delivery. The sequence of CDQ delivery numbers begins with the first fishing activity under a multispecies CDQ, and the number is incrementally adjusted by one with each delivery of fish.

* * * * *

CDQ number or group number means a number assigned to a CDQ group by NMFS that must be recorded in all logbooks and all reports submitted by the CDQ group or by vessels and processors catching CDQ or PSQ under an approved CDP.

* * * * *

Chinook Salmon Savings Area of the BSAI (see § 679.21(e)(7)(viii) and Figure 8 to this part).

Chum Salmon Savings Area of the BSAI CVOA (see § 679.21(e)(7)(vii) and Figure 9 to this part).

* * * * *

Fish product (see groundfish product).

* * * * *

Forage fish means all species of the following families (see also Table 2 to this part): * * *

Gear deployment means:

(1) For trawl gear: Where the trawl gear reaches the fishing level and begins to fish.

(2) For longline gear: Where the gear enters the water.

(3) For pot gear: Where the first pot enters the water.

* * * * *

Haul (see gear retrieval).

* * * * *

Nearshore Bristol Bay Trawl Closure Area of the BSAI (see § 679.22(a)(9) and Figure 12 to this part).

* * * * *

Non-chinook salmon means coho, pink, chum or sockeye salmon.

* * * * *

Other gear means gear other than authorized fishing gear.

* * * * *

Person means:

(1) *IFQ and CDQ Programs and General Usage* means any individual who is a citizen of the United States or any corporation, partnership, association, or other entity (or its successor-in-interest), regardless of whether organized or existing under the laws of any state, who is a U.S. citizen.

(2) *High Seas Salmon Fishery permits* * * *

(3) *Vessel Moratorium (Applicable through December 31, 1998)* * * *

* * * * *

Set means a string of pots or hook-and-line gear or a group of pots that is deployed in the water in a similar location with similar soak time. A set begins when gear is deployed into the water and includes a test set, unsuccessful harvest, or when gear is not working and is pulled in, even if no fish are harvested. (see also ''gear deployment'').

* * * * *

Steller Sea Lion Protection Areas (see Figure 16 to this part, § 679.22(g) of this part, and § 227.12 of this title).

Stem means the forward part of a vessel (see Figure 6 to this part)—that portion of the vessel where the sides are united at the fore end with the lower end attached to the keel and the bowsprit, if one is present, resting on the upper end.

Stern means the aft part of the vessel (see Figure 6 to this part).

* * * * *

Tender vessel means a vessel that is used to transport unprocessed fish received from another vessel to a shoreside processor or mothership (see also ''buying station'').

* * * * *

U.S. citizen means:

(1) *General usage.* Any individual who is a citizen of the United States.

(2) *IFQ program.* (a) Any individual who is a citizen of the United States at the time of application for QS; or

(b) Any corporation, partnership, association, or other entity that would have qualified to document a fishing vessel as a vessel of the United States during the QS qualifying years of 1988, 1989, and 1990.

* * * * *

4. In § 679.4, paragraphs (b)(2), (b)(4)(ii), (b)(5)(iv)(D), (b)(5)(v), (e), (f)(2)(vi), (f)(4)(ii) are revised; the heading of paragraph (h)(2) is revised to read as follows:

§ 679.4 Permits.

* * * * *

(b) * * *

(2) *Non-groundfish.* A vessel of the United States that fishes in the GOA or BSAI for any non-groundfish species, including but not limited to halibut, crab, salmon, scallops, and herring, and that is required to retain any bycatch of groundfish under this part must obtain a Federal fisheries permit under this part.

* * * * *

(4) * * *

(ii) A Federal fisheries permit is surrendered when the original permit is submitted to and received by the Administrator, RAM, Juneau, AK.

(5) * * *

(iv) * * *

(D) If a mothership or catcher/processor operating in the GOA,

indicate whether inshore or offshore component.

(v) *Signature.* The owner or agent of the owner of the vessel must sign and date the application. If the owner is a company, the agent of the owner must sign and date the application.

* * * * *

(e) *Halibut/sablefish CDQ permits and CDQ cards.* See § 679.32(f)(3) and (f)(4).

* * * * *

(f) * * *

(2) * * *

(vi) *Signature.* The owner or agent of the owner of the shoreside processor must sign and date the application. If the owner is a company, the agent of the owner must sign and date the application.

* * * * *

(4) * * *

(ii) A Federal processor permit is surrendered when the original permit is submitted to and received by the Administrator, RAM, Juneau, AK.

* * * * *

(h) * * *

(2) *Crew members and other persons not the operator of a commercial fishing vessel using power troll gear.* * * *

* * * * *

5. In § 679.5, paragraphs (a)(1)(i) and (ii), (a)(3)(iii), (a)(4), (a)(6)(iii)(B), (a)(7), (a)(9)(ii)(B), (a)(9)(iii), (a)(14)(i) through (iv), (c)(2), (c)(3), (e)(1)(iii), (f)(1)(ii)(C), (g)(3)(ii)(A), (g)(3)(iii)(A), (h)(2)(i)(B) and (C), (h)(2)(ii)(B) through (F), (h)(3)(i)(A)(*3*), (h)(3)(i)(D)(*1*), (h)(3)(ii)(D), (i)(2), (k)(2)(ii)(A), (l)(5)(vi), (m)(3)(ii), and (n) are revised; paragraphs (c)(4), (c)(5), and (c)(6) are removed; and paragraphs (a)(1)(v), (a)(1)(vi), (d)(2)(iv), (e)(2)(v), (f)(1)(iii), (f)(2)(v), and (h)(1)(iii) are added to read as follows:

§ 679.5 Recordkeeping and reporting.

(a) *General requirements*—(1) *Applicability, Federal fisheries permit.* (i) Except as provided in paragraphs (a)(1)(iii) and (iv) of this section, the following participants must comply with the recordkeeping and reporting requirements of this section:

(A) Any catcher vessel, mothership, catcher/processor, or tender vessel, 5 net tons or larger, that is required to have a Federal fisheries permit under § 679.4.

(B) Any shoreside processor, mothership, or buying station that receives groundfish from vessels issued a Federal fisheries permit under § 679.4.

(C) Any buying station that receives or delivers groundfish in association with a mothership issued a Federal fisheries permit under § 679.4(b) or with a shoreside processor or vessel operating solely as a mothership in Alaska State waters issued a Federal processor permit under § 679.4(f).

(ii) A shoreside processor, mothership, or buying station subject to recordkeeping and reporting requirements must report all groundfish and prohibited species received, including:

(A) Fish received from vessels not required to have a Federal fisheries permit.

(B) Fish received under contract for handling or processing for another processor.

* * * * *

(v) *IFQ sablefish or halibut fisheries.* Any catcher vessel or catcher/processor that participates in an IFQ fishery in addition to the groundfish fisheries of the GOA or BSAI and that is required to maintain a logbook under this section, must use a combined groundfish/IFQ logbook.

(vi) *CDQ fisheries.* (A) Any catcher vessel or catcher/processor that participates in a CDQ fishery and does not retain any halibut must use a groundfish logbook.

(B) Any catcher vessel or catcher/processor that participates in a CDQ fishery, including halibut, and that is required to maintain a logbook under this section must use a groundfish/IFQ logbook.

* * * * *

(3) * * *

(iii) The signature of the owner, operator, or manager on the DFL, DCL, or DCPL is verification of acceptance of the responsibility required in paragraphs (a)(3)(i) and (ii).

* * * * *

(4) *Groundfish logbooks and forms.* (i) The Regional Administrator will prescribe and provide groundfish logbooks and forms required under this section as shown in Table 6 to this part. The operator or manager must use these logbooks and forms or obtain approval from the Regional Administrator to use electronic versions of the logbooks and forms.

(ii) If a vessel owner or operator is granted reinstatement of a Federal fisheries permit after having surrendered it within the same fishing year, recordkeeping and reporting requirements as defined in this section must be continuous throughout that year, without interruption of records.

(iii) If a shoreside processor owner or manager is granted reinstatement of a Federal processor permit after having surrendered it within the same fishing year, recordkeeping and reporting requirements as defined in this section must be continuous throughout that year, without interruption of records.

* * * * *

(6) * * *

(iii) * * *

(B) *Date,* presented as month-day-year.

(*1*) If a catcher vessel harvesting sablefish or halibut under the IFQ Program (see subpart D of this part) in addition to groundfish and recording more than one day on the DFL logsheet, the operator must enter the first day of the harvest at the top of the logsheet and the date of each day in the ''record by set'' and ''discard'' sections of the DFL.

(*2*) If a catcher vessel harvesting groundfish and recording more than one day on the DFL logsheet, the operator must enter the first day of the harvest at the top of the logsheet and the date of each day in the ''catch'' and ''discard/donate'' sections of the DFL.

(*3*) If a shoreside processor, the manager must enter the week-ending date of the weekly reporting period at the top of the logsheet and the date of each day of the week in the ''landings'' and ''discard/donate'' sections of the DCPL.

* * * * *

(7) *Active and inactive periods*—(i) *Each day of fishing year.* Account for each day of the fishing year in the DFL, DCL, or DCPL by checking the appropriate box to indicate active and inactive periods as defined under § 679.2.

(ii) *Separate logsheet.* (A) If a mothership, catcher/processor, or buying station, use a separate logbook page for each day of an active period.

(B) If a catcher vessel or shoreside processor, use a separate logsheet for each day or use one logsheet for up to 7 days.

(iii) *Inactive period.* (A) Indicate in the DFL, DCL, or DCPL on one logsheet the first and last day of an inactive period.

(B) During an inactive period that extends across two or more successive quarters, the operator or manager must complete two logsheets: The one to indicate the last day of the first inactive quarter and the next page to indicate the first day of the second inactive quarter.

(iv) *Fishing activity.* Indicate in the DFL, DCL, or DCPL all fishing activity, which is defined for each type of vessel as follows:

(A) If a catcher vessel—harvest or discard of groundfish.

(B) If a catcher/processor—harvest, discard, or processing of groundfish.

(C) If a mothership or shoreside processor—receipt, discard, or processing of groundfish.

(D) If a buying station—receipt, discard, or delivery of groundfish.

(v) *Active and conducting fishing activity.* If in an active period and conducting fishing activity, the operator of a catcher vessel must record in the DFL, the operator or manager of a buying station must record in the DCL, and the operator or manager of a catcher/processor, mothership, or shoreside processor must record in the DCPL, WPR, DPR, and mothership or catcher/processor check-in/check-out report as follows:

(A) *Gear type.* (*1*) The gear type used to harvest the groundfish. If gear type is not an authorized fishing gear as defined at § 679.2 to this part, circle OTHER.

(*2*) If a mothership or shoreside processor and groundfish are received from the same reporting area but were harvested with more than one gear type, or if a catcher/processor and groundfish were caught in the same reporting area using more than one gear type, the operator or manager must:

(*i*) Use a separate logsheet in the DCPL to record each gear type.

(*ii*) Submit a separate check-in/check-out report, DPR (if required), and WPR for each gear type.

(*3*) If a buying station and groundfish are received from the same reporting area but were harvested with more than one gear type, the operator or manager must:

(*i*) Use a separate logsheet in the DCL to record each gear type.

(*ii*) If a vessel buying station, submit a separate check-in/check-out report for each gear type. Land-based buying stations are not required to submit a check-in/check-out report. Note to paragraph (a)(7)(v)(A)(*3*)(*ii*):

(B) *Reporting area.* In the DFL, DCL, DCPL, WPR, DPR, mothership or catcher/processor check-in/check-out report, the reporting area code (see Figures 1 and 3 to this part) where gear retrieval, as defined at § 679.2 to this part, was completed.

(*1*) If a haul or set occurs in more than one reporting area, record the reporting area code where gear retrieval was completed, regardless of where the majority of the haul or set took place.

(*2*) If a catcher vessel or catcher/processor using trawl gear, record whether catch was harvested in the COBLZ or in the RKCSA.

(*i*) If recording in DFL or DCPL, use two separate logsheets, the first to record the information from the reporting area that includes the COBLZ or RKCSA and the second to record the information from the reporting area that does not include the COBLZ or RKCSA.

(*ii*) If recording on a WPR, use two separate columns to record the part of the same reporting area that includes the COBLZ or RKCSA and the part that does not include the COBLZ or RKCSA.

(*3*) If a catcher/processor using trawl gear and recording on a check-in/check-out report, the operator must submit a separate check-in/check-out report to record the part of the same reporting area that includes the COBLZ or RKCSA and the part that does not include the COBLZ or RKCSA area.

(C) *Observers.* (*1*) If a mothership or shoreside processor DCPL, a catcher/processor groundfish DCPL, or a catcher vessel groundfish DFL, the number of observers aboard or on site.

(*2*) If a groundfish/IFQ catcher vessel DFL or groundfish/IFQ catcher/processor DCPL, the number of observers aboard, the name of observer, and the observer cruise number.

(D) *Number of crew or crew size.* In a DFL, DCL, DCPL (except shoreside processor), mothership or catcher/processor WPR, and buying station check-in/check-out report, the number of crew, excluding certified observer(s), on the last day of the weekly reporting period.

(E) *CDQ.* In a DFL, DCL, DCPL, WPR, DPR, or check-in/check-out report:

(*1*) If harvest is under a CDQ program, record the CDQ number.

(*2*) If harvest is not under a CDQ program, leave blank.

(*3*) If a catcher vessel delivering to a shoreside processor and using a groundfish/IFQ DFL, record the CDQ delivery number in the appropriate box. If using a groundfish DFL, record the CDQ delivery number under ''vessel name'' at the top of the logsheet.

(*4*) If a shoreside processor or buying station delivering to a shoreside processor, record CDQ delivery number under the catcher vessel's name in the delivery information section of the DCPL or DCL, respectively.

(*5*) If harvest is under more than one CDQ number, use a separate logsheet for each CDQ number.

(F) *Experimental fisheries.* If harvest is under an experimental fisheries program, record the experimental fisheries number (e.g., EXP 9801) in the CDQ number block.

(8) *Landings information.* * * *

(9) *Product information.* * * *

(ii) * * *

(B) *Weekly production.* At the end of each weekly reporting period or prior to the offload or transfer of all fish or fish product from a catcher/processor or mothership if offload or transfer occurs before the end of a weekly reporting period, enter for each species and product code the cumulative total fish product weight for each groundfish product to the nearest lb or to at least the nearest 0.001 mt, summarized separately by reporting area, gear type, COBLZ or RKCSA area if applicable under paragraph (a)(7)(v)(B) of this section, and CDQ number. The cumulative total fish product weight is calculated by adding the daily totals and total carried forward (except for a Shoreside Processor DCPL) for that week.

(iii) *Zero amount carried forward.* At the beginning of each weekly reporting period or after the offload or transfer of all fish or fish product onboard if such offload occurs prior to the end of a weekly reporting period, from a catcher/processor or mothership, the amount is zero, and nothing shall be carried forward from the previous weekly reporting period.

* * * * *

(14) *Submittal, retention, and distribution of logbooks and forms*—(i) *Submittal of forms.* Forms other than logbooks and mothership fish tickets may be submitted by the operator or manager by:

(A) Using the NMFS printed form and faxing it to the fax number on the form; or

(B) Transmitting a data file with required information and forms to NMFS by modem, satellite (specifically INMARSAT standards A, B, or C), or e-mail.

(ii) *Submittal of logbooks.* (A) For recordkeeping and reporting in the groundfish fisheries of the EEZ off Alaska, the operator of a catcher vessel, mothership, catcher/processor, or of a buying station delivering to a mothership, or the manager of a shoreside processor or of a buying station delivering to a shoreside processor is required to use the logbooks issued per paragraph (a)(4) of this section, retain the logbooks per paragraph (a)(14)(vii) of this section, and submit the logbooks and logsheets to NMFS per paragraphs (a)(14)(iv), (v), and (vi) of this section.

(B) The operator or manager of a buying station must maintain a separate DCL for each mothership or shoreside processor to which the buying station delivers groundfish during a fishing year.

(iii) *Logbook descriptions.* The copy sets of each logbook are described below:

(A) *Catcher vessel DFL*—(*1*) *Groundfish/IFQ.* White, blue, green, and yellow copies.

(*2*) *Groundfish.* White, blue, and yellow copies.

(B) *Catcher/processor DCPL*—(*1*) *Groundfish/IFQ.* White, green, and yellow copies.

(*2*) *Groundfish.* White and yellow copies.

(C) *Mothership DCPL.* White and yellow copies.

(D) *Shoreside processor DCPL.* White and yellow copies.

(E) *Buying station DCL.* White, pink, and yellow copies.

(iv) *Logsheet distribution and retention.* The operator or manager must distribute or retain the multiple copies of each logsheet as follows:

(A) *White, original logsheet.* The white copy remains permanently in the logbook.

(B) *Yellow logsheet*—(*1*) *DFL or DCPL.* The yellow DFL or DCPL copy is submitted to NMFS per paragraphs(a)(14)(v) and (vi) of this section.

(*i*) *Groundfish only.* The yellow DFL or DCPL copy is submitted to NMFS per paragraphs(a)(14)(v) and (vi) of this section.

(*ii*) *Catcher vessel and catcher/processor groundfish and groundfish/IFQ logbooks (Effective through December 31, 1999).* Record all information in the groundfish DFL or catcher/processor DCPL received at the beginning of 1999. Upon receipt of the groundfish/IFQ DFL or catcher/processor DCPL, stop recording in the groundfish logbook. Complete the date of receipt, page number, and participant identification information (see paragraph (a)(5) of this section), then write ''transfer to groundfish/IFQ logbook'' across the logsheet. On the first page of the groundfish/IFQ logbook, enter the next consecutive page number, date of receipt, and participant identification (see paragraph (a)(5) of this section), then write ''transferred from groundfish logbook'' across the logsheet. Combine and submit the first quarter, yellow logsheets from the groundfish logbook and from the groundfish/IFQ logbook to NMFS per paragraphs (a)(14)(v) and (vi) of this section.

(*2*) *DCL*—(*i*) *Buying station.* The operator or manager of a buying station must submit upon delivery of catch the yellow DCL copy to the associated mothership or shoreside processor, along with the ADF&G fish tickets for that delivery.

(*ii*) *Mothership or shoreside processor.* The operator or manager of the associated mothership or shoreside processor receiving a delivery from a buying station must submit the yellow DCL copy to NMFS per paragraphs (a)(14)(v) and (vi) of this section after photocopying each DCL yellow copy. The manager or operator of the associated mothership or shoreside processor must retain these photocopies until the original DCL is received from the associated buying station at the conclusion of fishing or no later than February 1 of the following fishing year.

(C) *Blue discard logsheet, DFL*—(*1*) *Catcher vessel.* Except when delivering an unsorted codend (see paragraph (c)(6)(i) of this section), the operator of a catcher vessel must submit the blue DFL copy to the buying station, mothership, or shoreside processor that receives the groundfish harvest.

(*2*) *Buying station.* The operator or manager of a buying station must submit upon delivery of catch to an associated mothership or shoreside processor any blue DFL copies received from catcher vessels delivering groundfish to the buying station.

(*3*) *Mothership or shoreside processor.* The operator of a mothership or the manager of a shoreside processor must retain the blue DFL copies submitted by operators of catcher vessels through the last day of the fishing year during which the records were made.

(D) *Pink logsheet, DCL.* The operator or manager of a buying station must retain the pink DCL copies for each associated mothership or shoreside processor for 3 years after the end of the fishing year during which the records were made.

(E) *Green logsheet, groundfish/IFQ DFL and catcher/processor DCPL.* The green copies in the groundfish/IFQ DFL and catcher/processor DCPL are to support a separate data collection by the IPHC under the joint NMFS/IPHC logbook program.

* * * * *

(c) * * *

(2) *Time limit and submittal*—(i) *Catcher vessel DFL.*

(A) The operator of a catcher vessel must record in the DFL:

(*1*) The time, position, and estimated total catch weight of groundfish for each haul or set within 2 hours after gear retrieval.

(*2*) Discard or donation information as described at paragraph (a)(10) of this section each day on the day they occur; all other information required in the DFL by noon of the day following gear retrieval.

(*3*) Notwithstanding other time limits, all information required in the DFL within 2 hours after the vessel's catch is offloaded.

(B) Except as provided at paragraph (c)(3)(iii)(B)(*1*) of this section, within 2 hours of completion of catch delivery information, the operator of a catcher vessel must submit the blue DFL copies with delivery of the harvest to the operator of a mothership or a buying station delivering to a mothership, or to the manager of a shoreside processor or buying station delivering to a shoreside processor.

(C) The operator must sign the completed DFL logsheets by noon of the day following the week-ending date of the weekly reporting period (see paragraph (a)(3)(iii) to this part).

(ii) *Catcher/processor DCPL.* The operator of a catcher/processor must record in the DCPL:

(A) The time, position, and estimated total catch weight of groundfish for each haul or set within 2 hours after gear retrieval.

(B) Product and discard or donation information as described at paragraphs (a)(9) and (a)(10) of this section each day on the day they occur; all other information required in the DCPL by noon of the day following completion of production.

(C) Notwithstanding other time limits, record all information required in the DCPL within 2 hours after the vessel's catch is offloaded.

(D) The operator must sign the completed DCPL logsheets by noon of the day following the week-ending date of the weekly reporting period (see paragraph (a)(3)(iii) of this part).

(3) *Logbook formats*—(i) *Groundfish/IFQ format.* In addition to requirements described in paragraphs (a) and (b) of this section, the operator of a catcher vessel or a catcher/processor harvesting sablefish or halibut under the IFQ program (see subpart D of this part) in addition to groundfish must record the operator's name and the following information in the groundfish/IFQ DFL or DCPL, respectively:

(A) *Observer information.*

(*1*) Name of observer. (Optional, but may be required by the International Pacific Halibut Commission at 50 CFR chapter III (IPHC regulations)).

(*2*) Observer cruise number. (Optional, but may be required by IPHC regulations).

(B) *Gear type.*

(*1*) Check the appropriate box to indicate gear type and enter appropriate gear ID. If gear information is the same as the previous page, check the appropriate box instead of re-entering the information.

(*2*) If gear type is pot, enter the number of pots set.

(*3*) If gear type is pot, enter the number of pots lost (if applicable); (optional, but may be required by International Pacific Halibut Commission at 50 CFR chapter III (IPHC regulations)).

(*4*) If gear type is hook-and-line, check the appropriate box to indicate whether gear is fixed hook (conventional or tub), autoline, or snap. (Optional, but may be required by IPHC regulations).

(*i*) If gear type is fixed hook (conventional or tub), autoline, or snap, enter the length of skate to the nearest foot. (Optional, but may be required by IPHC regulations).

(*ii*) If gear type is fixed hook (conventional or tub), autoline, or snap, enter the size of hooks, hook spacing in feet, and number of hooks per skate. (Optional, but may be required by IPHC regulations).

(*iii*) If gear type is fixed hook (conventional or tub), autoline, or snap, enter the number of skates set.

(*A*) [Reserved]

(*B*) If gear type is fixed hook (conventional or tub), autoline, or snap, enter the number of skates lost (if applicable). (Optional, but may be required by IPHC regulations).

(C) *IFQ permit numbers* of operator and each IFQ holder aboard.

(D) *CDQ information.* The groundfish CDQ number, the groundfish CDQ delivery number, and the halibut CDQ permit number (see § 679.5(n)).

(E) *Set and haul information.*

(*1*) The number of set or haul, sequentially by year;

(*2*) The date set (month-day-year), time set (to the nearest hour), and latitude and longitude (to the nearest minute) of gear deployment (begin position);

(*3*) Begin and end buoy or bag numbers. (Optional, but may be required by International Pacific Halibut Commission at 50 CFR chapter III (IPHC regulations)).

(*4*) The date hauled (month-day-year), time hauled (to the nearest hour), and latitude and longitude (to the nearest minute) of gear retrieval (end position);

(*5*) The begin and end gear depths, recorded to the nearest fathom; (optional, but may be required by IPHC regulations).

(*6*) Species code for target species;

(*7*) Estimated catch weight of IFQ halibut to the nearest pound. (Optional, but may be required by IPHC regulations).

(*8*) Estimated round weight of IFQ sablefish to the nearest pound.

(*9*) Check appropriate box to indicate whether sablefish is recorded in weight or in numbers. If weight is recorded, circle appropriate term to indicate whether IFQ sablefish product is recorded as Western cut or Eastern cut. (Optional, but may be required by IPHC regulations).

(*10*) If a catcher vessel, enter the estimated total round catch weight of all species, except sablefish or halibut, to the nearest pound.

(*11*) If a catcher/processor, enter:

(*i*) The round catch weight of pollock and Pacific cod to the nearest pound or metric ton.

(*ii*) Estimated total round catch weight of all species, except sablefish, halibut, Pacific cod, or pollock, to the nearest pound.

(*iii*) When fishing in an IFQ fishery and the fishery for Pacific cod or rockfish is closed to directed fishing in that reporting area as described in § 679.20, the operator must record up to and including the maximum retainable bycatch amount for Pacific cod or rockfish as defined in Table 7 or 8 to this part; quantities over this amount must be recorded in the discard or donation section.

(ii) *Groundfish format.* In addition to requirements described in paragraphs (a) and (b) of this section, the operator of a catcher vessel or a catcher/processor harvesting groundfish must record average number of hooks, if using longline gear, and the following information for each haul or set in the groundfish DFL or DCPL, respectively:

(A) The number of set or haul, sequentially by year;

(B) If the vessel is using hook-and-line gear, the number of skates set. If the vessel is using longline pot or single pot gear, the total number of pots set;

(C) The date (month-day-year), begin time (to the nearest hour) and position coordinates (to the nearest minute) of gear deployment;

(D) The date (month-day-year), end time (to the nearest hour), and position coordinates (to the nearest minute) of gear retrieval;

(E) The average sea depth and average gear depth, recorded to the nearest meter or fathom;

(F) If a catcher/processor, the total round catch weight of pollock and Pacific cod, to the nearest pound or metric ton.

(G) If a catcher vessel, the estimated total round catch weight of all species, to the nearest pound or metric ton.

(H) If a catcher/processor, the estimated total round catch weight of all species except Pacific cod and pollock, to the nearest pound or metric ton.

(iii) *Discard or donation species information.*

(A) *Catcher/processor.* The operator of a catcher/processor must record discard or donation information as described in paragraph (a)(10) of this section.

(B) *Catcher vessel.* In addition to the requirements in paragraph (a)(10) of this section, the operator of a catcher vessel must record in the DFL:

(*1*) *Unsorted codends.* If a catcher vessel is using trawl gear and deliveries to a mothership or shoreside processor are unsorted codends, the catcher vessel is exempt from recording discards in the DFL and from submittal of the blue DFL copy (discards copy) for that delivery (see paragraph (a)(14)(iv)(C) of this section). The operator must check the box entitled ''unsorted codend'' and must remove and discard the blue DFL copy.

(*2*) *Presorted delivery.* Except as provided at § 679.27(d), if a catcher vessel is using trawl gear and deliveries to a mothership or shoreside processor are presorted at sea or if the catcher vessel has ''bled'' a codend prior to delivery to a mothership, shoreside processor, or buying station, the operator must check the ''presorted delivery'' box, and enter the estimated amount of discards by species in the DFL.

(iv) *Catcher vessel delivery information.* If a catcher vessel, the operator must record in the DFL:

(A) The landing or delivery date (month-day-year).

(B) The ADF&G fish ticket number(s) provided by the operator of the mothership or buying station delivering to a mothership, or the manager of a shoreside processor or buying station delivering to a shoreside processor.

(C) Recipient's name or IFQ registered buyer receiving delivery.

(D) Name of unloading port. If an IFQ landing, see § 679.5(l)(5)(vi) of this part and Table 9 to this part for names of primary ports.

(v) *Catcher/processor product information.* If a catcher/processor, the operator must record product information in the DCPL as set forth in paragraph (a)(9) of this section.

(v) (Optional) *Comments.*

(d) * * *

(2) * * *

(iv) The operator or manager must sign the completed DCL logsheets by noon of the day following the week-ending date of the weekly reporting period (see § 679.5(a)(3)(iii) to this part).

(e) * * *

(1) * * *

(iii) Occurs during processing of groundfish received from a catcher vessel or buying station.

(2) * * *

(v) The operator must sign the completed DCPL logsheets by noon of the day following the week-ending date of the weekly reporting period (see § 679.5(a)(3)(iii) of this part).

(f) * * *

(1) * * *

(ii) * * *

(C) Occurs during processing of groundfish received from a catcher vessel or buying station.

(iii) If the manager of a shoreside processor receives groundfish and records them as landings in Part IB of the DCPL, and transfers these fish to another processor, the manager must also record these fish in Part II of the DCPL prior to transfer.

(2) * * *

(v) The manager must sign the completed DCPL logsheets by noon of the day following the week-ending date of the weekly reporting period (see § 679.5(a)(3)(iii) of this part).

(g) * * *

(3) * * *

(ii) * * *

(A) *Name.* (*1*) If another vessel is involved with the transfer, the name and call sign of the vessel receiving or delivering groundfish or groundfish products.

(*2*) If transfer is from other than a vessel, record name of processor receiving or delivering groundfish or groundfish products.

* * * * *

(iii) * * *

(A) If a catcher/processor or mothership, the harvest zone code of the area in which groundfish were harvested as defined in Table 5 to this part.

* * * * *

(h) * * *

(1) * * *

(iii) *Fishing for groundfish CDQ species.* The operator of a catcher/processor, mothership, or vessel buying station or the manager of a shoreside processor must submit a separate check-in report (BEGIN message) and a separate check-out report (CEASE message) for each CDQ group.

(2) * * *

(i) * * *

(B) *Mothership, shoreside processor, or vessel buying station.* (*1*) Before a mothership, shoreside processor, or vessel buying station commences receipt of groundfish from any reporting area except 300, 400, 550, or 690, the operator or manager must submit by fax a check-in report (BEGIN message) to the Regional Administrator.

(*2*) If a mothership, the operator must check-in to the reporting area(s) where groundfish were harvested. A mothership may be checked into more than one area simultaneously.

(C) *Fishing for groundfish CDQ species.* The operator of a catcher/processor, mothership, or vessel buying station or the manager of a shoreside processor must submit by fax a check-in report to the Regional Administrator prior to fishing for any CDQ species.

(ii) * * *

(B) *Mothership.* (*1*) If a mothership completes receipt of groundfish from a reporting area, the operator must submit by fax a check-out report to the Regional Administrator within 24 hours after production of fish from that reporting area is complete.

(C) *Shoreside processor.* If a shoreside processor, the manager:

(*1*) Must submit a check-out report by fax to the Regional Administrator within 48 hours after the end of the applicable weekly reporting period that a shoreside processor ceases to process groundfish for the fishing year.

(*2*) May submit a check-out report by fax to the Regional Administrator when receipt or processing of groundfish is temporarily halted during the fishing year for a period of at least two weekly reporting periods.

(D) *Vessel Buying station.* If a buying station completes receipt of groundfish in a reporting area, the operator must submit by fax a check-out report to the Regional Administrator within 24 hrs after departing a reporting area.

(E) *End of fishing year.* If a check-out report has not previously been submitted during a fishing year, the operator or manager must submit a check-out report at the end of that fishing year, December 31.

(F) *Fishing for groundfish CDQ species.* The operator must submit a check-out report by fax to the Regional Administrator within 24 hours after directed fishing for each species under each CDQ allocation has ceased.

(3) * * *

(i) * * *

(A) * * *

(*3*) Reporting area where groundfish were harvested and whether groundfish were harvested in the COBLZ or RKCSA area.

* * * * *

(D) *Vessel buying station.* (*1*) Reporting area code where groundfish receipt begins.

* * * * *

(ii) * * *

(D) *Vessel buying station.* Date (month-day-year), time (to the nearest hour, A.l.t.), and latitude and longitude of position in degrees and minutes where the vessel departed the reporting area.

* * * * *

(i) * * *

(2) *Time limits and submittal.* (i) The operator or manager must submit a WPR by fax to the Regional Administrator by 1200 hours, A.l.t., on the Tuesday following the end of the applicable weekly reporting period.

(ii) If still fishing or processing, the operator or manager must submit a WPR at the end of each fishing year (midnight, December 31) regardless of where this date falls within the weekly reporting period. If still fishing or processing, the operator or manager must submit a WPR starting January 1 through the end of the weekly reporting period.

* * * * *

(k) * * *

(2) * * *

(ii) * * *

(A) The harvest zone code of the area in which groundfish were harvested as defined in Table 5 to this part.

* * * * *

(l) * * *

(5) * * *

(vi) *Primary ports.* Unless specifically authorized on a case-by-case basis, vessel clearances will be issued only by clearing officers at the primary ports listed in Table 9 to this part.

* * * * *

(m) * * *

(3) * * *

(ii) The operator of a mothership must ensure copy distribution of each multi-sheet, consolidated weekly ADF&G groundfish fish ticket (G series) as follows. A fax copy is not acceptable.

(A) *Yellow copy.* Submit the yellow copy to Alaska Commercial Fisheries Management & Development Division, Department of Fish and Game, 211 Mission Road, Kodiak, AK, 99615–6399, within 30 days after landings are received.

(B) *White copy.* Submit the white, original copy per paragraphs 679.5(a)(14)(vii)(D) and (E).

(C) *Pink copy.* Submit the pink copy to the catcher vessel delivering groundfish to the mothership.

(n) *Groundfish CDQ fisheries*—(1) *CDQ delivery report*—(i) *Applicability.* (ii) *Time limitation and submittal.* The manager of each shoreside processor receiving CDQ or PSQ species from a catcher vessel must submit a CDQ delivery report to the Regional Administrator within 24 hours of each delivery of groundfish CDQ species to the shoreside processor.

(iii) *Information required.* The manager of each shoreside processor must record the following information on each CDQ delivery report:

(A) *CDQ group information.* CDQ group number as defined at 679.2 to this part and CDQ group name or acronym.

(B) *Processor information.*

(*1*) Name and Federal processor permit number of the shoreside processor taking delivery of the CDQ catch.

(*2*) Date delivery report submitted.

(C) *Vessel and catch information.*

(*1*) *Vessel.* Enter the name, Federal Fisheries Permit number if applicable,

and ADF&G number of the vessel delivering CDQ catch. Write ''unnamed'' if the vessel has no name.

(*2*) *CDQ catch.* Enter the delivery date, CDQ delivery number, harvest gear type, and reporting area of CDQ harvest for each CDQ delivery. If caught with trawl gear, check appropriate box(es) to indicate if catch was made in the CVOA or the COBLZ.

(D) *Groundfish CDQ species and halibut CDQ.*

(*1*) *Retained.* Enter groundfish CDQ species that were delivered and retained for processing by product codes and species codes as defined in Tables 1 and 2 to this part, respectively.

(*2*) *Discarded.* Enter groundfish CDQ species by species codes as defined in Table 2 to this part that were delivered to and discarded from the shoreside processor. Catcher vessels with a CDQ observer do not report estimates of at-sea discards on the CDQ delivery report.

(*3*) *Weight.* Report the weight of each CDQ species in metric tons to at least the nearest 0.001 mt.

(E) *PSQ delivered by observed catcher vessels.*

(*1*) For each prohibited species other than salmon or crab, enter the species codes as defined in Table 2 to this part and the weight to the nearest 0.001 mt.

(*2*) For salmon or crab, enter the species codes as defined in Table 2 to this part and the number of animals.

(F) *At-sea discards of PSQ by vessels without observers.*

(*1*) For each prohibited species other than salmon or crab, enter the species codes as defined in Table 2 to this part and the weight to the nearest 0.001 mt.

(*2*) For salmon or crab, enter the species codes as defined in Table 2 to this part and the number of animals.

(2) *CDQ catch report*—(i) *Time limitation and submittal.* The CDQ representative must submit a CDQ catch report for all catch made by vessels groundfish CDQ fishing as defined at § 679.2 to the Regional Administrator within 7 days of the date CDQ catch was delivered by a catcher vessel to a shoreside processor or mothership, or within 7 days of the date gear used to catch CDQ was retrieved by catcher/processors.

(ii) *Information required, all CDQ catch reports.* The CDQ representative must record the following information on each CDQ catch report:

(A) *Vessel type.* Select appropriate vessel/gear/delivery type. Based on the type selected, complete each of the specified blocks.

(B) *Vessel and catch information.*

(*1*) *Vessel.* Enter the name, Federal Fisheries Permit number if applicable, and ADF&G number of the vessel delivering CDQ catch. Write ''unnamed'' if the vessel has no name.

(*2*) *Gear type.* Indicate gear type used to harvest CDQ catch. If using trawl gear, check the appropriate box(es) to indicate whether the catch was from the CVOA or COBLZ.

(*3*) *Reporting area.* Enter Federal reporting area in which CDQ catch occurred.

(C) *CDQ group information.*

(*1*) CDQ number as defined at 679.2 to this part and CDQ group name or acronym.

(*2*) Date report submitted.

(iii) *Information required for Option 1 in the CDP.* The CDQ representative must record the following information on each CDQ catch report for catcher vessels retaining all groundfish CDQ and delivering it to a shoreside processor (Option 1 in the CDP):

(A) *Delivery information.*

(*1*) Name and Federal processor permit number of the shoreside processor taking delivery of the CDQ catch.

(*2*) Date catch delivered.

(*3*) Catcher vessel CDQ delivery number.

(B) *Catch information, Groundfish CDQ species*—(1) *Retained.* Report the weight in metric tons to at least the nearest 0.001 mt for each groundfish CDQ species delivered and retained for processing by product codes and species codes as defined in Tables 1 and 2 to this part, respectively.

(*2*) *Discarded.* Report the weight in metric tons to at least the nearest 0.001 mt for each groundfish CDQ species delivered to and discarded from the shoreside processor by product codes and species codes as defined in Tables 1 and 2 to this part, respectively.

(C) *Catch information, Halibut IFQ/CDQ.* The CDQ representative must report the weight of all CDQ and IFQ halibut in metric tons to at least the nearest 0.001 mt for each fixed-gear vessel delivery reported to NMFS on an IFQ/CDQ landing report by product codes and species codes (code 200) as defined in Tables 1 and 2 to this part, respectively.

(D) *Mortality information, prohibited species other than halibut.*

(*1*) For each prohibited species other than salmon or crab, enter the species codes as defined in Table 2 to this part and the weight to the nearest 0.001 mt.

(*2*) For salmon or crab, enter the species codes as defined in Table 2 to this part and the number of animals.

(E) *Mortality information, halibut PSQ.*

(*1*) For halibut PSQ catch, enter the round weight to the nearest 0.001 mt, mortality rate, and overall halibut mortality in metric tons to the nearest 0.001 mt.

(iv) *Information required for Option 2 in the CDP.* The CDQ representative must record the following information on each applicable CDQ catch report under Option 2 in the CDP for catcher/processors, catcher vessels delivering to motherships, and catcher vessels (with observers) using hook-and-line gear and discarding groundfish CDQ at sea.

(A) *Delivery information.*

(*1*) If a mothership, name, Federal fisheries permit number, ADF&G number.

(*2*) If a catcher/processor or catcher vessel, name, Federal fisheries permit number, ADF&G number, CDQ observer's haul or set number, and date gear retrieved as determined by the CDQ observer.

(B) *Groundfish CDQ species* (see § 679.5(n)(2)(iii)(B)).

(C) *Catch information, Halibut IFQ/CDQ* (see § 679.5(n)(2)(iii)(C)).

(D) *Mortality information, prohibited species other than halibut* (see § 679.5(n)(2)(iii)(D)).

(E) *Mortality information, halibut PSQ* (see § 679.5(n)(2)(iii)(E)).

6. In § 679.6, paragraph (g) is added to read as follows:

§ 679.6 Experimental fisheries.

* * * * *

(g) *Recordkeeping and reporting requirements.* In addition to the recordkeeping and reporting requirements in this section, the operator or manager must comply with requirements at § 679.5(a) through (k).

* * * * *

7. In § 679.20, paragraph (b)(1)(v) heading is amended by removing the sunset date; paragraphs (e)(1), (e)(2)(ii), and (f)(2) are amended by removing ''Table 10'' and adding in its place ''Table 7'' and by removing ''Table 11'' and adding in its place ''Table 8;'' and the in-text table is removed in paragraph (g)(3).

8. In § 679.21, paragraph (b)(5) is added and paragraph (e)(7)(vi)(A) is amended by removing ''(e)(7)(v)(B)'' and adding in its place ''(e)(7)(vi)(B)'' to read as follows:

§ 679.21 Prohibited species bycatch management.

* * * * *

(b) * * *

(5) *Sablefish as a prohibited species* (see § 679.24(c)(2)(ii)).

* * * * *

9. In § 679.22, paragraphs (a)(7), (a)(8), and (b)(2) are removed, new paragraphs (b)(2) and (g) are added; paragraphs (a)(9) and (a)(10) are redesignated to read (a)(7) and (a)(8), respectively;

newly redesignated paragraph (a)(8) is revised; and the heading to paragraph (h) is revised to read as follows:

§ 679.22 Closures.

(a) * * *

(8) *Chum Salmon Savings Area.* Trawling is prohibited from August 1 through August 31 in the Chum Salmon Savings Area defined at Figure 9 to this part (see also § 679.21(e)(7)(vii)).

* * * * *

(b) * * *

(2) *Southeast Outside District, gear other than nontrawl.* Use of any gear other than nontrawl gear is prohibited at all times in Southeast Outside District defined at Figure 3 to this part.

* * * * *

(g) *Steller sea lion protection areas*—(1) *10-nm year-round trawl closures.* Trawling is prohibited within 10 nm of each of the Steller sea lion rookeries shown in Figure 16(b)(2) to this part.

(2) *20-nm year-round trawl closures.* Trawling is prohibited within 20 nm of each of the Steller sea lion rookeries shown in Figure 16(b)(3) to this part.

(3) *20-nm Seasonal trawl closures.* During January 1 through April 15, or a date earlier than April 15, if adjusted under § 679.20, trawling is prohibited within 20 nm of each of the Steller sea lion rookeries shown in Figure 16(b)(4) to this part.

(4) *Western and Central Aleutian Islands critical habitat closures*—(i) *General.* Trawling is prohibited within areas designated as Steller sea lion critical habitat in the Western or Central Districts of the AI (see Table 1, Table 2, and Figure 4 of 50 CFR part 226) when the Regional Administrator announces by notification in the **Federal Register** that the criteria for a trawl closure in a district set out in paragraph (g)(4)(ii) of this section has been met.

(ii) *Criteria for closure.* The trawl closures identified in paragraph (g)(4)(i) of this section will take effect when the Regional Administrator determines that the harvest of a seasonal allowance of Atka mackerel specified under § 679.20(a)(8)(ii)(A) reaches the following percentage identified for each year and district:

Year	Western (543) (percent)	Central (542) (percent)
1999	65	80
2000	57	67
2001	48	46
2002 and after	40	40

(iii) *Duration of closure.* A Steller sea lion critical habitat area trawl closure within a district will remain in effect until NMFS closes Atka mackerel to directed fishing within the same district.

(iv) *CDQ fishing.* Harvesting groundfish CDQ with trawl gear is prohibited within areas designated as Steller sea lion critical habitat in the Western and/or Central Districts of the AI (see Table 1, Table 2, and Figure 4 of 50 CFR part 226) for an eligible vessel listed on an approved CDP after the CDQ group has harvested the percent of the annual Atka mackerel CDQ specified for the year and district at paragraph (g)(4)(ii) of this section.

(h) *CDQ fisheries closures* * * *

* * * * *

10. In § 679.24, paragraph (b)(1)(i) and (ii) are removed; (b)(1)(iii) is redesignated as (b)(1); (b)(1)(iii)(A) and (B) are redesignated as (b)(1)(i) and (ii).

11. In § 679.28, paragraph (b)(5)(i) is revised; and paragraph (c)(3) is amended by removing ''§ 679.5(a)(15)'' and adding it its place ''§ 679.5(a)(14)(vii)(D)'' to read as follows:

§ 679.28 Equipment and operational requirements for catch weight measurement.

* * * * *

(b) * * *

(5) * * *

(i) *Reports of catch weight and cumulative weight.* Reports must be printed at least once each 24-hour period in which the scale is being used to weigh catch or before any information stored in the scale computer memory is replaced. The haul or set number recorded on the scale print-out must correspond with haul or set numbers recorded in the processor's DCPL (see § 679.5). Scale weights must not be adjusted by the scale operator to account for the perceived weight of water, mud, debris, or other materials.

* * * * *

12. In § 679.30, paragraph (a)(1)(iv), is amended by removing ''Table 7'' and adding in its place ''Table 4,'' and paragraph (a)(5)(i)(B) is revised to read as follows:

§ 679.30 General CDQ regulations.

(a) * * *

(5) * * *

(i) * * *

(B) *Shoreside processors.* A list of the name, Federal processor permit number, and location of each shoreside processor that is required to have a Federal processor permit under § 679.4(f) and will take deliveries of, or process, CDQ catch.

* * * * *

13. In § 679.31, paragraph (b)(3) introductory text, is revised to read as follows:

§ 679.31 CDQ reserves.

* * * * *

(b) * * *

(3) The proportions of the halibut catch limit annually withheld for the halibut CDQ program, exclusive of issued QS, and the eligible communities for which they shall be made available are as follows for each IPHC regulatory area (see Figure 15 to this part:

* * * * *

14. In § 679.32, paragraphs (c) introductory text, (c)(1), (c)(3) introductory text, (d)(1), (e)(3) through (e)(5), (f)(3), and (f)(7) are revised; and paragraphs (f)(8) and (f)(9) are added to read as follows:

§ 679.32 Groundfish and halibut CDQ catch monitoring.

* * * * *

(c) *Requirements for vessels and processors.* In addition to complying with the minimum observer coverage requirements at § 679.50(c)(4), operators of vessels groundfish CDQ fishing and managers of shoreside processors taking deliveries from vessels groundfish CDQ fishing must comply with the following requirements:

(1) *Catcher vessels without an observer.* (i) Operators of catcher vessels less than 60 ft (18.29 m) LOA must retain all groundfish CDQ, halibut CDQ, and salmon PSQ until it is delivered to a processor that meets the requirements of paragraph (c)(3) or (c)(4) of this section. All halibut PSQ and crab PSQ must be discarded at sea. Operators of catcher vessels using trawl gear must report the at-sea discards of halibut PSQ or crab PSQ on the CDQ delivery report (see paragraph 679.5(n)(1)). Operators of catcher vessels using nontrawl gear must report the at-sea discards of halibut PSQ on the CDQ delivery report, unless exempted from accounting for halibut PSQ under paragraph (b) of this section.

(ii) *Catcher vessels delivering unsorted codends.* Operators of catcher vessels delivering unsorted codends to motherships must retain all CDQ and PSQ species and deliver them to a mothership that meets the requirements of paragraph (c)(4) of this section.

* * * * *

(3) *Shoreside processors.* The manager of a shoreside processor must comply with all of the following requirements:

* * * * *

(d) *Recordkeeping and reporting*—(1) *Catch record.* The manager of a shoreside processor must submit to NMFS the CDQ delivery report required

in § 679.5(n)(1). The CDQ representative must submit to NMFS the CDQ catch report required in § 679.5(n)(2). Additionally, all other applicable requirements in § 679.5 for groundfish fishing must be met.

* * * * *

(e) * * *

(3) *Recordkeeping and reporting.* The CDQ representative, the operator of a vessel, and the manager of a shoreside processor must submit all applicable reports in § 679.5, including the CDQ delivery report and the CDQ catch report. Catch from the pollock CDQ fisheries must be identified separately from catch in other CDQ fisheries on the CDQ catch report. Harvest of species other than pollock in the pollock CDQ fisheries must not be reported on the CDQ catch report.

(4) *Observer coverage.* Two observers are required on all catcher/processors and motherships harvesting, processing, or taking deliveries of pollock CDQ; one observer is required on all catcher vessels harvesting pollock CDQ; and one observer is required in a shoreside processor while pollock CDQ is being delivered, sorted, or processed.

(5) *Estimation of the weight of pollock CDQ*—(i) *Shoreside processors.* All pollock CDQ delivered to a shoreside processor must be weighed on a scale approved by the State of Alaska under § 679.28(c). The manager of each shoreside processor must notify the observer of the offloading schedule of each pollock CDQ delivery at least 1 hour prior to offloading to provide the observer an opportunity to monitor the weighing of the entire delivery.

(ii) *Motherships and catcher/processors.* Operators of motherships and catcher/processors must provide holding bins and comply with the operational requirements at § 679.28(e) in order for volumetric estimates of total catch weight to be made.

(f) * * *

(3) *Permits.* The managing organization responsible for carrying out an approved CDP must have a halibut and/or sablefish CDQ permit issued by the Regional Administrator. A copy of the halibut and/or sablefish CDQ permit must be carried on any fishing vessel operated by, or for, the managing organization and be made available for inspection by an authorized officer. Such halibut and/or sablefish CDQ permit is non-transferable and is effective for the fishing year or until revoked, suspended, or modified.

* * * * *

(7) *Recordkeeping and reporting.* Catcher vessels, catcher/processors, and motherships with a Federal fisheries permit or shoreside processors with a Federal processor permit required under § 679.4 must record all catch of groundfish, including sablefish CDQ, and prohibited species from the fixed gear sablefish and halibut CDQ fisheries in a catcher vessel DFL or catcher/processor, mothership, or shoreside processor DCPL. The catcher/processor, mothership, or shoreside processor must report this same information on a WPR required under § 679.5.

(8) *CDQ fishing seasons.* (see 679.23(e)(3)).

(9) *CDQ halibut and sablefish determinations and appeals.* Section 679.43 describes the procedure for appealing initial administrative determinations for the halibut and sablefish CDQ program made under this subpart C of this part.

15. Section 679.42 is amended by removing paragraphs (c)(2)(i) through (c)(2)(iii), including the in-text table of paragraph (c)(2)(iii).

16. In Part 679, Figures 1 through 5, and 7 through 13, Tables 1 and 2 are revised, Figures 16, 17, and 18 are added, Tables 4, 5, and 6 are removed, Tables 7 through 11 are redesignated as Tables 4 through 8, respectively, and Tables 9 and 10 are added to read as follows:)

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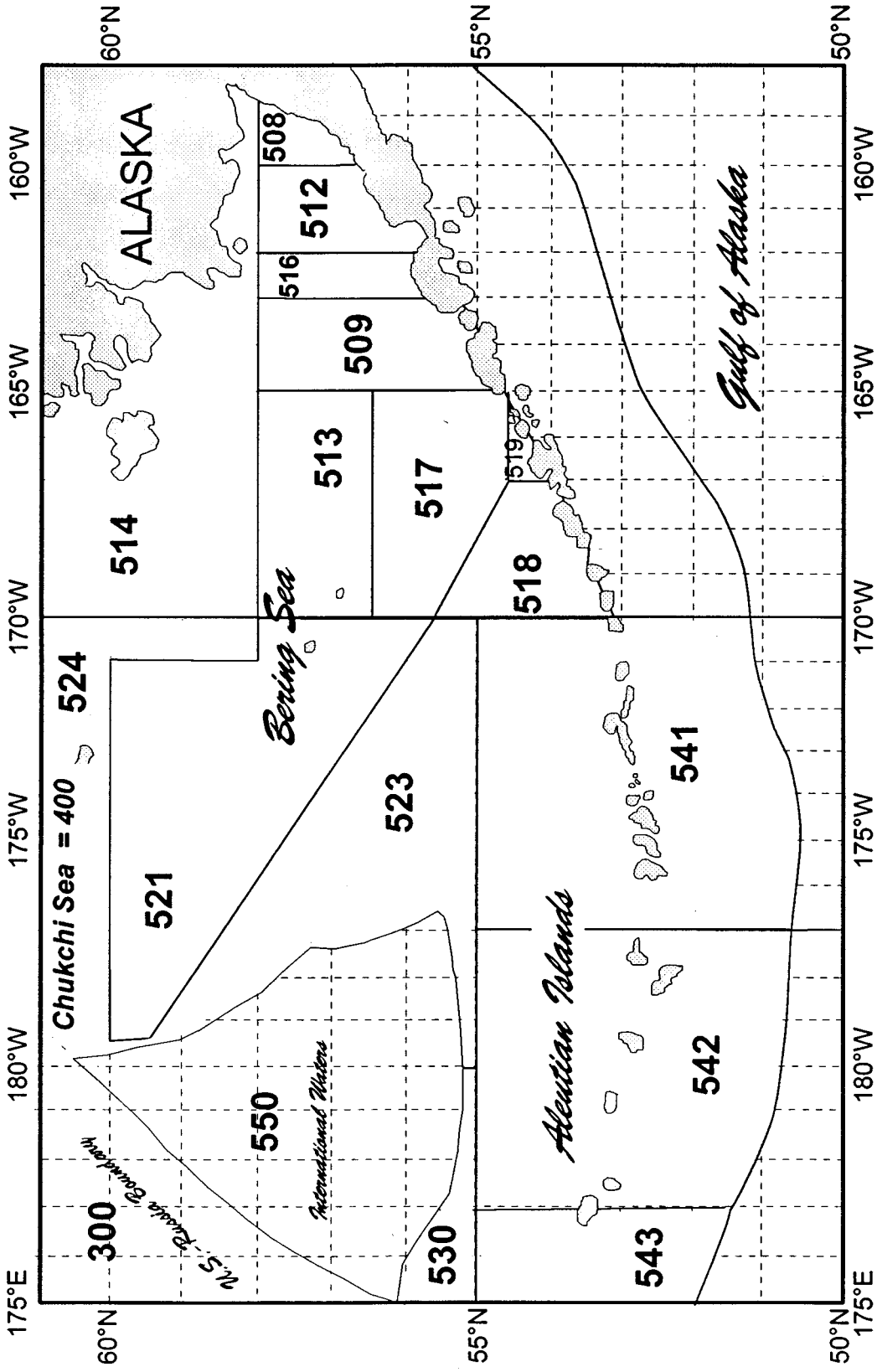

Figure 1 to Part 679. Bering Sea and Aleutian Islands statistical and reporting areas

a. Map

Figure 1 to Part 679. BSAI Statistical and Reporting Areas
b. Coordinates

Code	Description
300	Russian waters. Those waters inside the Russian 200 mile limit as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart INT 814 Bering Sea (Northern Part).
400	Chukchi Sea. North of a diagonal line between 66°00' N, 169° 42.5' W (Cape Dezhneva, Russia); and 65°37.5' N, 168°7. 5' W (Cape Prince of Wales, Alaska) and to the limits of the U.S. EEZ as described in the current edition of NOAA chart INT 814 Bering Sea (Northern Part).
508	South of 58° 00' N between the intersection of 58° 00' N lat with the Alaska Peninsula and 160°00' W long
509	South of 58°00' N lat between 163°00' W long and 165°00' W long
512	South of 58°00' N lat, north of the Alaska Peninsula between 160°00' W long and 162°00' W long
513	Between 58°00' N lat and 56°30' N lat, and between 165°00' W long and 170°00' W long
514	North of 58°00' N to the southern boundary of the Chukchi Sea, area 400, and east of 170°00' W long.
516	South of 58°00' N lat, north of the Alaska Peninsula, and between 162°00' and 163°00' W long
517	South of 56°30' N lat, between 165°00' W long and 170°00' W long; and north of straight lines between 54°30' N lat, 165°00' W long, 54°30' N lat, 167°00' W long, and 55°46' N lat, 170°00' W long
518	Bogoslof District: South of a straight line between 55°46' N lat, 170°00' W long and 54°30' N lat, 167°00' W long, and between 167°00' W long and 170°00' W long, and north of the Aleutian Islands and straight lines between the islands connecting the following coordinates in the order listed: 52°49.2' N, 169°40.4' W 52°49.8' N, 169°06.3' W 53°23.8' N, 167°50.1' W 53°18.7' N, 167°51.4' W
519	South of a straight line between 54°30' N lat, 167°00' W long and 54°30' N lat, 164°54' W long; east of 167°00' W long; west of Unimak Island; and north of the Aleutian Islands and straight lines between the islands connecting the following coordinates in the order listed: 53°59.0' N, 166°17.2' W 54°02.9' N, 166°03.0' W 54°07.7' N, 165°40.6' W 54°08.9' N, 165°38.8' W 54°11.9' N, 165°23.3' W 54°23.9' N, 164°44.0' W
521	The area bounded by straight lines connecting the following coordinates in the order listed: 55°46' N, 170°00' W, 59°25' N, 179°20' W, 60°00' N, 179°20' W, 60°00' N, 171°00' W, 58°00' N, 171°00' W, 58°00' N, 170°00' W, 55°46' N, 170°00' W
523	The area bounded by straight lines connecting the following coordinates in the order listed: 59°25' N, 179°20' W; 55°46' N, 170°00' W; 55°00' N, 170°00' W; 55°00' N, 180°00' W; and north to the limits of the US EEZ as described in the current edition of NOAA chart INT 813 Bering Sea (Southern Part).
524	The area west of 170°00' W bounded south by straight lines connecting the following coordinates in the order listed: 58°00' N, 170°00' W 58°00' N, 171°00' W; 60°00' N, 171°00' W; 60°00' N, 179°20' W; 59°25' N, 179°20' W and to the limits of the US EEZ as described in the current edition of NOAA chart INT 813 Bering Sea (Southern Part).
530	The area north of 55°00 N lat and west of 180°00 W long to the limits of the US EEZ as described in the current edition of NOAA chart INT 813 Bering Sea (Southern Part).
541	Eastern Aleutian District. The area south of 55°00' N lat, west of 170°00' W long, and east of 177°00' W long and bounded on the south by the limits of the US EEZ as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart 530 (San Diego to Aleutian Islands and Hawaiian Islands).
542	Central Aleutian District. The area south of 55°00' N lat, west of 177°00' W long, and east of 177°00' E long and bounded on the south by the limits of the US EEZ as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart 530 (San Diego to Aleutian Islands and Hawaiian Islands)
543	Western Aleutian District. The area south of 55°00' N lat and west of 177°00' E long, and bounded on the south and west by the limits of the US EEZ as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart 530 (San Diego to Aleutian Islands and Hawaiian Islands)
550	Donut Hole. International waters of the Bering Sea outside the limits of the EEZ and Russian economic zone as depicted on the current edition of NOAA chart INT 813 Bering Sea (Southern Part).

NOTE: A statistical area is the part of a reporting area contained in the EEZ.

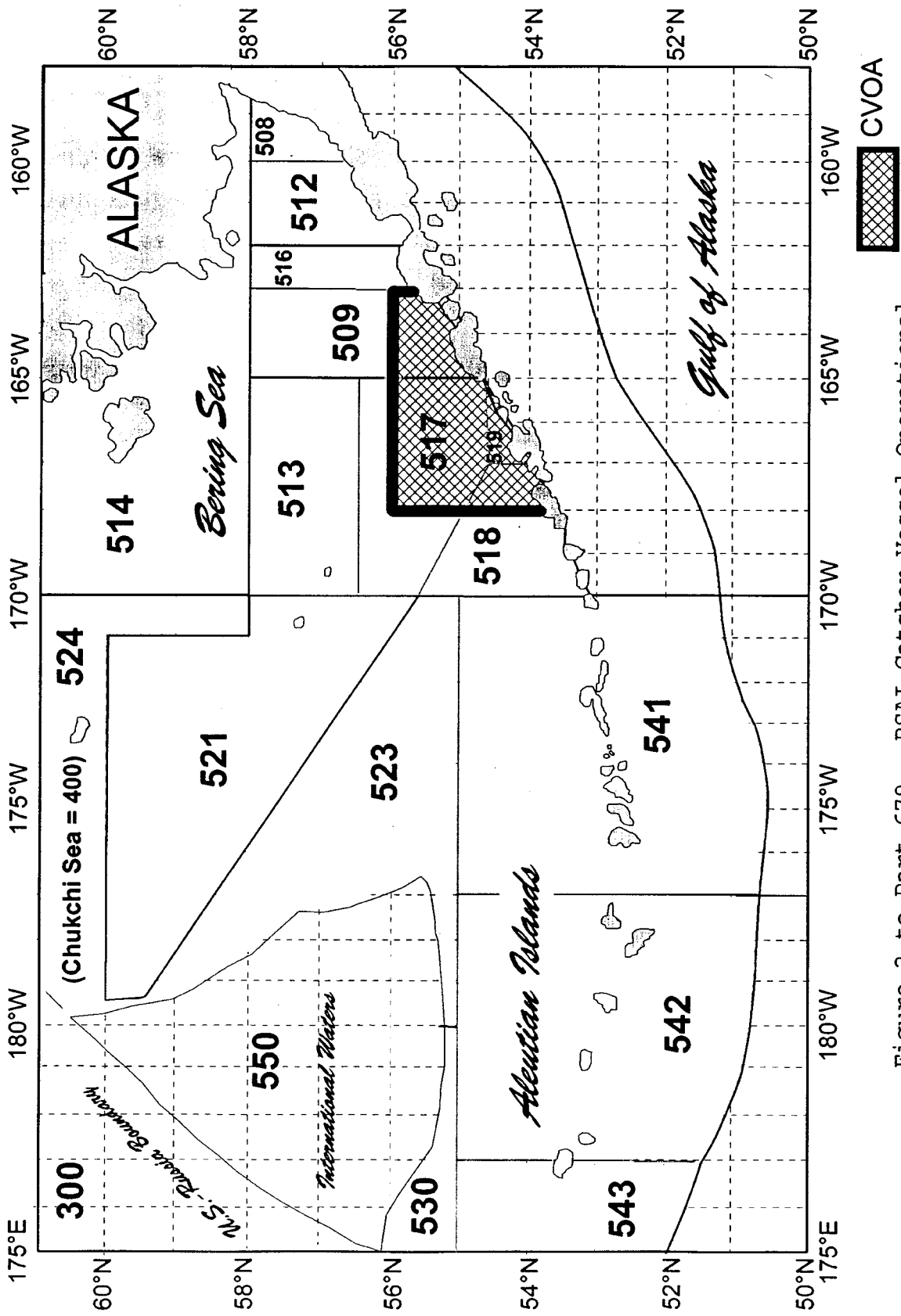

Figure 2 to Part 679. BSAI Catcher Vessel Operational Area (CVOA) (South of 56°00' N lat between 163°00' W and 167°30' W long)

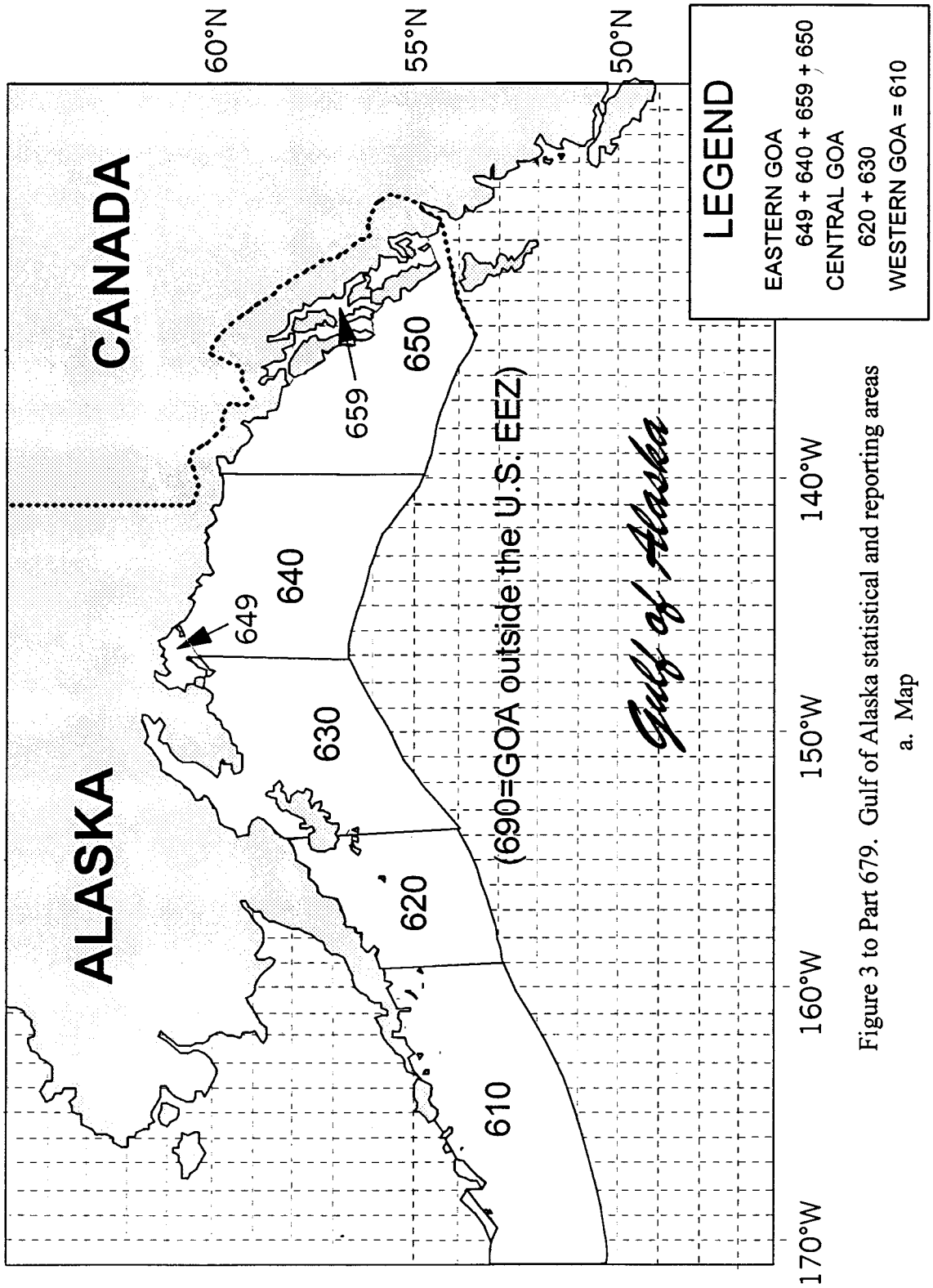

Figure 3 to Part 679. Gulf of Alaska statistical and reporting areas

a. Map

Figure 3 to Part 679. Gulf of Alaska Statistical and Reporting Areas
b. Coordinates

Code	Description
610	Western Regulatory Area, Shumagin District. Along the south side of the Aleutian Islands and straight lines between the islands and the Alaska Peninsula connecting the following coordinates in the order listed: 52°49.2' N, 169°40.4' W; 52°49.8' N, 169°06.3' W; 53°23.8' N, 167°50.1' W; 53°8.7' N, 167°51.4' W; 53°59.0' N, 166°17.2' W; 54°02.9' N, 166°03.0' W; 54°07.7' N, 165°40.6' W; 54°08.9' N, 165°38.8' W; 54°11.9' N, 165°23.3' W; 54°23.9' N, 164°44.0' W; and southward to the limits of the US EEZ as described in the current editions of NOAA chart INT 813 (Bering Sea, Southern Part) and NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass), between 170°00' W long and 159°00' W long.
620	Central Regulatory Area, Chirikof District. Along the south side of the Alaska Peninsula, between 159°00' W long and 154°00' W long, and southward to the limits of the US EEZ as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass).
630	Central Regulatory Area, Kodiak District. Along the south side of continental Alaska, between 154°00' W long and 147°00' W long, and southward to the limits of the US EEZ as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass). Excluding area 649.
640	Eastern Regulatory Area, West Yakutat District. Along the south side of continental Alaska, between 147°00' W long and 140°00' W long, and southward to the limits of the US EEZ, as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass). Excluding area 649.
649	Prince William Sound. Includes those waters of the State of Alaska inside the base line as specified in Alaska State regulations at 5 AAC 28.200.
650	Eastern Regulatory Area, Southeast Outside District. East of 140°00' W long and southward to the limits of the US EEZ as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass). Excluding area 659.
659	Southeast Inside District. As specified in Alaska State regulations at 5 AAC 28.105 (a)(1) and (2).
690	Gulf of Alaska outside the U.S. EEZ as described in the current editions of NOAA chart INT 813 (Bering Sea, Southern Part) and NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass).

NOTE: A statistical area is the part of a reporting area contained in the EEZ.

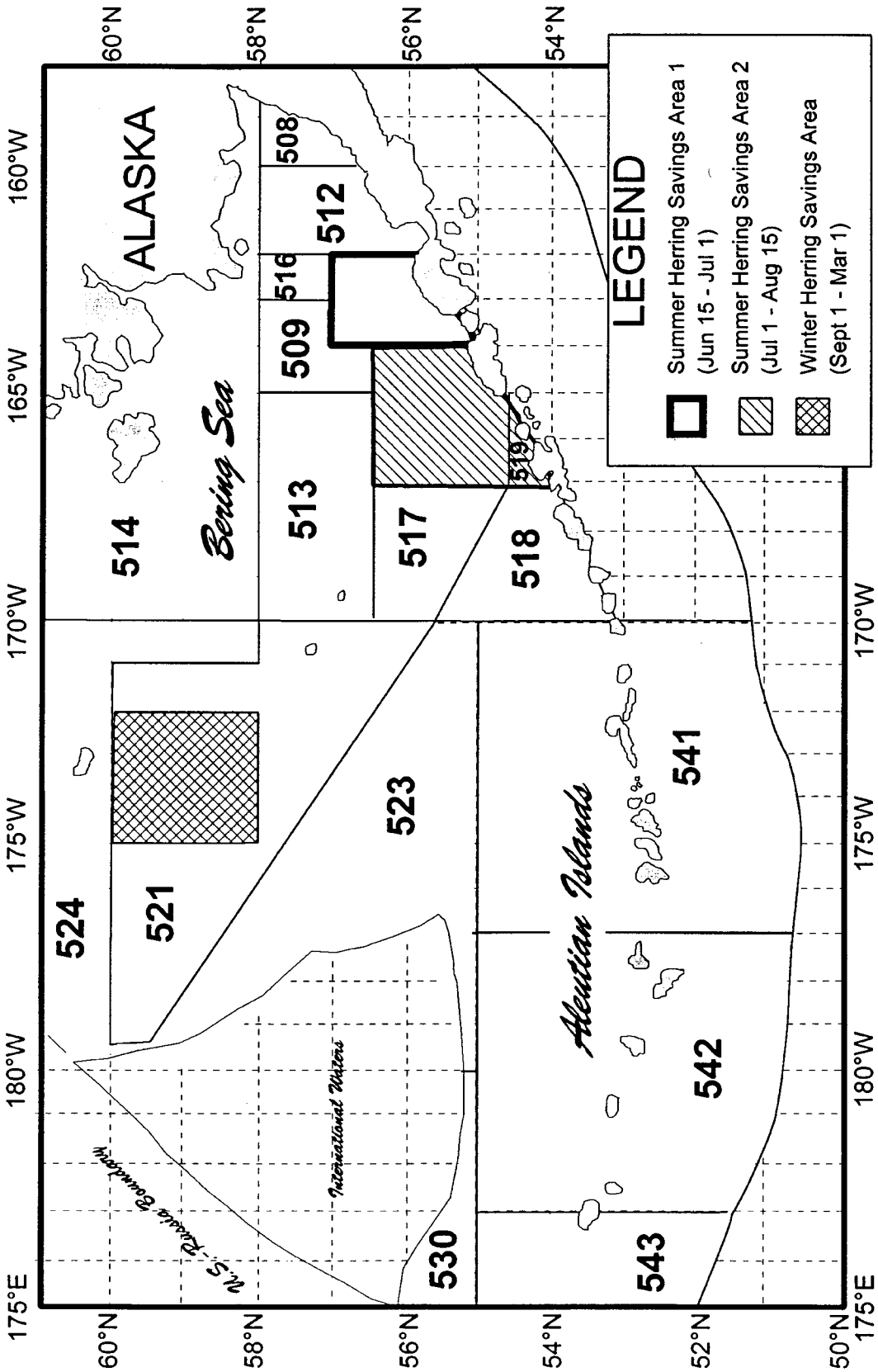

Figure 4 to Part 679. BSAI Herring Savings Areas

a. Map.

Figure 4 to Part 679. Herring Savings Areas in the BSAI
b. Coordinates

Name	Description and Effective Date
Summer Herring Savings Area 1	That part of the Bering Sea subarea that is south of 57°N lat and between 162° and 164°W long from 1200 hours, A.l.t., June 15 through 1200 hours, A.l.t. July 1 of a fishing year.
Summer Herring Savings Area 2	That part of the Bering Sea subarea that is south of 56°30' N lat and between 164° and 167°W long from 1200 hours, A.l.t., July 1 through 1200 hours, A.l.t. August 15 of a fishing year.
Winter Herring Savings Area	That part of the Bering Sea subarea that is between 58° and 60°N lat and between 172° and 175°W long from 1200 hours, A.l.t. September 1 of the current fishing year through 1200 hours, A.l.t. March 1 of the succeeding fishing year.

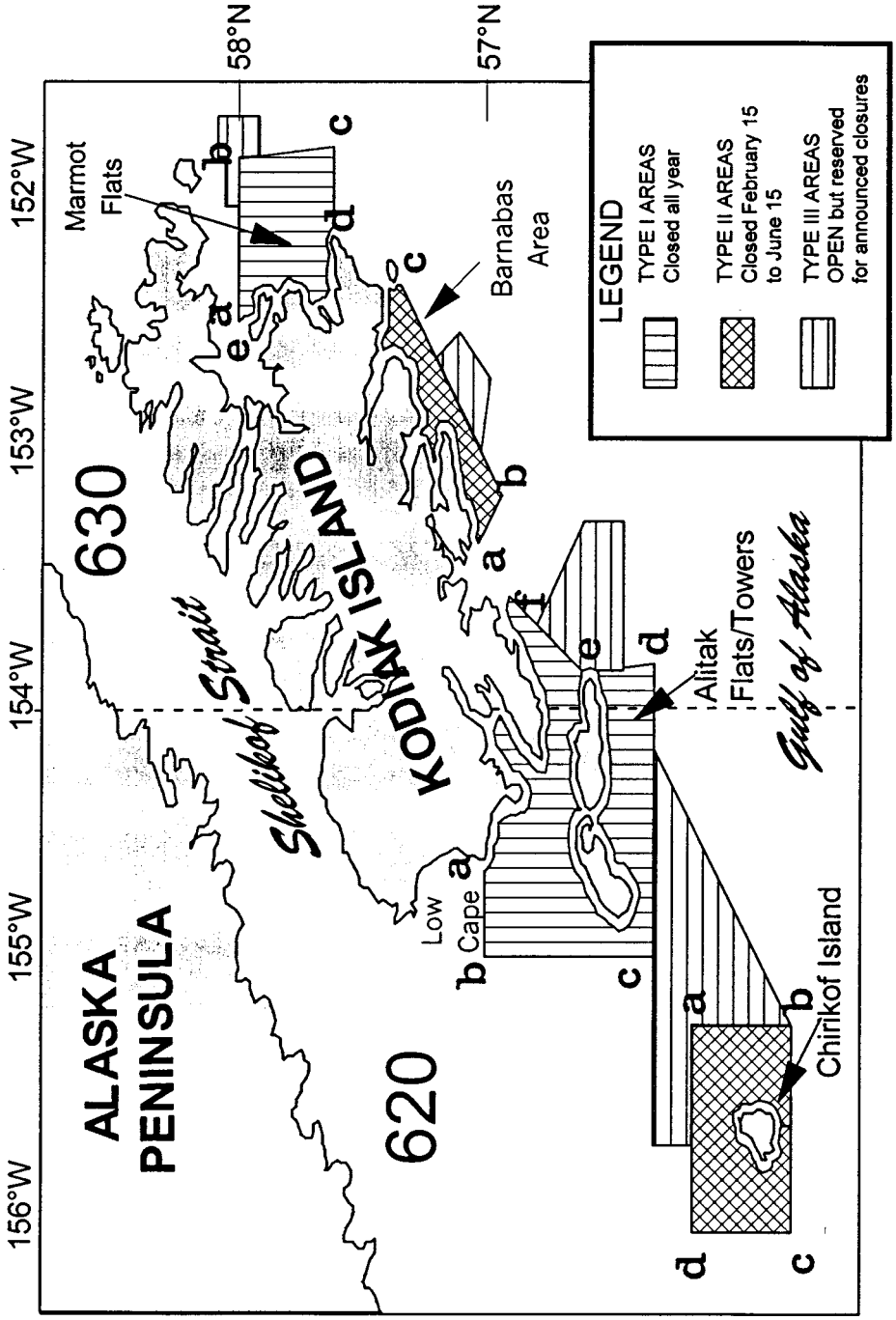

Figure 5 to Part 679. Areas closed to non-pelagic trawl gear in the Gulf of Alaska near Kodiak Island

a. Map

Figure 5 to Part 679. Kodiak Island Areas Closed to Non-pelagic Trawl Gear
b. Coordinates

Name and Description of Reference Area	North Latitude / West Longitude	Reference Point
Alitak Flats and Towers Areas	All waters of Alitak Flats and the Towers Areas enclosed by a line connecting the following 7 points in the order listed:	
a	56° 59' 4" 154° 31' 1"	Low Cape
b	57° 00' 0" 155° 00' 0"	
c	56° 17' 0" 155° 00' 0"	
d	56° 17' 0" 153° 52' 0"	
e	56° 33' 5" 153° 52' 0"	Cape Sitkinak
f	56° 54' 5" 153° 32' 5"	East point of Twoheaded Island
g	56° 56' 0" 153° 35' 5"	Kodiak Island, thence, along the coastline of Kodiak Island until intersection of Low Cape.
a	56° 59' 4" 154° 31' 1"	Low Cape
Marmot Flats Area	All waters enclosed by a line connecting the following five points in the clockwise order listed:	
a	58° 00' 0" 152° 30' 0"	
b	58° 00' 0" 151° 47' 0"	
c	57° 37' 0" 151° 47' 0"	
d	57° 37' 0" 152° 10' 1"	Cape Chiniak, then along the coastline of Kodiak Island to
e	57° 54' 5" 152° 30' 0"	North Cape.
a	58° 00' 0" 152° 30' 0"	
Chirikof Island Area	All waters surrounding Chirikof Island enclosed by a line connecting the following four points in the counter-clockwise order listed:	
a	56° 07' 0" 155° 13' 0"	
b	56° 07' 0" 156° 00' 0"	
c	55° 41' 0" 156° 00' 0"	
d	55° 41' 0" 155° 13' 0"	
a	56° 07' 0" 155° 13' 0"	
Barnabas Area	All waters enclosed by a line connecting the following six points in the counter clockwise order listed:	
a	57° 00' 0" 153° 18' 0"	Black Point.
b	56° 56' 0" 153° 09' 0"	
c	57° 22' 0" 152° 18' 5"	South Tip of Ugak Island
d	57° 23' 5" 152° 17' 5"	North Tip of Ugak Island
e	57° 25' 3" 152° 20' 0"	Narrow Cape, thence, along the coastline of Kodiak Island
f	57° 04' 2" 153° 30' 0"	Cape Kasick to
a	57° 00' 0" 153° 18' 0"	Black Point, including inshore waters

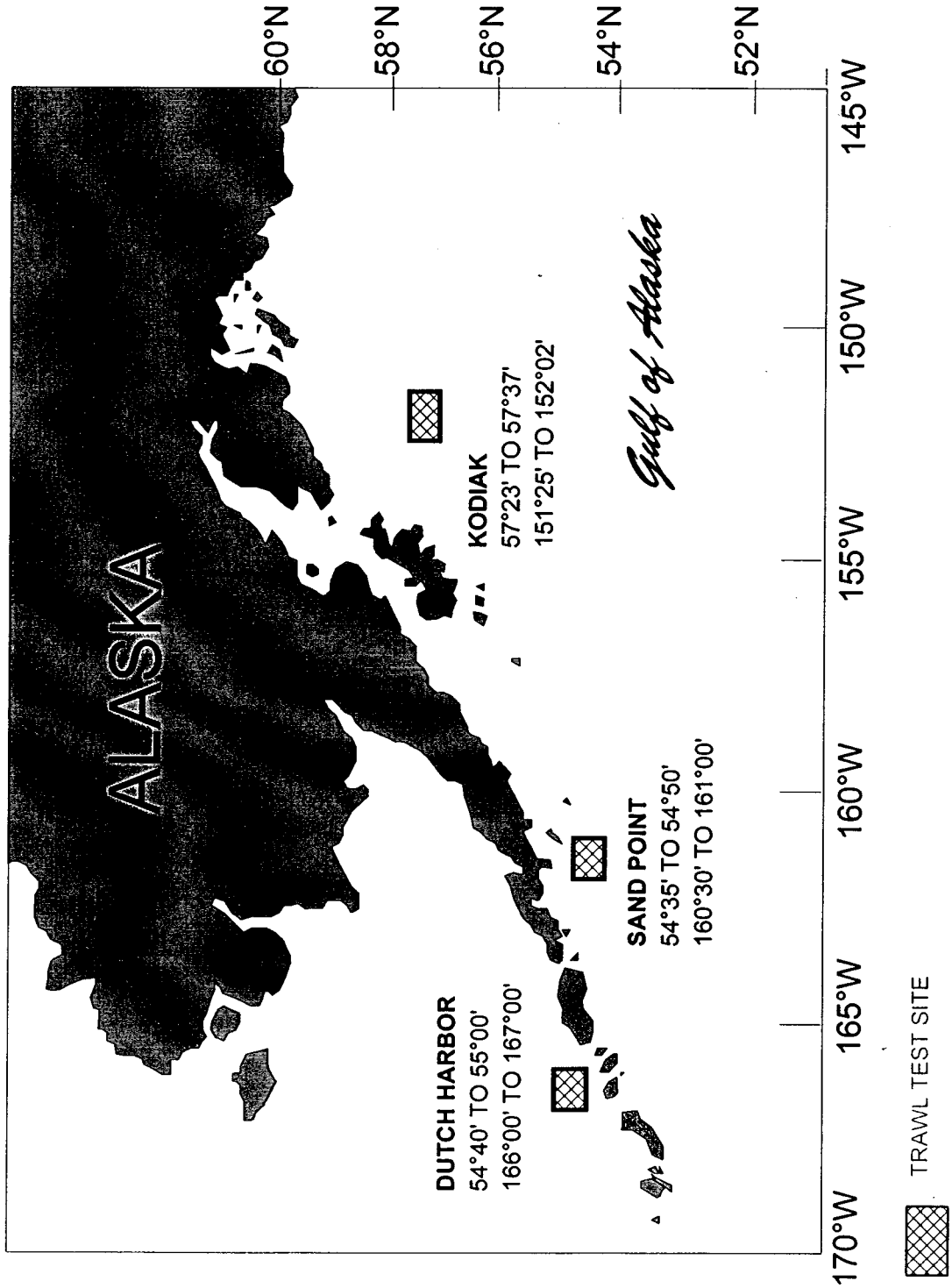

Figure 7 to Part 679. Location of Trawl Gear Test Areas in the GOA and the BSAI

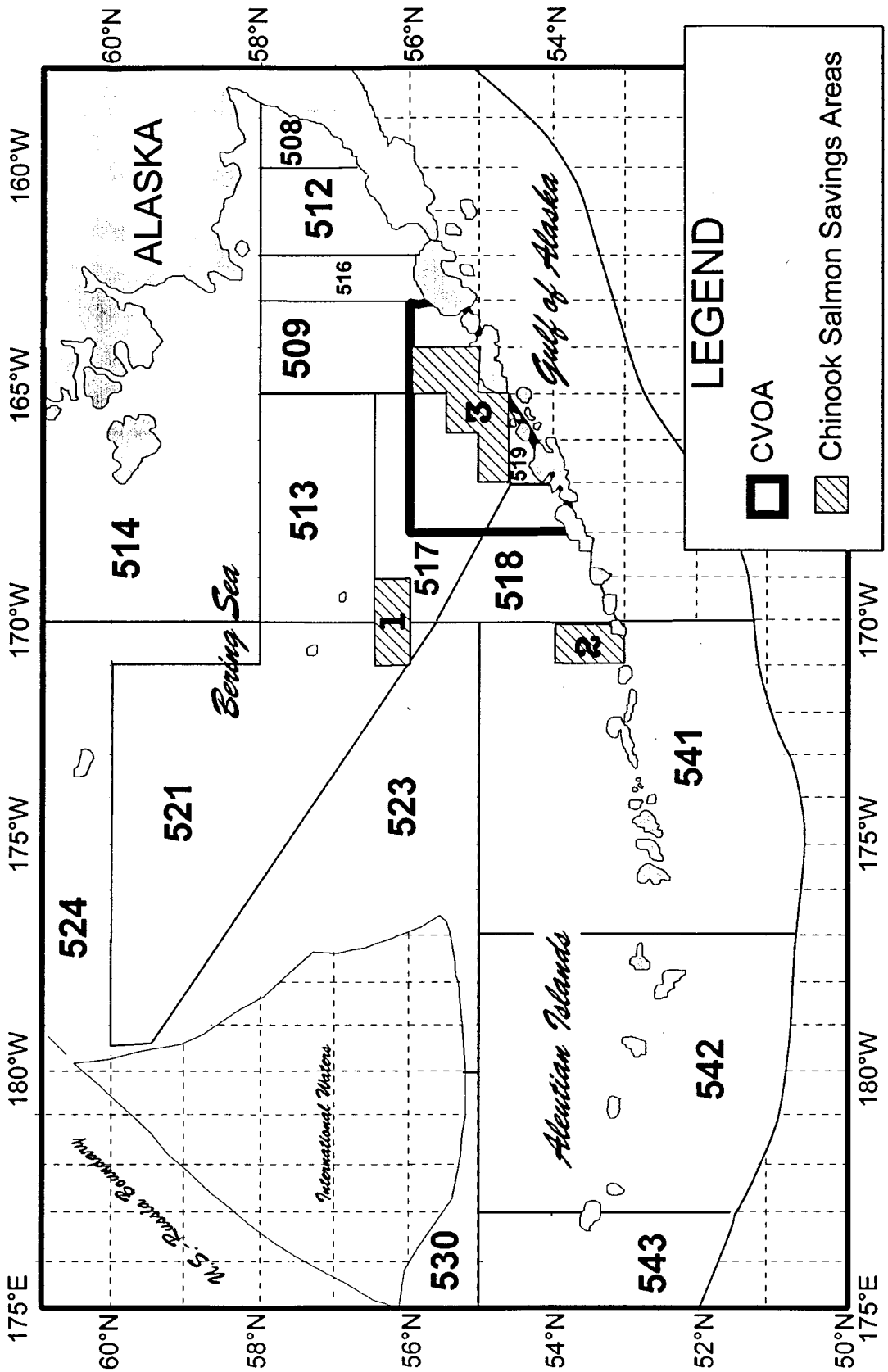

Figure 8 to Part 679. Chinook Salmon Savings Area of the BSAI.

a. Map

Figure 8 to Part 679. Chinook Salmon Savings Areas of the BSAI
b. Coordinates

The Chinook Salmon Savings Area is defined in the following three areas of the BSAI:

(1) The area defined by straight lines connecting the following coordinates in the order listed:

56°30' N. lat., 171°00' W. long.
56°30' N. lat., 169°00' W. long.
56°00' N. lat., 169°00' W. long.
56°00' N. lat., 171°00' W. long.
56°30' N. lat., 171°00' W. long.

(2) The area defined by straight lines connecting the following coordinates in the order listed:

54°00' N. lat., 171°00' W. long.
54°00' N. lat., 170°00' W. long.
53°00' N. lat., 170°00' W. long.
53°00' N. lat., 171°00' W. long.
54°00' N. lat., 171°00' W. long.

(3) The area defined by straight lines connecting the following coordinates in the order listed:

56°00' N. lat., 165°00' W. long.
56°00' N. lat., 164°00' W. long.
55°00' N. lat., 164°00' W. long.
55°00' N. lat., 165°00' W. long.
54°30' N. lat., 165°00' W. long.
54°30' N. lat., 167°00' W. long.
55°00' N. lat., 167°00' W. long.
55°00' N. lat., 166°00' W. long.
55°30' N. lat., 166°00' W. long.
55°30' N. lat., 165°00' W. long.
56°00' N. lat., 165°00' W. long.

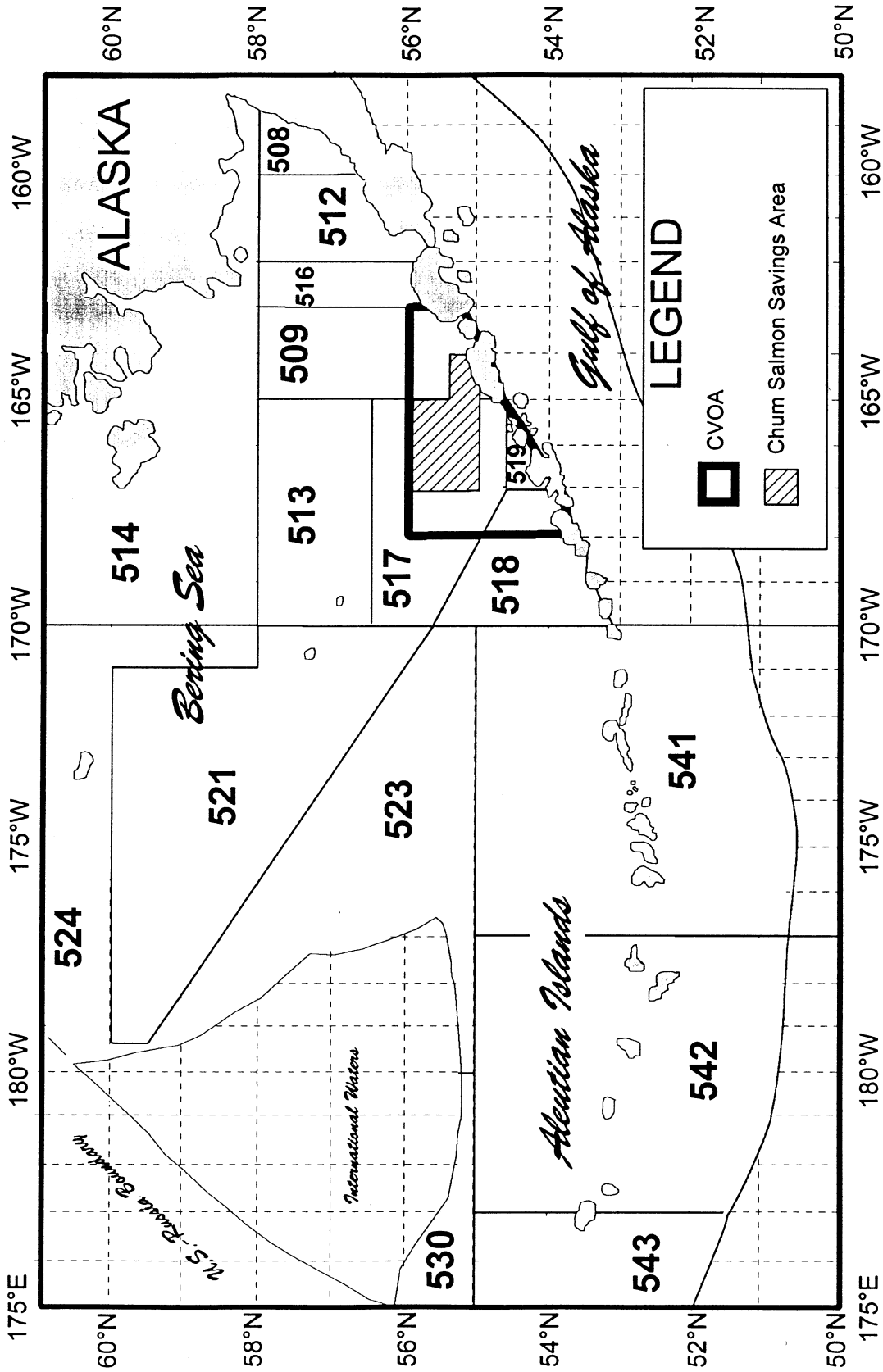

Figure 9 to Part 679. Chum Salmon Savings Area of the BSAI CVOA

a. Map

Figure 9 to Part 679. Chum Salmon Savings Area (CSSA) of the BSAI CVOA
b. Coordinates

The CSSA is an area defined as that portion of the Bering Sea Subarea described by straight lines connecting the following coordinates in the order listed:

56° 00' N. lat.	167° 00' W. long.
56° 00' N. lat.	165° 00' W. long.
55° 30' N. lat.	165° 00' W. long.
55° 30' N. lat.	164° 00' W. long.
55° 00' N. lat.	164° 00' W. long.
55° 00' N. lat.	167° 00' W. long.
56° 00' N. lat.	167° 00' W. long.

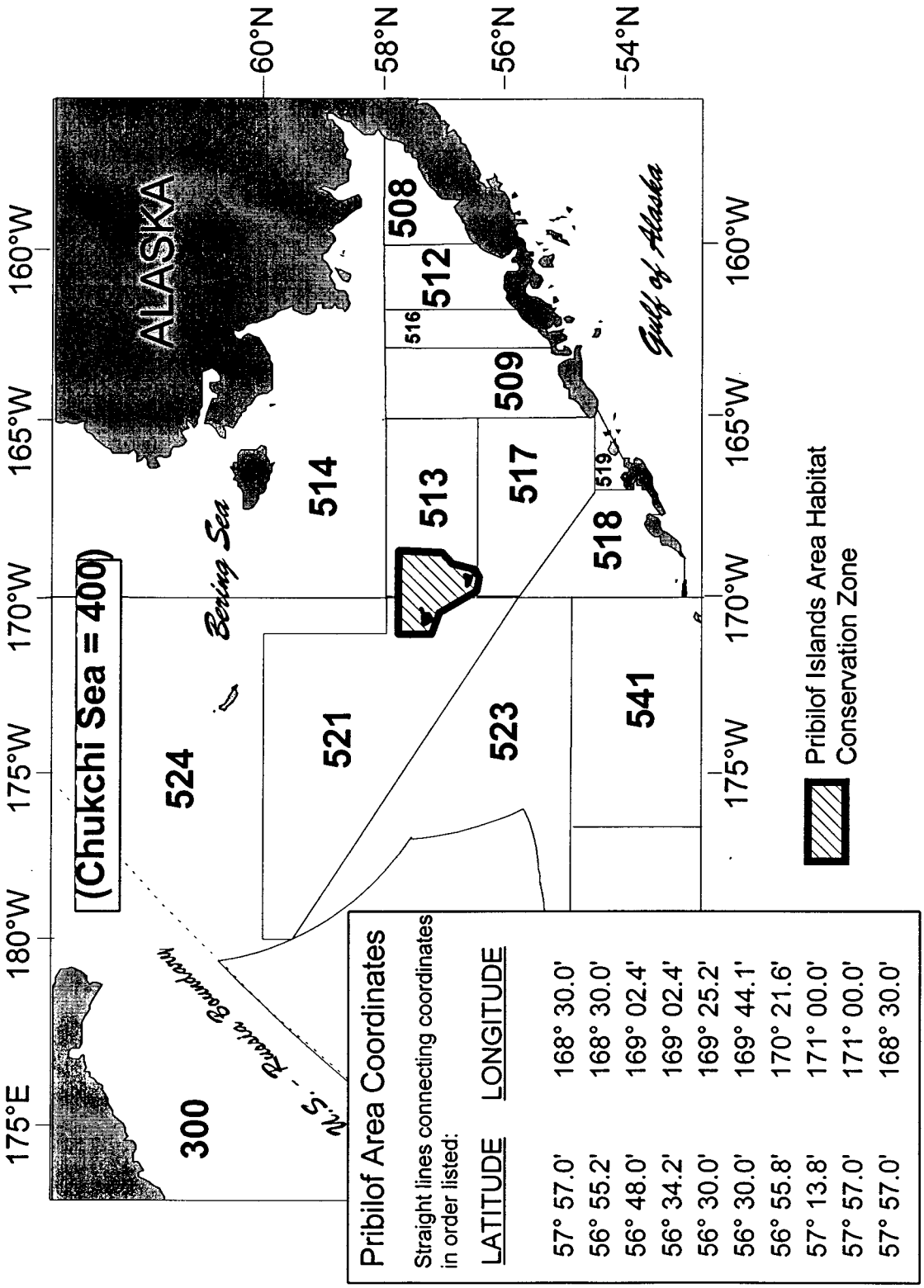

Figure 10 to Part 679. Pribilof Islands Area Habitat Conservation Zone in the Bering Sea

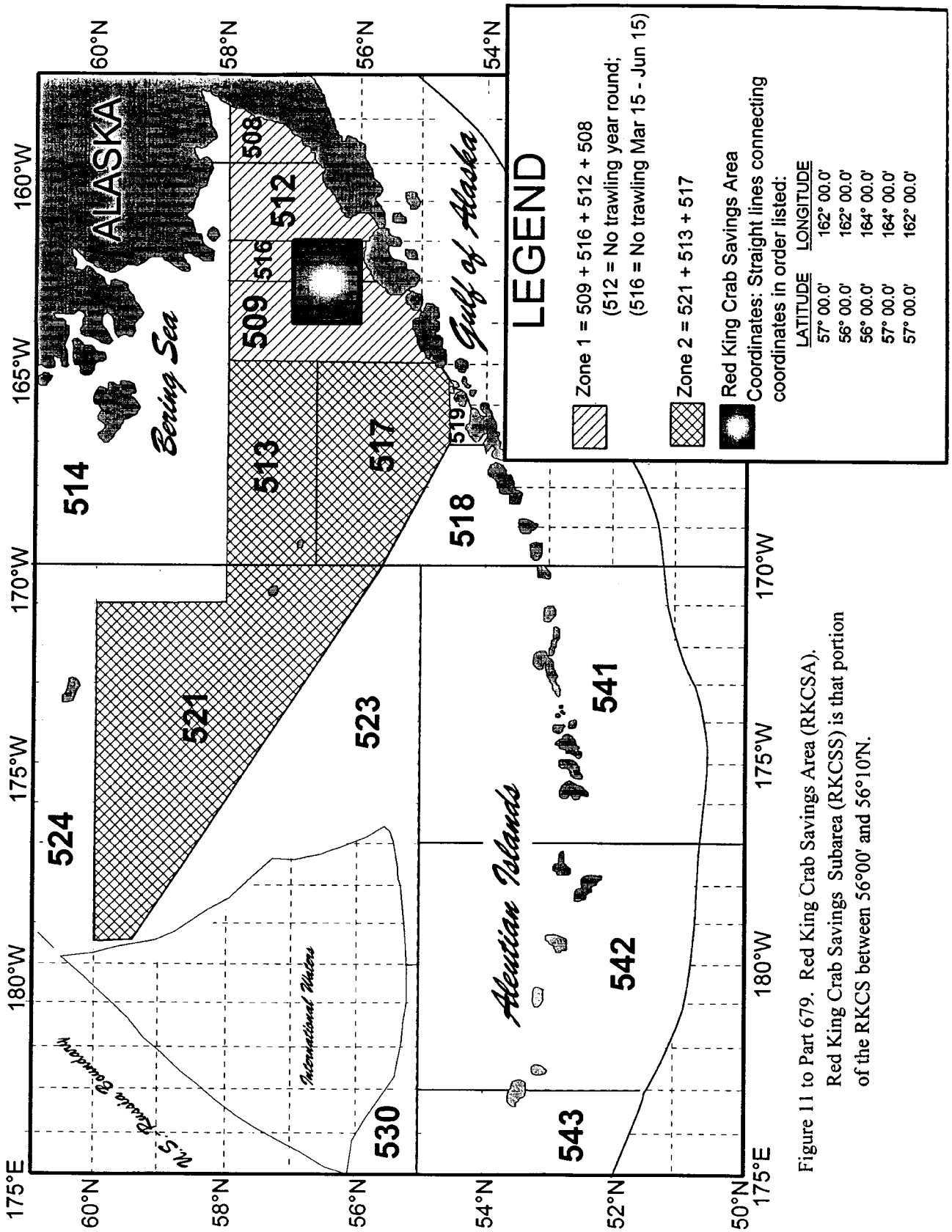

Figure 11 to Part 679. Red King Crab Savings Area (RKCSA). Red King Crab Savings Subarea (RKCSS) is that portion of the RKCS between 56°00' and 56°10'N.

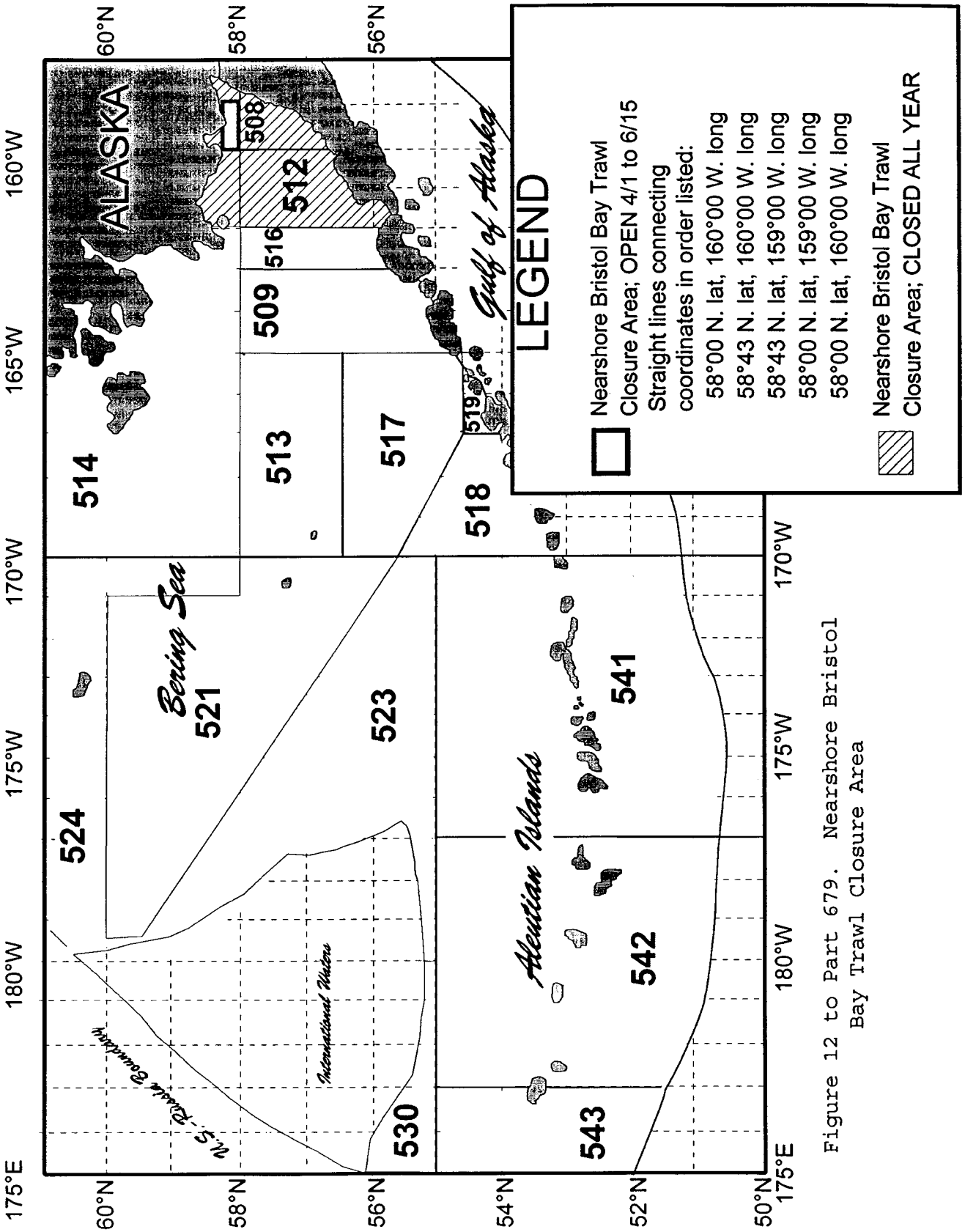

Figure 12 to Part 679. Nearshore Bristol Bay Trawl Closure Area

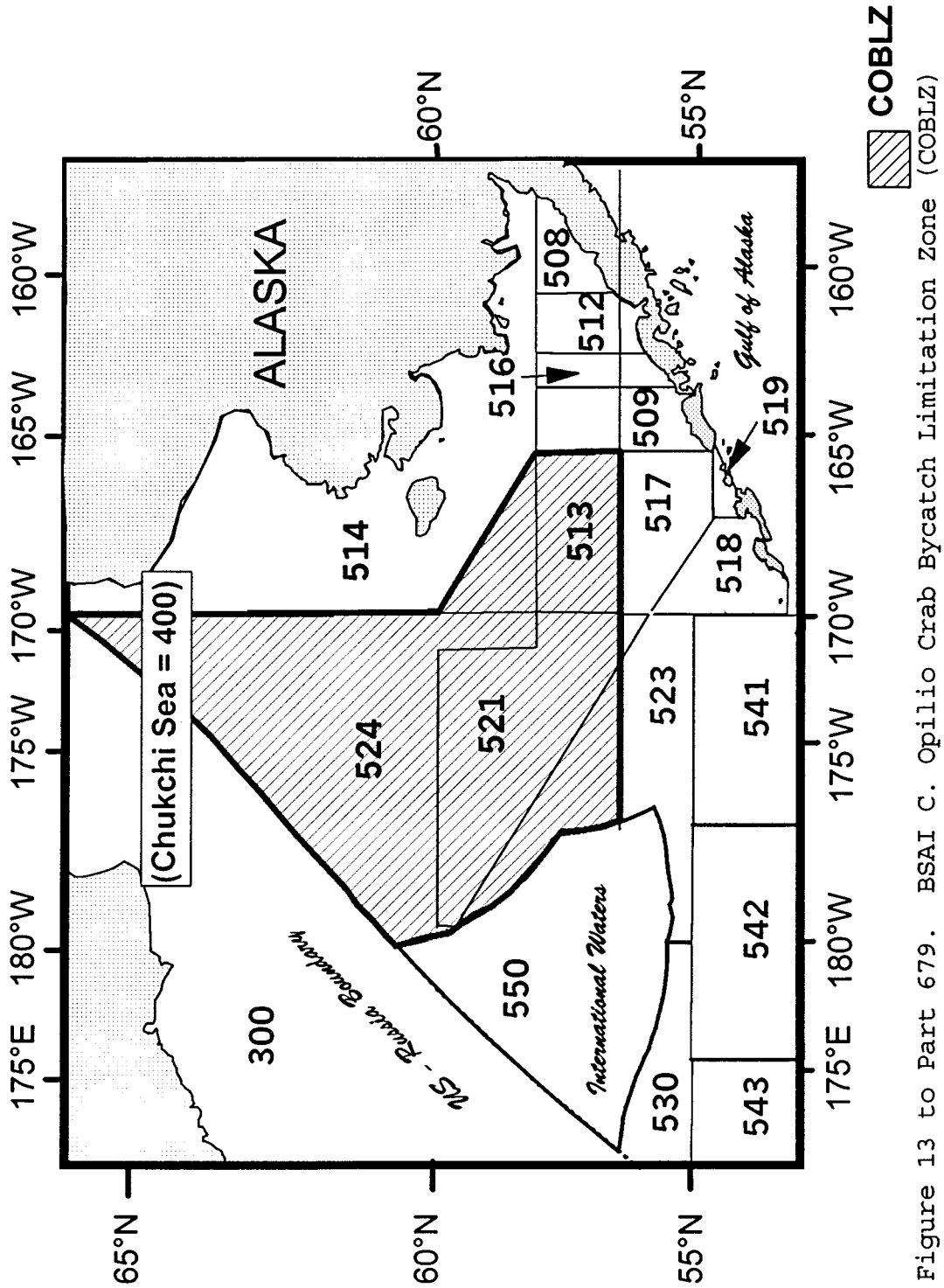

Figure 13 to Part 679. BSAI C. Opilio Crab Bycatch Limitation Zone

a. Map

Figure 13 to Part 679. BSAI C. Opilio Crab Bycatch Limitation Zone (COBLZ)
b. Coordinates

The COBLZ is an area defined as that portion of the Bering Sea Subarea north of 56°30' N. lat. that is west of a line connecting the following coordinates in the order listed:

56° 30' N. lat.	165° 00' W. long.
58° 00' N. lat.	165° 00' W. long.
59° 30' N. lat.	170° 00' W. long.

and north along 170° 00' W. long. to its intersection with the U.S.-Russia Boundary.

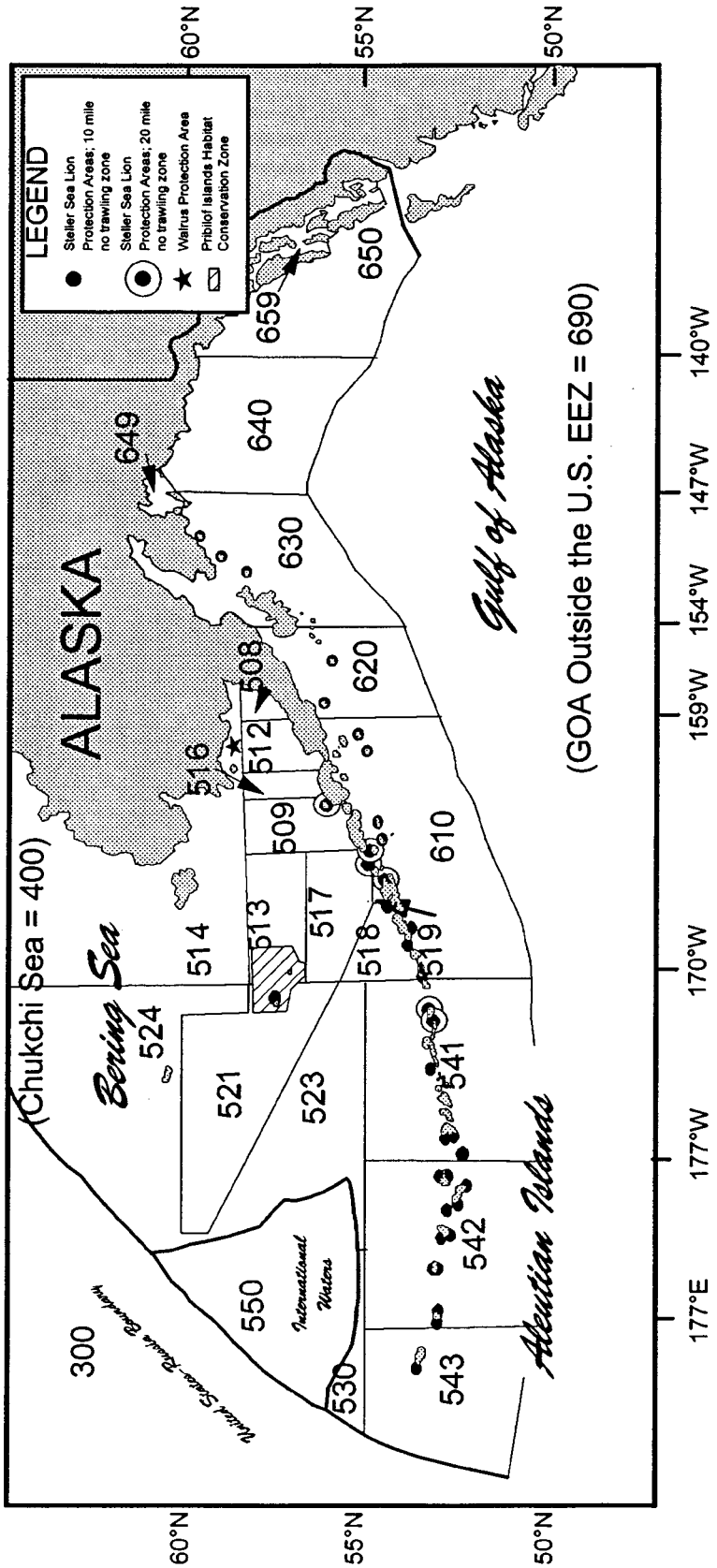

Figure 16 to Part 679. BSAI and GOA Steller Sea Lion Protection Areas

a. Map

Figure 16 to Part 679. BSAI and GOA Steller Sea Lion Protection Areas
b. Coordinates (page 1 of 2)

Island	From Latitude	From Longitude	To Latitude	To Longitude
1. 3-nm NO TRANSIT ZONES described at § 227.12(a)(2) of this title				
2. Trawling Prohibited Year-round Within 10 nm				
Outer Island	59°20.5' N	150°23.0' W	59°21.0' N	150°24.5' W
Marmot Island	58°14.5' N	151°47.5' W	58°10.0' N	151°51.0' W
Sugarloaf Island	58°53.0' N	152°02.0' W		
Chirikof Island	55°46.5' N	155°39.5' W	55°46.5' W	155°43.0' W
Chowiet Island	56°00.5' N	156°41.5' W	56°00.5' N	156°42.0' W
Atkins Island	55°03.5' N	159°18.5' W		
Chernabura Island	54°47.5' N	159°31.0' W	54°45.5' N	159°33.5' W
Pinnacle Rock	54°46.0' N	161°46.0' W		
Clubbing Rocks-S	54°42.0' N	162°26.5' W		
Clubbing Rocks-N	54°43.0' N	162°26.5' W		
Sea Lion Rocks	55°28.0' N	163°12.0' W		
Ugamak Island	54°14.0' N	164°48.0' W	54°13.0' N	164°48.0' W
Akun Island	54°18.0' N	165°32.5' W	54°18.0' N	165°31.5' W
Akutan Island	54°03.5' N	166°00.0' W	54°05.5' N	166°05.0' W
Bogoslof Island	53°56.0' N	168°02.0' W		
Ogchul Island	53°00.0' N	168°24.0' W		
Adugak Island	52°55.0' N	169°10.5' W		
Walrus Island	57°11.0' N	169°56.0' W		
Yunaska Island	52°42.0' N	170°38.5' W	52°41.0' N	170°34.5' W
Kasatochi Island	52°10.0' N	175°31.0' W	52°10.5' N	175°29.0' W
Adak Island	51°36.5' N	176°59.0' W	51°38.0' N	176°59.5' W
Gramp Rock	51°29.0' N	178°20.5' W		
Tag Island	51°33.5' N	178°34.5' W		
Ulak Island	51°20.0' N	178°57.0' W	51°18.5' N	178°59.5' W
Semisopochnoi	51°58.5' N	179°45.5' E	51°57.0' N	179°46.0' E
Semisopochnoi	52°01.5' N	179°37.5' E	52°01.5' N	179°39.0' E
Amchitka Island	51°22.5' N	179°28.0' E	51°21.5' N	179°25.0' E

Figure 16 to Part 679. BSAI and GOA Steller Sea Lion Protection Areas
b. Coordinates (page 2 of 2)

Island	From Latitude	From Longitude	To Latitude	To Longitude
2. Trawling Prohibited Year-round Within 10 nm (CONTD)				
Amchitka Island/ Column Rocks	51°32.5' N	178°49.5' E		
Ayugadak Point	51°45.5' N	178°24.5' E		
Kiska Island	51°57.5' N	177°21.0' E	51°56.5' N	177°20.0' E
Kiska Island	51°52.5' N	177°13.0' E	51°53.5' N	177°12.0' E
Buldir Island	52°20.5' N	175°57.0' E	52°23.5' N	175°51.0' E
Agattu Island	52°23.5' N	173°43.5' E	52°22.0' N	173°41.0' E
Agattu Is./Gillion Pt	52°24.0' N	173°21.5' E		
Attu Island	52°54.5' N	172°28.5' E	52°57.5' N	172°31.5' E
3. Trawling Prohibited Year-round Within 20 nm				
Seguam Island	52°21.0' N	172°35.0' W	52°21.0' N	172°33.0' W
Agligadak Island	52°06.5' N	172°54.0' W		
4. Trawling Prohibited Seasonally Within 20 nm (During January 1 through April 15, or a date earlier than April 15, if adjusted under part 679.20).				
Sea Lion Rocks	55°28.0' N	163°12.0' W		
Ugamak Island	54°14.0' N	164°48.0' W	54°13.0' N	164°48.0' W
Akun Island	54°18.0' N	165°32.5' W	54°18.0' N	165°31.5' W
Akutan Island	54°03.5' N	166°00.0' W	54°05.5' N	166°05.0' W
5. Critical Habitat (see Table 1, Table 2, and Figure 4 of 50 CFR part 226)				

Note: Each rookery extends in a clockwise direction from the first set of geographic coordinates, along the shoreline at mean lower low water, to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

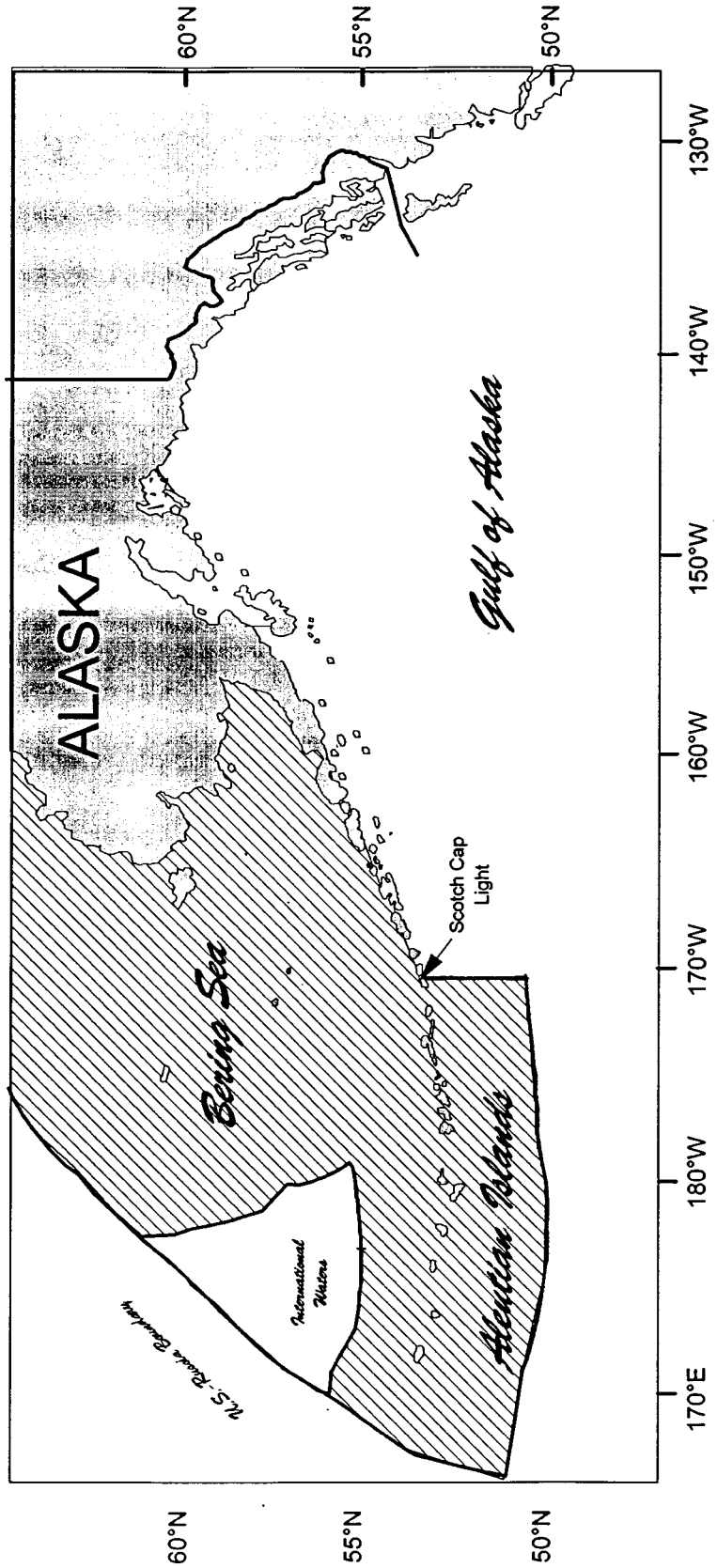

Figure 17 to Part 679. BSAI C. opilio and C. bairdi tanner crab endorsement areas. Waters east of the U.S.-Russian Convention Line of 1867 excluding all GOA waters east of a boundary extending south from Scotch Cap Light (54°36' N. lat., 164°44' W. long.).

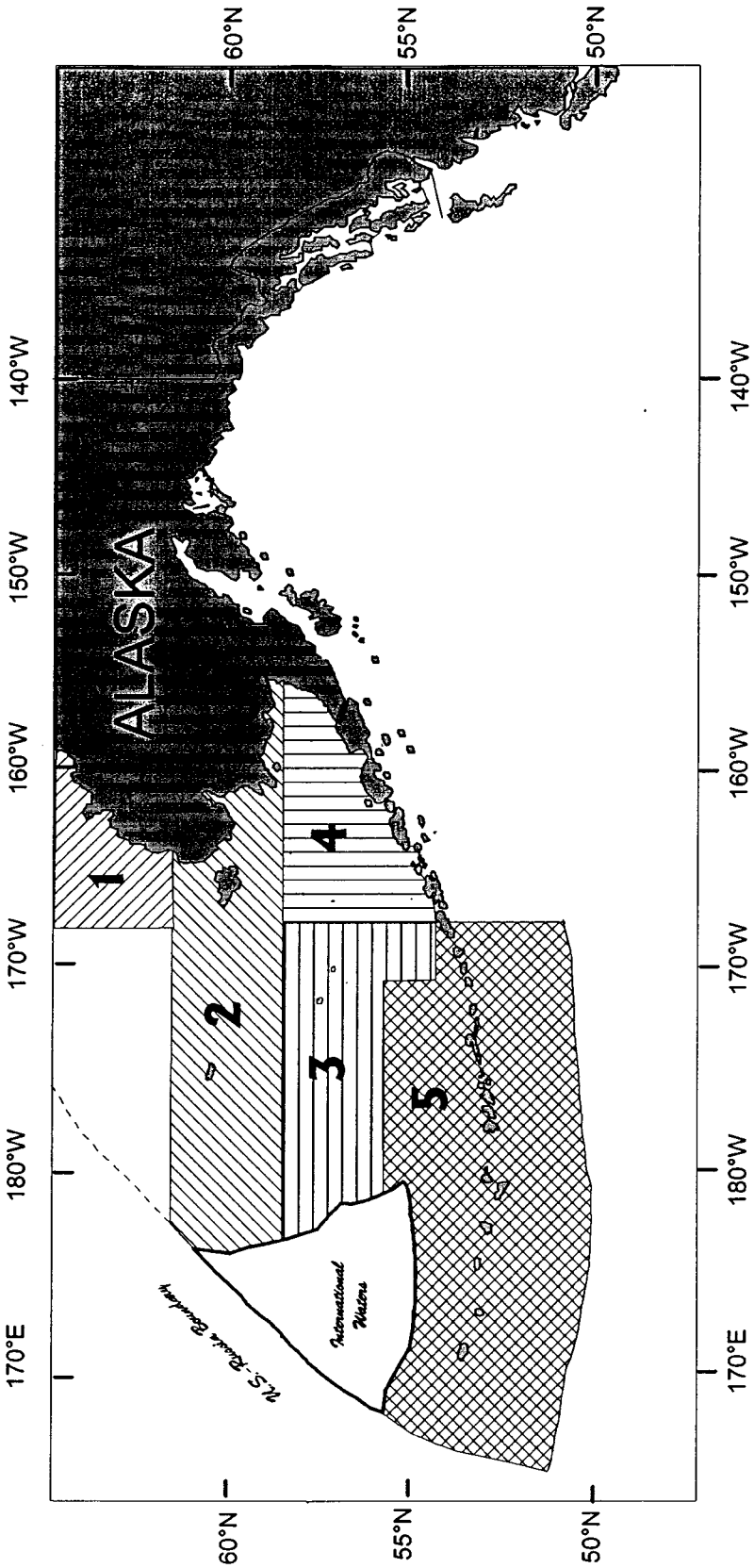

Figure 18 to Part 679. BSAI King crab endorsement areas

a. Map

Figure 18 to Part 679. BSAI King Crab Endorsement Areas
b. Coordinates

1. Norton Sound Red King Crab and Blue King Crab Area
   Area defined by a northern boundary of 65°36' N. lat., along the east side of continental Alaska, a southern boundary of 61°49' N. lat., and a western boundary of 168° W. long.

2. St. Matthew Blue King Crab Area
   Area defined by a northern boundary of 61°49' N. lat., along the east side of continental Alaska, a southern boundary of 58°39' N. lat., and a western boundary of the U.S.-Russian Convention Line of 1867.

3. Pribilof Red King Crab and Blue King Crab Area
   Area defined by a northern boundary of 58°39' N. lat., an eastern boundary of 168° W. long. south to 54°36' N. lat., then westward to (54°36' N. lat., 171° W. long.), then north to (55°30' N. lat., 171° W. long.), then westward to the western boundary of the U.S.-Russian Convention Line of 1867.

4. Bristol Bay Red King Crab Area
   Area defined by a northern boundary of 58°39' N. lat., along the east side of continental Alaska, a southern boundary of 54°36' N. lat., and a western boundary of 168° W. long. and including all waters of Bristol Bay.

5. Aleutian Islands Brown King Crab and Red King Crab Area
   Area defined by a northern boundary of 55°30' N. lat. eastward to 171° W. long., then south to Cape Sarichef (54°36' N. lat., 171° W. long.), then east to Scotch Cap Light (54°36' N. lat., 164°44' W. long.), bounded on the south by the limits of the US EEZ as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart 530 (San Diego to Aleutian Islands and Hawaiian Islands), and a western boundary of the U.S.-Russian Convention Line of 1867.

Table 1 to Part 679--Product Codes

Fish Product Code/Description

03. Bled only. Throat, or isthmus, slit to allow blood to drain.
04. Gutted, head on. Belly slit and viscera removed.
05. Gutted, head off. IFQ Pacific halibut only.
06. Head and gutted, with roe.
07. Headed and gutted, Western cut. Head removed just in front of the collar bone, and viscera removed.
08. Headed and gutted, Eastern cut. Head removed just behind the collar bone, and viscera removed.
10. Headed and gutted, tail removed. Head removed usually in front of collar bone, and viscera and tail removed.
11. Kirimi. Head removed either in front or behind the collar bone, viscera removed, and tail removed by cuts perpendicular to the spine, resulting in a steak.
12. Salted and split. Head removed, belly slit, viscera removed, fillets cut from head to tail but remaining attached near tail. Product salted.
13. Wings. On skates, side fins are cut off next to body.
14. Roe. Eggs, either loose or in sacs, or skeins.
15. Pectoral girdle. Collar bone and associated bones, cartilage and flesh.
16. Heads. Heads only, regardless where severed from body.
17. Cheeks. Muscles on sides of head.
18. Chins. Lower jaw (mandible), muscles, and flesh.
19. Belly. Flesh in region of pelvic and pectoral fins and behind head.
20. Fillets with skin and ribs. Meat and skin with ribs attached, from sides of body behind head and in front of tail.
21. Fillets with skin, no ribs. Meat and skin with ribs removed, from sides of body behind head and in front of tail.
22. Fillets with ribs and no skin. Meat with ribs with skin removed, from sides of body behind head and in front of tail.
23. Fillets, skinless/boneless. Meat with both skin and ribs removed, from sides of body behind head and in front of tail.
24. Deep-skin fillet. Meat with skin, adjacent meat with silver lining, and ribs removed from sides of body behind head and in front of tail, resulting in thin fillets.
30. Surimi. Paste from fish flesh and additives.
31. Minced. Ground flesh.
32. Fish meal. Meal from whole fish or fish parts; includes bone meal.
33. Fish oil. Rendered oil from whole fish or fish parts.
34. Milt. (in sacs, or testes).
35. Stomachs. Includes all internal organs.
36. Octopus/squid mantles. Flesh after removal of viscera and arms.
37. Butterfly, no backbone. Head removed, belly slit, viscera and most of backbone removed; fillets attached.
39. Bones (if meal, report as 32).

Fish Product Code/Description

54. Gutted, head on, with ice and slime. Belly slit and viscera removed. IFQ Pacific halibut and sablefish only.
55. Gutted, head off, with ice and slime. IFQ Pacific halibut only.
57. Headed and gutted, Western cut, with ice and slime. IFQ sablefish only.
58. Headed and gutted, Eastern cut, with ice and slime. IFQ sablefish only.
86. Donated prohibited species. Pacific salmon or Pacific halibut, otherwise required to be discarded, that is donated to charity under a NMFS-authorized program.
97. Other retained product

WHOLE FISH CODES

When using the following codes, log round weights and not product weights, even if the whole fish is not used.

01. Whole fish/food fish.
02. Whole fish/bait. Processed for bait. Sold
41. Whole fish/destined for offsite fish meal production.
51. Whole fish/food fish with ice and slime. IFQ sablefish only.
92. Whole fish/onboard bait. Whole fish used as bait on board vessel. Not sold.
93. Whole fish/damaged. Whole fish damaged by observer's sampling procedures.
95. Whole fish/personal use, consumption. Fish or fish products eaten on board or taken off the vessel for personal use. Not sold or utilized as bait

DISCARD PRODUCT CODES

96. Discard, decomposed. Flea-infested fish, parasite-infested fish, decomposed, or previously discarded fish.
98. Discard, at sea. Whole groundfish and prohibited species discarded by catcher vessels, Catcher/Processors, Motherships, or Buying Stations delivering to Motherships.
99. Discard, onshore. Discard after delivery and before processing by Shoreside Processors and Buying Stations delivering to Shoreside Processors and in-plant discard of whole groundfish and prohibited species during processing.

PRODUCT DESIGNATION (see 679.2)

A Ancillary.
P Primary.
R Reprocessed or rehandled.

Table 2 to Part 679--Species Codes

Code	Species Description
110	Cod, Pacific
121	Flounder, Arrowtooth and/or Kamchatka
122	Sole, flathead
123	Sole, rock
124	Sole, Dover
125	Sole, Rex
126	Sole, butter
127	Sole, yellowfin
128	Sole, English
129	Flounder starry
130	Lingcod
131	Sole, Petrale
132	Sole, sand
133	Flounder, Alaska Plaice
134	Turbot, Greenland
135	Rockfish greenstriped
136	Rockfish, northern
137	Rockfish, Bocaccio
138	Rockfish, copper
141	Perch, Pacific Ocean (S. alutus only)
142	Rockfish, black
143	Rockfish thornyhead (all Sebastolobus species)
145	Rockfish yelloweye
146	Rockfish, canary
147	Rockfish, quillback
148	Rockfish, tiger
149	Rockfish, China
150	Rockfish, rosethorn
151	Rockfish, rougheye
152	Rockfish, shortraker
153	Rockfish, redbanded
154	Rockfish, dusky
155	Rockfish, yellowtail
156	Rockfish, widow
157	Rockfish silvergray
158	Rockfish, redstripe
159	Rockfish, darkblotched
160	Sculpins
166	Rockfish, sharpchin
167	Rockfish, blue
170	Sardine, Pacific (pilchard)
175	Rockfish, yellowmouth
176	Rock, Harlequin
177	Rockfish, blackgill
178	Rockfish, chilipepper
179	Rockfish, pygmy
180	Shad
181	Rockfish, shortbelly
182	Rockfish, splitnose
183	Rockfish, stripetail
184	Rockfish, vermilion
185	Rockfish, Aurora
190	Greenling, general
191	Greenling, rock
192	Greenling, whitespot
193	Atka mackerel (greenling)
194	Greenling, kelp
206	Pacific Sand fish (family Trichodontidae)
207	Gunnels (family Pholidae)
208	Pricklebacks, warbonnets, eelblennys, cockscombs and Shannys (family Stichaeidae)
209	Bristlemouths, lightfishes, and anglemouths (family Gonostomatidae)
210	Eels or eel-like fish
211	Wrymouths
212	Pacific hagfish
213	Grenadier (rattail)
214	Giant grenadier
220	Pacific saury
250	Pacific tomcod
260	Cod, longfin
270	Pollock
510	Smelt, general
511	Eulachon smelt (family Osmeridae)
516	Capelin smelt (family Osmeridae)
521	Arctic char, anadromous
531	Dolly varden, anadromous
600	Lamprey, pacific
689	Sharks, general
690	Shark, salmon
691	Shark, spiny dogfish
692	Shark, Pacific sleeper
700	Skates, general
710	Sablefish (blackcod)
720	Tuna, albacore
772	Laternfishes (family Myctophidae)
773	Deep-sea smelts (family Bathylagidae)
774	Pacific Sand lance (family Ammodytidae)
800	Krill (order Euphausiacea)
810	Clam, butter
812	Clam, surf
815	Clam, geoduck
820	Clam, cockle
830	Clam, razor
840	Clam, little-neck
842	Clam, eastern softshell
850	Scallop, weathervane
851	Scallop, pink (or calico)
855	Mussel, blue
860	Abalone
870	Octopus
875	Squid
880	Oysters
890	Snails
895	Sea cucumber
896	Sea urchin
899	Coral
900	Crab, box
910	Crab, dungeness
940	Crab, Korean horsehair
960	Shrimp, general
961	Shrimp, pink
962	Shrimp, sidestripe
963	Shrimp, humpy
964	Shrimp, coonstripe
965	Shrimp, spot

GROUP CODES. These group codes may be used only as authorized.

Code	Species Description
120	Miscellaneous flatfish (all flatfish without separate codes)
144	Slope rockfish (aurora, blackgill, Bocaccio, redstripe, silvergray, chilipepper, darkblotched, greenstriped, harlequin, pygmy, shortbelly, splitnose, stripetail, vermillion, yellowmouth, sharpchin)
168	Demersal shelf rockfish (china, copper, quillback, rosethorn, tiger, yelloweye, canary)
169	Pelagic shelf rockfish (dusky, yellowtail, widow)
171	Shortraker/rougheye rockfish
888	Mixed species tote (for use only on Product Transfer Report)

PROHIBITED SPECIES CODES.

Code	Species Description
200	Pacific halibut
235	Pacific herring (Family of Clupeidae)
410	Salmon, Chinook
420	Salmon. Sockeye
430	Salmon, Coho
440	Salmon, Pink
450	Salmon, Chum
540	Steelhead trout
921	Crab, red king
922	Crab, blue king
923	Crab, gold/brown king
924	Crab, scarlet king
931	Crab, bairdi tanner
932	Crab, opilio tanner

Table 3 to Part 679--Product Recovery Rates* for groundfish species and conversion rates* for Pacific halibut

FMP SPECIES	Species Code	PRODUCT CODE 1, 2, 41, 92, 94 WHOLE FISH	3 BLED	4 GUTTED HEAD ON	5 GUTTED HEAD OFF	6 H&G WITH ROE	7 H&G WESTERN CUT	8 H&G EASTERN CUT	10 H&G W/O TAIL	11 KIRIMI	12 SALTED & SPLIT	13 WINGS
PACIFIC COD	110	1.00	0.98	0.85	---	0.63	0.57	0.47	0.44	....	0.45	....
ARROWTOOTH FLOUNDER	121	1.00	0.98	0.90	---	0.80	0.72	0.65	0.62	0.48	....	....
ROCKFISH		1.00	0.98	0.88	....	---	0.60	0.50	....	....	....	....
SCULPINS	160	1.00	0.98	0.87	....	---	0.50	0.40	....	....	....	....
ATKA MACKEREL	193	1.00	0.98	0.87	---	0.67	0.64	0.61	....	....	....	....
POLLOCK	270	1.00	0.98	0.80	---	0.70	0.65	0.56	0.50	....	....	....
SMELTS	510	1.00	0.98	0.82	....	---	0.71	....	....	....	....	....
EULACHON	511	1.00	0.98	0.82	....	---	0.71	....	....	....	....	....
CAPELIN	516	1.00	0.98	0.89	....	---	0.78	....	....	....	....	....
SHARKS	689	1.00	0.98	0.83	....	---	0.72	....	....	....	....	....
SKATES	700	1.00	0.98	0.90	....	....	....	0.32	....	....	....	0.32
SABLEFISH	710	1.00	0.98	0.89	....	---	0.68	0.63	0.50	....	....	....
IFQ SABLEFISH	710	1.00	0.98	0.89	....	---	0.68	0.63	0.50	....	....	....
OCTOPUS	870	1.00	0.98	0.69	....	...	....	....	....	....	....	....
Target species categories GOA only												
DEEP WATER FLATFISH	118	1.00	0.98	0.90	...	0.80	0.72	0.65	0.62	0.48	....	....
FLATHEAD SOLE	122	1.00	0.98	0.90	...	0.80	0.72	0.65	0.62	0.48	....	....
REX SOLE	125	1.00	0.98	0.90	...	0.80	0.72	0.65	0.62	0.48	....	....
SHALLOW WATER FLATFISH	119	1.00	0.98	0.90	...	0.80	0.72	0.65	0.62	0.48	....	....
THORNYHEAD ROCKFISH	143	1.00	0.98	0.88	...	0.55	0.60	0.50	....	....	....	....
Target species categories BSAI only												
OTHER FLATFISH	120	1.00	0.98	0.90	...	0.80	0.72	0.65	0.62	0.48	....	....
ROCK SOLE	123	1.00	0.98	0.90	...	0.80	0.72	0.65	0.62	0.48	....	....
YELLOWFIN SOLE	127	1.00	0.98	0.90	...	0.80	0.72	0.65	0.62	0.48	....	....
GREENLAND TURBOT	134	1.00	0.98	0.90	...	0.80	0.72	0.65	0.62	0.48	....	
SQUID	875	1.00	0.98	0.69	....	...	....	....	....	....	....	....
Conversion rates for Pacific halibut												
PACIFIC HALIBUT	200	---	---	0.90	1.0	---	---	---	---	---	---	---

(continued)

Table 3 to Part 679 (continued)--Product Recovery Rates* for groundfish species and conversion rates* for Pacific halibut

FMP SPECIES	Species Code	PRODUCT CODE 14 ROE	15 PECTORAL GIRDLE	16 HEADS	17 CHEEKS	18 CHINS	19 BELLY	20 FILLETS W/SKIN & RIBS	21 FILLETS SKIN ON NO RIBS	22 FILLETS W/RIBS NO SKIN	23 FILLETS SKNLESS/ BONELESS	24 FILLETS DEEP SKIN	30 SURIMI	31 MINCE
PACIFIC COD	110	0.05	0.05	....	0.05	....	0.01	0.45	0.35	0.25	0.25	....	0.15	0.5
ARROWTOOTH FLOUNDER	121	0.08	....	....	....	....	....	0.32	0.27	0.27	0.22	....	....	....
ROCKFISH	....	...	....	0.15	0.05	0.05	0.10	0.40	0.30	0.33	0.25	....	....	....
SCULPINS	160	...	....	....	....	....	....	....	....	....	....	....	....	....
ATKA MACKEREL	193	...	....	....	....	....	....	....	....	....	....	....	0.15	....
POLLOCK	270	0.07	....	0.15	....	....	....	0.35	0.30	0.30	0.21	0.16	0.16[1] 0.17[2]	0.22
SMELTS	510	...	....	....	....	....	....	....	0.38	....	....	....	....	....
EULACHON	511	...	....	....	....	....	....	....	0.38	....	....	....	....	....
CAPELIN	516	...	....	....	....	....	....	....	....	....	....	....	....	....
SHARKS	689	...	....	....	....	....	....	....	0.30	0.30	0.25	....	....	....
SKATES	700	...	....	....	....	....	....	....	....	....	....	....	....	....
SABLEFISH	710	...	....	....	0.05	....	....	0.35	0.30	0.30	0.25	....	....	....
IFQ SABLEFISH	710	...	....	....	0.05	....	....	0.35	0.30	0.30	0.25	....	....	....
OCTOPUS	870	...	....	....	....	....	....	....	....	....	....	....	....	....
Target species categories at GOA only														
DEEP WATER FLATFISH	118	0.08	....	....	....	....	....	0.32	0.27	0.27	0.22	....	....	....
FLATHEAD SOLE	122	0.08	....	....	....	....	....	0.32	0.27	0.27	0.22	....	....	....
REX SOLE	125	0.08	....	....	....	....	....	0.32	0.27	0.27	0.22	....	....	....
SHALLOW WATER FLATFISH	119	0.08	....	....	....	....	....	0.32	0.27	0.27	0.22	....	....	....
THORNYHEAD ROCKFISH	143	...	....	0.20	0.05	0.05	0.05	0.40	0.30	0.35	0.25	....	....	....
Target species categories at BSAI only														
OTHER FLATFISH	120	0.08	....	....	....	....	....	0.32	0.27	0.27	0.22	....	....	....
ROCK SOLE	123	0.08	....	....	....	....	....	0.32	0.27	0.27	0.22	....	....	....
YELLOWFIN SOLE	127	0.08	....	....	....	....	....	0.32	0.27	0.27	0.22	....	0.18	....
GREENLAND TURBOT	134	0.08	....	....	....	....	....	0.32	0.27	0.27	0.22	....	....	....
SQUID	875	...	....	....	....	....	....	....	....	....	....	....	....	....
Conversion rates for Pacific halibut														
PACIFIC HALIBUT (continued)	200	----	----	----	----	----	----	----	----	----	----	----	----	

Table 3 to Part 679 (continued)--Product Recovery Rates* for groundfish species and conversion rates* for Pacific halibut

FMP SPECIES	Species Code	PRODUCT CODE 32 MEAL	33 OIL	34 MILT	35 STOMACHS	36 MANTLES	37 BUTTERFLY BACKBONE REMOVED	51 WHOLE FISH W/I&S	54 GUTTED HEAD ON W/I&S	55 GUTTED HEAD OFF W/I&S	57 H&G WESTERN W/I&S	58 H&G EASTERN W/I&S	96 DECOMPOSED FISH	98, 99 DISCARDS
PACIFIC COD	110	0.17	....	....	....	....	0.43	----	----	----	----	----	0.00	1.00
ARROWTOOTH FLOUNDER	121	0.17	....	....	....	....	....	----	----	----	----	----	0.00	1.00
ROCKFISH		....	....	....	....	....	----	----	----	----	----	----	0.00	1.00
SCULPINS	160	0.17	....	....	....	....	....	----	----	----	----	----	0.00	1.00
ATKA MACKEREL	193	0.17	....	....	....	....	....	----	----	----	----	----	0.00	1.00
POLLOCK	270	0.17	....	....	....	....	0.43	----	----	----	----	----	0.00	1.00
SMELTS	510	0.17	....	....	....	....	....	----	----	----	----	----	0.00	1.00
EULACHON	511	0.17	....	....	....	....	....	----	----	----	----	----	0.00	1.00
CAPELIN	516	0.17	....	....	....	....	....	----	----	----	----	----	0.00	1.00
SHARKS	689	0.17	....	....	....	....	....	----	----	----	----	----	0.00	1.00
SKATES	700	0.17	....	....	....	....	....	----	----	----	----	----	0.00	1.00
SABLEFISH	710	0.17	....	....	....	....	....	----	----	----	----	----	0.00	1.00
IFQ SABLEFISH	710	0.17	....	....	....	....	....	1.02	0.91	----	0.70	0.65	0.00	1.00
OCTOPUS	870	0.17	....	....	....	0.85	---	----	----	----	----	----	0.00	1.00
Target species categories at GOA only														
DEEP WATER FLATFISH	118	0.17	....	....	....	....	....	----	----	----	----	----	0.00	1.00
FLATHEAD SOLE	122	0.17	....	....	....	....	....	----	----	----	----	----	0.00	1.00
REX SOLE	125	0.17	....	....	....	....	....	----	----	----	----	----	0.00	1.00
SHALLOW WATER FLATFISH	119	0.17	....	....	....	....	....	----	----	----	----	----	0.00	1.00
THORNYHEAD ROCKFISH	143	0.17	....	....	....	....	....	----	----	----	----	----	0.00	1.00
Target species categories at BSAI only														
OTHER FLATFISH	120	0.17	....	....	....	....	....	----	----	----	----	----	0.00	1.00
ROCK SOLE	123	0.17	....	....	....	....	....	----	----	----	----	----	0.00	1.00
YELLOWFIN SOLE	127	0.17	....	....	....	....	....	----	----	----	----	----	0.00	1.00
GREENLAND TURBOT	134	0.17	....	....	....	....	....	----	----	----	----	----	0.00	1.00
SQUID	875	0.17	....	....	....	0.75	----	----	----	----	----	----	0.00	1.00
Conversion rates for Pacific halibut														
PACIFIC HALIBUT	200	----	----	----	----	----	----	----	0.88	0.98	----	----	----	----

[1]Standard pollock surimi rate during January through June.
[2]Standard pollock surimi rate during July through December
*To obtain round weight of groundfish, divide the product weight of groundfish by a PRR. To obtain product weight of Pacific halibut, multiply the round weight of halibut by a conversion rate.

Table 9 to Part 679. IFQ Primary Ports

PORT	NORTH LATITUDE	WEST LONGITUDE
Akutan	54°08'05"	165°46'20"
Bellingham	48°45'04"	122°30'02"
Cordova	60°33'00"	145°45'00"
Craig	55°28'30"	133°09'00"
Dutch Harbor/ Unalaska	53°53'27"	166°32'05"
Excursion Inlet	58°25'00"	135°26'30"
Homer	59°38'40"	151°33'00"
Ketchikan	55°20'30"	131°38'45"
King Cove	55°03'20"	162°19'00"
Kodiak	57°47'20"	152°24'10"
Pelican	57°57'30"	136°13'30"
Petersburg	56°48'10"	132°58'00"
St. Paul	57°07'20"	170°16'30"
Sand Point	55°20'15"	160°30'00"
Seward	60°06'30"	149°26'30"
Sitka	57°03'	135°20'
Yakutat	59°33'	139°44'

Table 10 to Part 679--IFQ/CDQ Gear codes and descriptions

IFQ/CDQ Gear Code	IFQ/CDQ Gear Description
05	Hand troll
06	Hook-and-line, vessel LOA less than 60 ft
09	Pot, vessel LOA less than 60 ft
15	Power gurdy troll
25	Dinglebar troll
26	Jigs
61	Hook-and-line, vessel LOA greater than or equal to 60 ft
91	Pot, vessel LOA greater than or equal to 60 ft

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federal register

Friday
February 5, 1999

Part III

Environmental Protection Agency

Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6230–8]

Final guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems

AGENCY: Environmental Protection Agency.

ACTION: Final guidelines.

SUMMARY: In this document, the Environmental Protection Agency (EPA) is finalizing the ''Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems.'' The Safe Drinking Water Act (SDWA) Amendments of 1996 require that these final guidelines be published in the **Federal Register** by February 6, 1999. These guidelines provide States with the minimum standards for the development, implementation and enforcement of operator certification programs for community and nontransient noncommunity public water systems. Beginning two years after publication, EPA must withhold 20% of a State's Drinking Water State Revolving Fund capitalization grant funds unless the State has adopted and is implementing an operator certification program that meets the requirements of these guidelines or submits its existing program that is substantially equivalent to these guidelines. The final guidelines are published in Appendix A of this document.

DATES: *Effective Date:* February 5, 1999. *Compliance Date:* Beginning February 5, 2001.

ADDRESSES: Public comments and the comment response document on the draft guidelines are available for review at Water Docket (docket #W–98–07), Environmental Protection Agency, Room EB57, 401 M Street, S.W., Washington DC 20460. For access to the Docket materials, call 202–260–3027 between 9:00 a.m. and 3:30 p.m. Eastern Time for an appointment and reference Docket #W–98–07.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, toll free (800) 426–4791, can be contacted for general information about and copies of this document. For technical inquiries, contact Jenny Jacobs, Implementation and Assistance Division, Office of Ground Water and Drinking Water (4606), U.S. EPA, 401 M Street, S.W., Washington, DC, 20460. The telephone number is (202) 260–2939 and the e-mail address is jacobs.jenny@epamail.epa.gov. For Regional contacts, see **SUPPLEMENTARY INFORMATION.**

SUPPLEMENTARY INFORMATION:

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Background

1. Statutory Requirements

The Safe Drinking Water Act (SDWA) Amendments of 1996 (Pub. L. 104–182) direct the Administrator of the United States Environmental Protection Agency (EPA), in cooperation with the States, to publish guidelines in the **Federal Register** specifying minimum standards for certification and recertification of operators of community and nontransient noncommunity public water systems. The final guidelines are required to be published by February 6, 1999. States then have two years after publication to adopt and be implementing an operator certification program that meets the requirements of these guidelines. After that date, unless a State has adopted and is implementing an approved program, the Administrator must withhold 20 percent of the funds a State is otherwise entitled to receive in its Drinking Water State Revolving Fund (DWSRF) capitalization grants under section 1452 of SDWA.

All of the requirements contained in these guidelines are to avoid DWSRF capitalization grant withholding. There are no other sanctions for States with operator certification programs that do not meet the requirements of these guidelines.

2. Guideline Development Process

These guidelines are the result of a thorough stakeholder consultation process under which EPA utilized the combined knowledge and expertise of two work groups that it appointed on operator certification. One work group, the State-EPA Work Group, was appointed to fulfill EPA's responsibility under section 1419(a) to publish guidelines on operator certification ''in cooperation with States.'' This work group was composed of seven State and ten EPA representatives. The other work group, the Operator Certification Work Group of the National Drinking Water Advisory Council (NDWAC), also referred to as the Partnership, was formed to provide EPA with views in addition to those of States. This group was composed of 23 members representing public water systems, environmental and public interest advocacy groups, State drinking water program representatives, EPA, U.S. Department of Agriculture, U.S. Public Health Service, Indian Health Service, and other interest groups.

Procedurally, the two groups worked closely together. The Partnership identified potential categories for which minimum standards would be developed. The State-EPA Work Group then developed draft issue papers for these categories. The Partnership and the State-EPA Work Group exchanged reviews of the proposed language on what both groups referred to as ''baseline standards,'' and worked toward achieving consensus on these standards. The baseline standards were then forwarded by the Partnership to the NDWAC. In October 1997, the NDWAC formally transmitted its recommended baseline standards to the EPA. The EPA incorporated the recommendations of the NDWAC into the ''Draft Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems.'' The draft guidelines were published for public comment in the **Federal Register** on March 27, 1998.

The comment period extended for 90 days during which over 90 parties submitted public comments. During the 90-day public comment period, EPA held public stakeholder meetings in San Francisco, CA, Dallas, TX, and Washington, DC, to brief interested parties on the draft guidelines and to accept public comments. The complete response to comments document is available for review at Water Docket (docket #W–98–07), Environmental Protection Agency, Room EB57, 401 M Street, S.W., Washington DC 20460. For access to the Docket materials, call 202–260–3027 between 9:00 a.m. and 3:30 p.m. Eastern Time for an appointment and reference Docket #W–98–07.

In August 1998, both workgroups met to consider the public comments and to make recommendations for finalizing the guidelines based on the public comments. The resulting recommendations were forwarded to the NDWAC for consideration. In November 1998, the NDWAC formally transmitted its recommendations to EPA. The EPA made changes based on the public comments and on the recommendations of its work groups and the NDWAC. These guidelines set the minimum baseline standards for an operator certification program to meet the provisions of the 1996 Amendments to the SDWA. These guidelines were developed to enable states to have flexibility in the implementation and enforcement of program details necessary to administer a successful operator certification program while ensuring the protection of public health.

Response to Comments on Key Certification Issues

1. Public Health Objectives

EPA received a large number of comments in support of the public health objectives as stated in the draft guidelines.

EPA intends to use the public health objectives in its review and evaluation of State operator certification programs and in its determination as to whether the State programs meet the requirements of the guidelines.

2. Operator Testing/Exams

EPA received a number of comments on the type of operator certification exam (e.g., written, oral, performance-based) that should be required by the guidelines. Some commenters felt that written exams should be required to ensure that an operator could read and write. Some commenters felt that other types of exams (e.g., oral, performance-based) may be more appropriate, and therefore, the type of exam should be left up to the State.

EPA believes that the type of test that best measures the knowledge, skills, ability, and judgement of an operator for a particular classification level should be left up to the State that is responsible for the design and administration of the test.

EPA received several comments on the requirement that exams be State-validated. Some commenters asked for clarification.

In the final guidelines, EPA eliminated the word ''State'' from the above phrase. For clarification, EPA included a definition of ''validated exam'' in the final guidelines.

3. Operator Training

Some comments were received supporting the inclusion of specific training requirements in the guidelines while some commenters supported the draft guidelines which allow States to decide what type and amount of training are appropriate for each level of classification.

EPA believes that the type of operator training necessary for each classification level in each State is best determined by the State. The final guidelines do not include specific training requirements; however, EPA will evaluate State training programs as part of its initial and annual review and approval of State operator certification programs.

4. Classification of Operators

A number of comments were received requesting clarification as to which water system personnel must be certified under the guidelines.

The final guidelines require that ''all operating personnel making process control/system integrity decisions about water quality or quantity that affect public health be certified.'' EPA believes that this guideline requirement provides a framework within which States can decide which system personnel must be certified.

5. Grandparenting of Operators

Grandparenting of operators was one of the most heavily commented upon issues. The majority of commenters supported grandparenting in some fashion while several commenters opposed the inclusion of grandparenting in the guidelines. Also, some commenters requested clarification as to whether grandparented operators at renewal had to meet the initial certification requirements or the renewal requirements.

EPA believes that grandparenting may be necessary to allow the many competent operators who have been successfully operating water systems but who can not meet the initial certification requirements to continue to work. Accordingly, grandparenting has been included as an option for States. For States that choose to allow grandparenting, the guidelines specify the following restrictions:

- Grandparenting is permitted only to existing operator(s) in responsible charge of existing systems which, because of State law changes to meet these guidelines, must for the first time have a certified operator.
- The system owner must apply for grandparenting for the operator(s) in responsible charge within two years of the effective date of the State's regulation.
- The certification for the grandparented operator must be site specific and non-transferable to other operators.
- After an operator is grandparented, he or she must, within some time period specified by the State, meet all requirements to obtain certification renewal, including the payment of any necessary fees, acquiring necessary training to meet the renewal requirements, and demonstrating the skills, knowledge, ability and judgement for that classification.
- If the classification of the plant or distribution system changes to a higher level, then the grandparented certification will no longer be valid.
- If a grandparented operator chooses to work for a different water system, he or she must meet the initial certification requirements for that system.

Also, EPA added language that requires States to pay special attention to identify specific certification renewal requirements for grandparented operators to ensure they have the knowledge, skills, ability and judgement to operate the system for which they were grandparented.

A couple of commenters asked that the guidelines be changed to make it the operator's responsibility to apply for grandparenting and not the system's responsibility.

In States which choose to allow a grandparenting provision, application for grandparenting is the responsibility of the system owner because grandparenting is site-specific and non-transferable. Only existing systems which must for the first time have a certified operator because of State law changes to meet these guidelines can apply for grandparenting for existing operators in responsible charge.

6. Renewal Period

EPA received a large number of comments supporting the establishment

of a specific renewal period in the guidelines. Comments were mixed, however, as to the maximum length of time that should be required for renewal.

EPA, in reviewing existing State programs, found that most States already require a certification renewal cycle of three years or less. EPA believes that three years is the maximum amount of time that the guidelines should permit an operator to go before having to take more training as part of the renewal requirements in order to remain current in the field.

7. Categories of Systems

EPA received numerous comments on categorizing/classifying systems. Many of the commenters made recommendations as to the specific criteria that they felt should be used to classify systems. Several commenters suggested that EPA develop a national classification system for water systems while a similar number of commenters suggested EPA allow States to develop their own classification system.

Because all of the States currently have a method for categorizing the water systems within the State, EPA believes that establishing a nationally uniform classification system would be very disruptive with little benefit. The guidelines give the States the responsibility to define the categories of systems. The language in the final guidelines was revised to clarify that the criteria in the guidelines are examples for States to use in classifying systems [i.e., (a) complexity, size, source water for treatment systems, and, (b) complexity, size, for distribution systems].

8. Antibacksliding

EPA received mixed comments on the antibacksliding provision. Several commenters supported antibacksliding while several commenters opposed the provision. For example, one commenter questioned EPA's authority to prevent a State from lessening its existing standards to meet the minimum EPA standards. This commenter felt that EPA has no authority to require a State to do anything else except meet the minimum standard. Also, a couple of commenters felt that the antibacksliding provision enables States to keep their programs intact without undue pressure to lessen standards based on the minimum standards set forth in the guidelines which may not be as stringent.

EPA believes that Congress did not intend for States to weaken their existing operator certification programs if those programs go beyond the minimum federal standards. An antibacksliding provision is, therefore, essential to help these States maintain the kind of operator certification programs that they believe best ensure public health protection. EPA does recognize that there may be situations where it is desirable to lessen a specific standard while making overall improvements to a program and has included a provision to allow States to do this if they can justify the change and get approval from EPA. Finally, EPA believes this provision is authorized by Section 1419(a) of the SDWA which states that EPA must take existing programs into account in developing these guidelines.

9. Exemptions and Certified Operator Availability

EPA received a number of comments both for and against exemptions from the requirement of a certified operator for small water systems. On a related issue, EPA received many comments on the requirement that a designated certified operator be available for each operating shift. A number of commenters expressed the concern that this requirement would be cost prohibitive for small systems and that small systems should be exempt from the requirement to have a certified operator. Some commenters requested clarification as to the meaning of ''available''.

EPA believes that one of the most important benefits of these guidelines will be better training for operators of small systems and consequently, better public health protection for the consumers served by these systems. Historically, compliance problems are much more widespread in smaller systems and it is these systems that may benefit most by training. Congress also recognized this when it established the operator certification provisions. As discussed in the legislative history of these provisions (S. Rep. 104–169, 104th Cong., 1st Sess at 61), Congress was aware that most States already had operator certification programs and that many exempted small systems. Congress was particularly concerned that the lack of operator training and certification for small systems could create compliance problems. In addition, monitoring and sampling done by a trained operator are more likely to produce accurate results and be correctly interpreted. These concerns were central to the enactment of the operator certification provisions. At the same time, Congress also established a provision for reimbursing small system operators for training and certification costs. Considering this, the guidelines do not allow exemptions. EPA does recognize, however, that some small systems provide little or no treatment and that some nontransient noncommunity systems (e.g., schools) may not have distribution systems and that operators of these systems do not need the same type and amount of training that operators of larger systems may need. The guidelines, therefore, provide States with discretion to tailor training requirements consistent with the level of complexity of systems.

The guidelines do not require these systems to have a certified operator on-site full time. States can implement a program that would allow for a circuit rider to be the certified operator for a number of small systems. This flexibility is provided for in the definition of ''available'' that is included in the guidelines. EPA believes that this language will reduce the financial burden on small systems, and allow for the sharing of certified operators in areas with a scarcity of qualified personnel. States have been provided with flexibility in defining ''available'' since its meaning may differ due to the geographic and demographic differences among States.

Some commenters felt that clarification is needed concerning whether or not people who program or maintain telemetry/SCADA systems are required to be certified.

EPA believes that people who program or maintain telemetry/SCADA systems are not operators of water systems and are not required to be certified. However, if anyone who programs or maintains these types of systems is also making process control/system integrity decisions, that person would be required to be certified.

10. Flexible vs. Prescriptive Guidelines

Many of the comments that EPA received supported flexibility for States in implementing the guidelines while many of the comments asked that the guideline requirements be prescribed in greater detail.

EPA believes that these guidelines reflect its efforts to balance the intent for State flexibility with the need for national program accountability.

Submittal Schedule and Withholding Process

EPA is developing a revised submittal schedule and withholding process for State programs and will solicit public comments on the revised approach in the **Federal Register** within the next few months.

Source Water Protection

A fully trained operator, as the on-site professional, should understand the benefits of multiple barriers to prevent

contamination of the sources of public drinking water supplies and should be able to provide important insights into the risks to public water supplies from different, potential sources of contamination. EPA encourages States to include an understanding of drinking water source protection in the training for operators.

Paperwork Reduction Act

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), EPA must obtain approval from the Office of Management and Budget (OMB) to collect the information from the States required under these guidelines. EPA plans to prepare and obtain approval of an Information Collection Request (ICR) for this information. Advance notice of the ICR will be published in the **Federal Register** for public comment before it is submitted to OMB. EPA may not conduct, or sponsor, and a person is not required to submit to a collection of information unless the Agency has OMB approval for collection of the information.

Dated: January 29, 1999.

J. Charles Fox,

Assistant Administrator, Office of Water.

Appendix A: Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems

I. Introduction
II. Operator Certification Guidelines
A. Public Health Objectives
B. Antibacksliding
C. Baseline Standards
1. Authorization
2. Classification of Systems, Facilities, and Operators
3. Operator Qualifications
4. Enforcement
5. Certification Renewal
6. Resources Needed to Implement the Program
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III. Program Submittal Process
A. Submittal Schedule and Withholding Process
1. New Programs.
2. Equivalent Programs
B. Submittal Contents
1. Initial Submittal
2. Subsequent Years
IV. Definitions
V. Acronyms

I. Introduction

These guidelines were developed to meet Section 1419(a) of the Safe Drinking Water Act (SDWA) Amendments of 1996 (Pub. L. 104–182). This section directs the United States Environmental Protection Agency (EPA) to develop guidelines specifying minimum standards for certification and recertification of operators of community and nontransient noncommunity public water systems and to publish final guidelines by February 6, 1999. States have two years after publication to adopt and be implementing an operator certification program that meets the requirements of these guidelines. After that date, unless a State has adopted and is implementing an approved program, the Administrator must withhold 20 percent of the funds a State is otherwise entitled to receive in its Drinking Water State Revolving Fund (DWSRF) capitalization grants under section 1452 of SDWA.

II. Operator Certification Guidelines

A. Public Health Objectives

The public health objectives of the guidelines are to ensure that:

- Customers of any public water system be provided with an adequate supply of safe, potable drinking water.
- Consumers are confident that their water is safe to drink.
- Public water system operators are trained and certified and that they have knowledge and understanding of the public health reasons for drinking water standards.

Ongoing training is necessary to the public health objectives of this program.

B. Antibacksliding

Because these guidelines represent only minimum standards, it is expected that States whose current operator certification program requirements go beyond or exceed these minimum standards not lower their operator certification program requirements. EPA will not approve the operator certification program of any State that reduces its standards below the level that existed 12 months prior to the effective date of these guidelines unless the reduction can be justified by the State and is approved by EPA.

C. Baseline Standards

Each State operator certification program must include as a minimum the essential elements of the nine baseline standards described below. Essential elements to avoid DWSRF withholding are introduced by words such as ''the States must.'' For each essential element, the State must describe how its operator certification program complies with the requirement. Additionally, several of the baseline standards include highly recommended elements that are intended to complement, improve, and expand the parameters of essential elements of an operator certification program. These highly recommended elements are introduced by words such as ''the States should.''

1. Authorization

As evidenced by an Attorney General's certification, or certification from delegated counsel, the State must have the legal authority to implement the program requiring the certification of operators of all community and nontransient noncommunity water systems and to require that the systems comply with the appropriate requirements of the program.

2. Classification of Systems, Facilities, and Operators

A State's program must meet the following requirements:

- It must classify all community and nontransient noncommunity water systems based on indicators of potential health risk, which for example may include: (a) complexity, size, source water for treatment facilities, and (b) complexity, size for distribution systems. It must develop specific operator certification and renewal requirements for each level of classification.
- It must require owners of all community and nontransient noncommunity water systems to place the direct supervision of their water system, including each treatment facility and/or distribution system, under the responsible charge of an operator(s) holding a valid certification equal to or greater than the classification of the treatment facility and/or distribution system.
- It must require, at a minimum, that the operator(s) in responsible charge or equivalent must hold a valid certification equal to or greater than the classification of their water system, including each treatment facility and distribution system, as determined by the State.
- It must require that all operating personnel making process control/system integrity decisions about water quality or quantity that affect public health be certified.
- It must require that a designated certified operator be available for each operating shift.

3. Operator Qualifications

States must require the following for an operator to become certified:

- Take and pass an exam that demonstrates that the operator has the necessary skills, knowledge, ability and judgement as appropriate for the classification. All exam questions must be validated.

• Have a high school diploma or a general equivalency diploma (GED). States may allow experience and/or relevant training to be substituted for a high school diploma or GED. Education, training, or experience that is used to meet this requirement for any class of certification may not be used to meet the experience requirement.

• Have the defined minimum amount of on-the-job experience for each appropriate level of certification. The amount of experience required increases with each classification level. Post high school education may be substituted for experience. Credit may be given for experience in a related field (e.g., wastewater). Experience that is used to meet the experience requirement for any class of certification may not be used to meet the education requirement.

Grandparenting

EPA recognizes that there are many competent small system operators that may not meet the initial requirements to become certified. EPA believes that States may need a transition period to allow these operators to continue to operate the system through ''grandparenting''. It is recommended that grandparenting determinations be based on factors such as system compliance history, operator experience and knowledge, system complexity, and lack of treatment.

If States choose to include a grandparenting provision in their programs, they must include the following requirements:

• Grandparenting is permitted only to existing operator(s) in responsible charge of existing systems which, because of State law changes to meet these guidelines, must for the first time have a certified operator.

• The system owner must apply for grandparenting for the operator(s) in responsible charge within two years of the effective date of the State's regulation.

• The certification for the grandparented operator must be site specific and non-transferable to other operators.

• After an operator is grandparented, he or she must, within some time period specified by the State, meet all requirements to obtain certification renewal, including the payment of any necessary fees, acquiring necessary training to meet the renewal requirements, and demonstrating the skills, knowledge, ability and judgement for that classification.

• If the classification of the plant or distribution system changes to a higher level, then the grandparented certification will no longer be valid.

• If a grandparented operator chooses to work for a different water system, he or she must meet the initial certification requirements for that system.

4. Enforcement

The State agency with primary enforcement responsibility for the Public Water System Supervision (PWSS) Program must have regulations that meet the requirements of these guidelines and require community water systems and nontransient noncommunity water systems to comply with State operator certification requirements. In nonprimacy States, the Governor must determine which State Agency will have this responsibility. States must have appropriate enforcement capabilities, for example: administrative orders, bilateral compliance agreements, criminal or civil administrative penalties, and/or stipulated penalties.

States must have the ability to revoke operator certifications.

States must also have the ability to suspend operator certifications or take other appropriate enforcement action for operator misconduct. Examples of operator misconduct may include: fraud, falsification of application, falsification of operating records, gross negligence in operation, incompetence, and/or failure to use reasonable care or judgement in the performance of duties.

5. Certification Renewal

A State's program must meet the following requirements:

• The State must establish training requirements for renewal based on the level of certification held by the operator.

• States must require all operators including grandparented operators to acquire necessary amounts and types of State approved training. States may determine other requirements as deemed necessary.

• States must have a fixed cycle of renewal not to exceed three years.

• The State must require an individual to recertify if the individual fails to renew or qualify for renewal within two years of the date that the certificate expired.

• States must pay special attention to identify specific renewal requirements for grandparented operators to ensure that they possess the knowledge, skills, ability and judgement to properly operate the system. This must be done by one or more of the following approaches or by an alternative approach approved by EPA.

• States may specify renewal requirements for grandparented operators on a case-by-case basis, taking into consideration factors such as a system's compliance history and operator experience and knowledge. For systems that have a history of being out of compliance, any certification renewal decision should consider whether non-compliance is the result of actions or inactions by the system's owner or the system's operator.

• States may require specific training requirements for certification renewal at the first renewal cycle for grandparented operators. This training should include all of the information covered by the initial certification exam for the system classification level for which the operator was grandparented even though an initial certification exam may not be required for certification renewal.

• States may require operators with grandparented certificates to meet all of the initial certification requirements for the classification level for which the operator was grandparented, and thereby obtain certification within a reasonable time period specified by the State.

6. Resources Needed To Implement the Program

States must provide sufficient resources to adequately fund and sustain the operator certification program (components include, but are not limited to: staff, data management, testing, enforcement, administration, and training approval). EPA recommends that States establish a dedicated fund that is self-sufficient.

7. Recertification

The States must have a process for recertification of individuals whose certification has expired for a period exceeding two years. This process must include: review of the individual's experience and training, and reexamination. An individual is not certified with an expired certificate. The State may develop more stringent requirements for recertification for individuals whose certificates have expired, been revoked, or been suspended.

8. Stakeholder Involvement

Stakeholder involvement is important to the public health objectives of the program. It helps to ensure the relevancy and validity of the program, and the confidence of all interested parties.

States must include ongoing stakeholder involvement in the revision and operations of State operator certification programs. Public comment on rule revisions is not adequate stakeholder involvement. A stakeholder

board or advisory committee is strongly recommended.

Examples of stakeholders may include: operators, environmental/public health groups, the general public, consumer groups, technical assistance providers, utility managers, trainers, etc.

9. Program Review

States must perform reviews of their operator certification programs. EPA recommends that States perform periodic internal reviews and occasional external/peer reviews. Examples of items to review include: regulations, exam items for relevancy and validity, compliance, enforcement, budget and staffing, training relevancy, training needs through examination performance, and data management system.

III. Program Submittal Process

A. Submittal Schedule and Withholding Process

1. New Programs

[Reserved]

2. Equivalent Programs

[Reserved]

B. Submittal Contents

The submittal of operator certification programs to EPA by States must include the following:

1. Initial Submittal

The submittal of operator certification programs to EPA by States must include the following:

- The State Attorney General's certification, or certification from delegated counsel, that the State has the legal authority to implement the program requiring the certification of operators of all community and nontransient noncommunity water systems and to require that the systems comply with the appropriate requirements of the program;
- A full description and explanation of how the State's operator certification program complies with or is substantially equivalent to the requirements of these guidelines; and
- A copy of the State operator certification regulations.

2. Subsequent Years

- All annual program submittals subsequent to the initial submittal must include documentation and evaluation of ongoing program implementation; and
- A new State Attorney General's certification, or certification from delegated counsel, if changes were made to the regulations or statutes and a copy of the revised regulations or statutes.

IV. Definitions

Administrator—Means the Administrator of the United States Environmental Protection Agency.

Available—Based on system size, complexity, and source water quality, a certified operator must be on site or able to be contacted as needed to initiate the appropriate action in a timely manner.

Community Water System (CWS)—A public water system providing water to at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

Distribution System—Any combination of pipes, tanks, pumps, etc. which delivers water from the source(s) and/or treatment facility(ies) to the consumer.

Distribution System Complexity—Examples include: pressure zones, booster stations, storage tanks, fire protection, chlorination, non-residential consumers, cross connection potential, and/or demand variations.

Distribution System Size—Examples include: population served, number of service connections, size of pipes, total distance of pipe, and quantity of water distributed.

Grandparenting—The exemption for the existing operator(s) in responsible charge, as of the effective date of the State's regulation, from meeting the initial education and/or examination requirements for the class of certification the system has been assigned.

Nontransient Noncommunity (NTNC) Water Systems—Is a public water system that is not a community water system and that regularly serves at least 25 of the same persons over six months per year. Common types of NTNC water systems are those serving schools, day care centers, factories, restaurants, and hospitals.

Operating Shift—That period of time during which operator decisions that affect public health are necessary for proper operation of the system.

Primacy—Primary responsibility for administration and enforcement of the primary drinking water regulations and related requirements applicable to public water systems within a State.

Responsible Charge—The Operator(s) in Responsible Charge is defined as the person(s) designated by the owner to be the certified operator(s) who makes decisions regarding the daily operational activities of a public water system, water treatment facility and/or distribution system, that will directly impact the quality and/or quantity of drinking water.

Source Water—Examples include: type (surface water, groundwater, groundwater under the influence of surface water, purchased water), quality (variability), and/or protection (e.g., wellhead protection).

Treatment Facility—Any place(s) where a community water system or nontransient non-community water system alters the physical or chemical characteristics of the drinking water. Chlorination may be considered as a function of a distribution system.

Treatment Facility Complexity—Examples include: difficulty in controlling water quality, potential effect to the consumer and/or safety of the operator.

Treatment Facility Size (capacity)—Examples include: population served, number of service connections, and/or plant flow.

Validated Exam—An exam that is independently reviewed by subject matter experts to ensure that the exam is based on a job analysis and related to the classification of the system or facility.

V. Acronyms

CWS—Community Water System
DWSRF—Drinking Water State Revolving Fund
EPA—United States Environmental Protection Agency
GED—General Equivalency Diploma
NDWAC—National Drinking Water Advisory Council
NTNCWS or NTNC—Nontransient Noncommunity Water System
PWSS—Program Public Water System Supervision Program
SDWA—Safe Drinking Water Act

[FR Doc. 99–2692 Filed 2–4–99; 8:45 am]

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federal register

Friday
February 5, 1999

Part IV

The President

Presidential Determination No. 99–10 of January 25, 1999—Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

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Presidential Documents

Title 3—

The President

Presidential Determination No. 99–10 of January 25, 1999

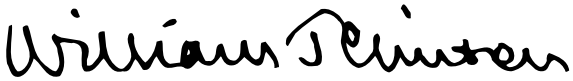
Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

Pursuant to section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(c)(1), I hereby determine that it is important to the national interest that up to $25 million be made available from the U.S. Emergency Refugee and Migration Assistance Fund to meet the urgent and unexpected needs of refugees and migrants.

These funds may be used to meet the urgent and unexpected needs of refugees, displaced persons, victims of conflict, and other persons at risk due to the Kosovo crisis. These funds may be used, as appropriate, to provide contributions to international and nongovernmental organizations.

You are authorized and directed to inform the appropriate committees of the Congress of this determination and the use of funds under this authority, and to arrange for the publication of this determination in the **Federal Register**.



THE WHITE HOUSE,
Washington, January 25, 1999.

[FR Docs 99–3061
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