
Thursday
April 29, 1999

Federal Register

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- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development regulations.
 2. The relationship between the Federal Register and Code of Federal Regulations.
 3. The important elements of typical Federal Register documents.
 4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

- WHEN:** May 18, 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)
- RESERVATIONS:** 202-523-4538



Contents

Federal Register

Vol. 64, No. 82

Thursday, April 29, 1999

Agricultural Marketing Service

RULES

Hazelnuts grown in—
Oregon and Washington, 23011–23014
Olives grown in—
California, 23009–23011

NOTICES

Agency information collection activities:
Proposed collection; comment request, 23048–23049

Agriculture Department

See Agricultural Marketing Service
See Food and Nutrition Service

Antitrust Division

NOTICES

Competitive impact statements and proposed consent judgments:
SBC Communications, Inc. and Ameritech Corp., 23099–23114

Centers for Disease Control and Prevention

NOTICES

Grants and cooperative agreements; availability, etc.:
Human immunodeficiency virus (HIV)—
African Americans; community based prevention projects, 23076–23083

Coast Guard

NOTICES

Committees; establishment, renewal, termination, etc.:
Towing Safety Advisory Committee, 23148

Commerce Department

See Export Administration Bureau
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration

Customs Service

NOTICES

Customhouse broker license cancellation, suspension, etc.:
Trimodal International, Inc., 23161
World Freight Forwarders, Inc., et al., 23161–23162
IRS interest rates used in calculating interest on overdue accounts and refunds, 23162–23163

Defense Department

See Navy Department

Drug Enforcement Administration

NOTICES

Applications, hearings, determinations, etc.:
Mallinckrodt Chemical, Inc., 23114

Employment and Training Administration

NOTICES

Adjustment assistance:
Baker Oil Tools, 23115
Buckeye, Inc., 23115
Buster Brown Apparel, Inc., 23115
Computalog U.S.A., Inc., 23116

Double EE Service, Inc., 23116
General Electric Co., 23116
Johnson & Johnson Medical, Inc., 23116–23117
Longview Fiber Co. et al., 23117
Mitel, Inc., et al., 23117–23118
Motorola, 23118
Motorola Inc., 23118
National Oilwell, 23118
Patterson Drilling Co., 23118–23119
Schlumberger Technology Corp., 23119
Wood Group Pressure Control, 23119
NAFTA transitional adjustment assistance:
Ansell Protective Products, 23119
Ithaca Industries, Inc., 23120
Motorola Inc., 23120
Siebe Appliance Controls et al., 23120–23122

Energy Department

See Federal Energy Regulatory Commission

NOTICES

Environmental statements; availability, etc.:
East Tennessee Technology Park, TN, et al.;
alternative strategies for long-term management and
use of depleted uranium hexafluoride, 23058–23059

Environmental Protection Agency

PROPOSED RULES

Air pollution control; new motor vehicles and engines:
New nonroad spark-ignition engines rated above 19
kilowatts and new land-based recreational spark-
ignition engines, 23030
Water pollution control:
Ocean dumping; site designations—
San Francisco Deep Ocean Disposal Site, CA, 23030–
23036

NOTICES

Agency information collection activities:
Proposed collection; comment request, 23069–23070
Submission for OMB review; comment request, 23071
Air pollution control; new motor vehicles and engines:
Urban buses (1993 and earlier model years); retrofit/
rebuild requirements; equipment certification—
Engelhard Corp., 23072–23074

Equal Employment Opportunity Commission

RULES

Procedural regulations:
Designated and notice agencies; CFR correction, 23019

Executive Office of the President

See Presidential Documents

Export Administration Bureau

NOTICES

Export privileges, actions affecting:
Export Materials, Inc., et al., 23049–23051
Thane-Coat, Inc., et al., 23051–23052

Federal Aviation Administration

RULES

Airworthiness directives:
Bell, 23016–23017

PROPOSED RULES

Class D and Class E airspace, 23028–23029

Federal Communications Commission**RULES**

Radio stations; table of assignments:

Oregon, 23022

PROPOSED RULES

Radio stations; table of assignments:

New Mexico, 23036

Television stations; table of assignments:

Arizona and Nevada, 23036–23037

Federal Energy Regulatory Commission**NOTICES**

Electric rate and corporate regulation filings:

Virginia Electric & Power Co. et al., 23062–23064

Environmental statements; notice of intent:

Questar Southern Trails Pipeline Co., 23065–23068

Hydroelectric applications, 23068–23069

Applications, hearings, determinations, etc.:

Dauphin Island Gathering Partners, 23059–23060

Destin Pipeline Co., L.L.C., 23060

Frontier Gas Storage Co., 23060

Geysers Statutory Trust, 23060

Mid Louisiana Gas Co., 23061

Public Service Co. of New Hampshire, 23061

Sabine Pipe Line Co., 23061–23062

Steam Heat LLC, 23062

Transcontinental Gas Pipe Line Corp., 23062

Federal Highway Administration**NOTICES**

Environmental statements; notice of intent:

Pitkin, Eagle, and Garfield Counties, CO, 23149

Federal Housing Finance Board**RULES**

Affordable housing program operation:

Program requirements clarification, 23014–23016

Federal Maritime Commission**RULES**

Ocean transportation intermediaries; licensing, financial responsibility requirements, and general duties

Correction, 23019–23020

Tariffs and service contracts:

Carrier automated tariff systems, 23020–23022

NOTICES

Agreements filed, etc., 23074

Casualty and nonperformance certificates:

Celebrity Cruises et al., 23074

Seabourn Cruise Line et al., 23075

Federal Reserve System**NOTICES**

Banks and bank holding companies:

Change in bank control, 23075

Formations, acquisitions, and mergers, 23075

Formations, acquisitions, and mergers; correction, 23075

Federal Retirement Thrift Investment Board**NOTICES**

Meetings; Sunshine Act, 23076

Federal Transit Administration**NOTICES**

Environmental statements; notice of intent:

Pitkin, Eagle, and Garfield Counties, CO, 23149

Fish and Wildlife Service**RULES**

Importation, exportation, and transportation of wildlife:

Qualified fur trappers; user fee exemptions, 23022–23025

NOTICES

Endangered and threatened species permit applications, 23095–23096

Food and Drug Administration**RULES**

Animal drugs, feeds, and related products:

Piperazine, 23017–23019

NOTICES

FDA Modernization Act of 1997; implementation:

Mercury compounds in drugs and food; comment and data request, 23083–23086

Human drugs:

Patent extensions; regulatory review period determinations—

Amerge, 23086

Meetings:

Medical Devices Advisory Committee, 23087

Food and Nutrition Service**NOTICES**

Agency information collection activities:

Proposed collection; comment request, 23049

Foreign-Trade Zones Board**NOTICES**

Applications, hearings, determinations, etc.:

Louisiana, 23052–23053

Health and Human Services Department

See Centers for Disease Control and Prevention

See Food and Drug Administration

See Health Care Financing Administration

See National Institutes of Health

See Substance Abuse and Mental Health Services Administration

Health Care Financing Administration**NOTICES**

Agency information collection activities:

Submission for OMB review; comment request, 23087–23088

Housing and Urban Development Department**NOTICES**

Agency information collection activities:

Proposed collection; comment request, 23092–23094

Indian Affairs Bureau**NOTICES**

Tribal-State Compacts approval; Class III (casino) gambling:

Menominee Indian Tribe of Wisconsin, 23096

Interior Department

See Fish and Wildlife Service

See Indian Affairs Bureau

See Land Management Bureau

See Minerals Management Service

International Trade Administration**NOTICES**

Antidumping:

Carbon steel wire rod from—
Argentina, 23053

Polyester staple fiber from—
 Korea and Taiwan, 23053–23056
 Silicon metal from—
 Argentina, 23056
 Countervailing duties:
 Cut-to-length carbon-quality steel plate from—
 Various countries, 23057
Applications, hearings, determinations, etc.:
 Commerce Department, Pacific Marine Center, WA, et al.,
 23056–23057
 North Carolina State University, 23057

International Trade Commission

NOTICES

Import investigations:
 Agricultural tractors under 50 power take-off horsepower,
 23098–23099

Justice Department

See Antitrust Division

See Drug Enforcement Administration

RULES

Freedom of Information Act; implementation:
 Production or disclosure of material or information; CFR
 correction, 23019

Labor Department

See Employment and Training Administration

See Labor Statistics Bureau

Labor Statistics Bureau

NOTICES

Agency information collection activities:
 Proposed collection; comment request, 23122–23126

Land Management Bureau

NOTICES

Closure of public lands:
 Idaho, 23096
 Management framework plans, etc.:
 Utah, 23096–23097
 Motor vehicle use restrictions:
 Oregon, 23097

Minerals Management Service

PROPOSED RULES

Outer Continental Shelf; oil, gas, and sulphur operations:
 Lessee and contractor employees training program
 Public workshop, 23029–23030

NOTICES

Environmental statements; availability, etc.:
 Western Gulf of Mexico OCS—
 Lease sales, 23097–23098

National Credit Union Administration

NOTICES

Agency information collection activities:
 Proposed collection; comment request, 23126–23127

National Highway Traffic Safety Administration

PROPOSED RULES

Motor vehicle safety standards:
 Occupant crash protection—
 Child restraint systems; head excursion requirement for
 rear-facing convertible restraints; petition denied,
 23037–23039

NOTICES

Fuel economy program, automotive; annual report to
 Congress, 23149–23161

National Institutes of Health

NOTICES

Meetings:

National Cancer Institute, 23088
 National Heart, Lung, and Blood Institute, 23088
 National Institute of Environmental Health Sciences,
 23089
 National Institute on Alcohol Abuse and Alcoholism,
 23089
 National Institute on Deafness and Other Communication
 Disorders, 23088–23089
 Scientific Review Center, 23090–23091

National Oceanic and Atmospheric Administration

RULES

Fishery conservation and management:
 Caribbean, Gulf, and South Atlantic fisheries—
 Red snapper, 23026

PROPOSED RULES

Fishery conservation and management:
 Caribbean, Gulf, and South Atlantic fisheries—
 Gulf of Mexico shrimp, 23039–23047

National Science Foundation

NOTICES

Meetings:

Biological Infrastructure Advisory Panel, 23127–23128
 Biomolecular Processes Advisory Panel, 23128
 Experimental and Integrative Activities Committee of
 Visitors, 23128
 Infrastructure, Methods, and Science Studies Advisory
 Panel, 23128–23129
 Physics Special Emphasis Panel, 23129

Navy Department

NOTICES

Environmental statements; availability, etc.:
 Base realignment and closure—
 Naval Air Station Alameda et al., CA, 23057–23058

Nuclear Regulatory Commission

NOTICES

Environmental statements; availability, etc.:
 Florida Power & Light Co., Inc., 23133–23136
 Wolf Creek Nuclear Operating Corp., 23136
 Export and import license applications for nuclear facilities
 or materials:
 Aldrich Chemical Co., 23137
 Petitions; Director's decisions:
 North Atlantic Energy Service Corp. et al., 23137
Applications, hearings, determinations, etc.:
 Indiana Michigan Power Co., 23129–23131
 Northern States Power Co., 23131–23133

Presidential Documents

EXECUTIVE ORDERS

Armed Forces, U.S.; ordering members of the Selected
 Reserve and the Individual Ready Reserve to active
 duty (EO 13120), 23007

Public Health Service

See Centers for Disease Control and Prevention
 See Food and Drug Administration
 See National Institutes of Health
 See Substance Abuse and Mental Health Services
 Administration

Railroad Retirement Board**NOTICES**

Agency information collection activities:

Proposed collection; comment request, 23137-23138

Securities and Exchange Commission**NOTICES**

Self-regulatory organizations; proposed rule changes:

American Stock Exchange LLC, 23138-23142

New York Stock Exchange, Inc., 23142-23143

Philadelphia Stock Exchange, Inc., 23144-23145

Small Business Administration**PROPOSED RULES**

Organization, functions, and authority delegations:

Disaster Area Counsel et al.; administrative claims approval, denial, etc., 23027-23028

Social Security Administration**NOTICES**

Agency information collection activities:

Submission for OMB review; comment request, 23145

State Department**NOTICES**

Arms Export Control Act:

Export licenses; Congressional notifications, 23145-23147

Lethal military equipment; sanctions:

Russia, 23148

Substance Abuse and Mental Health Services Administration**NOTICES**

Grants and cooperative agreements; availability, etc.:

Predictor variables by developmental stage grantees and research coordinating center, 23091-23092

Transportation Department

See Coast Guard

See Federal Aviation Administration

See Federal Highway Administration

See Federal Transit Administration

See National Highway Traffic Safety Administration

Treasury Department

See Customs Service

Veterans Affairs Department**NOTICES**

Privacy Act:

Computer matching programs, 23163

Reader Aids

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR**Executive Orders:**

13120.....23007

7 CFR

932.....23009

982.....23011

12 CFR

960.....23014

13 CFR**Proposed Rules:**

114.....23027

14 CFR

39.....23016

Proposed Rules:

71.....23028

21 CFR

520.....23017

556.....23017

28 CFR

16.....23019

29 CFR

1601.....23019

30 CFR**Proposed Rules:**

250.....23029

40 CFR**Proposed Rules:**

83.....23030

228.....23030

46 CFR

510.....23019

515.....23019

520.....23020

583.....23019

47 CFR

73.....23022

Proposed Rules:

73 (2 documents)23036

49 CFR**Proposed Rules:**

571.....23037

50 CFR

14.....23022

622.....23026

Proposed Rules:

622.....23039

Presidential Documents

Title 3—**Executive Order 13120 of April 27, 1999****The President****Ordering the Selected Reserve and Certain Individual Ready Reserve Members of the Armed Forces to Active Duty**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 121 and 12304 of title 10, United States Code, I hereby determine that it is necessary to augment the active armed forces of the United States for the effective conduct of operations in and around the former Yugoslavia related to the conflict in Kosovo. Further, under the stated authority, I hereby authorize the Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Department of the Navy, under their respective jurisdictions, to order to active duty any units, and any individual members not assigned to a unit organized to serve as a unit, of the Selected Reserve, or any member in the Individual Ready Reserve mobilization category and designated as essential under regulations prescribed by the Secretary concerned, and to terminate the service of those units and members ordered to active duty.

This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.



THE WHITE HOUSE,
April 27, 1999.

Rules and Regulations

Federal Register

Vol. 64, No. 82

Thursday, April 29, 1999

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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Docket No. FV99-932-2 FIR]

Olives Grown in California; Modification to Handler Membership on the California Olive Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule modifying the handler membership on the California Olive Committee (committee). The committee locally administers the California olive marketing order (order) which regulates the handling of olives grown in California. The committee is composed of 16 industry members of which 8 are producers and 8 are handlers. Previously, handler membership was allocated between cooperative marketing organizations and independent handlers (handlers not affiliated with cooperatives), and the number of handler members who may have been affiliated with any one handler was limited to two. This rule continues in effect the removal of the distinction between cooperative and independent handlers, continues in effect the removal of the limitation on handler affiliation, and continues in effect the reallocation of handler membership on the basis of the total quantity of olives handled. These modifications will allow two vacant handler member positions on the committee to be filled. This rule was unanimously recommended by the committee.

EFFECTIVE DATE: June 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Terry Vawter, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487-5901, Fax: (559) 487-5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525-S, PO Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491; Fax: (202) 720-5698. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 96456, room 2525-S, Washington, DC 20090-6456; telephone: (202) 720-2491; Fax: (202) 720-5698, or E-mail: Jay.Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: <http://www.ams.usda.gov/fv/moab.html>.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 148 and Order No. 932, both as amended (7 CFR part 932), regulating the handling of olives grown in California, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the

order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Section 932.25 of the order provides for the establishment of the committee to locally administer the terms and provisions of the order. The committee is composed of 16 industry members, each with an alternate. Of the 16 industry members, 8 are producers and 8 are handlers. This section also specifies how the handler membership on the committee is allocated. Authority is provided for the committee, with the approval of the Secretary, to change the allocation of both producer and handler members as may be necessary to assure equitable representation.

Section 932.159 of the administrative rules and regulations provides that two members shall represent cooperative marketing organizations and six members shall represent handlers who are not cooperative marketing organizations. In addition, § 932.160 limits to two the number of handler members that may be affiliated with the same handler.

The committee met on December 10, 1998, and unanimously recommended modifying the rules and regulations to remove the distinction between cooperative and independent handlers, and increase the limitation on the number of handler members that may be affiliated with the same handler. It also unanimously recommended that the two handlers who handled the largest and second largest total volume of olives during the crop year in which nominations are made and the preceding crop year be represented by three members each, and that the third largest handler be represented by two members. This rule continues in effect the modification of the committee's handler membership to reflect changes within the handler segment of the industry, and to enable the committee to operate at full strength; i.e., with all eight handler and producer positions filled.

The structure of the olive industry has changed over the years and the number of handlers, both cooperative and independent, has decreased. At one time, there were a number of cooperative marketing organizations and independent handlers and the committee's structure was designed so that four of the eight handler seats were held by cooperatives and four were held by independents. This representation was also weighted by the volume of olives handled so that if one group, either cooperatives or independents, handled 65 percent or more of the total industry's volume handled during the nominating crop year and the preceding crop year, that group would have five seats on the committee and the other group would have three seats.

In 1993, handler membership on the committee was reallocated to reflect changes within the industry. The number of industry handlers declined to only five handlers—one cooperative and four independents. At that time, § 932.159 of the order's rules and regulations was modified to reapportion handler membership to provide cooperative handlers with two seats on the committee and independent handlers with six seats.

Since 1993, the number of handlers in the olive industry has continued to decline. Today there are three handlers remaining—one cooperative and two independents. Because there is only one existing cooperative, the committee believes that the distinction regarding cooperative and independent handlers on the committee is no longer appropriate or necessary.

Additionally, prior to the issuance of the interim final rule, § 932.160 specified that no more than two nominees for member and alternate member positions may be affiliated with the same handler. Because there are only three handlers remaining in the industry, this restriction resulted in two vacant handler positions on the committee that could not be filled.

To allow these positions to be filled and enable the committee to operate at full strength, the committee recommended that § 932.159 be revised to eliminate the distinction between cooperative marketing organizations and independent handlers (or handlers not affiliated with a cooperative marketing organization). It also recommended that the eight handler seats on the committee be reallocated based on the total volume of olives handled during the crop year in which nominations are made and the preceding crop year, with the handlers handling the first and second largest volume being represented with three members each, and the remaining

handler being represented with two members.

The reallocation of handler membership in § 932.159 makes the two-nominee limitation on affiliation with the same handler specified in § 932.160 unnecessary, and that section is continued to be removed.

These changes are designed to modify the committee's handler membership to reflect structural changes within the handler segment of the industry, and to remove the former barriers to filling the two vacant handler positions on the committee.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are 3 handlers of California olives who are subject to regulation under the marketing order and approximately 1,200 olive producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$500,000. None of the olive handlers may be classified as small entities.

Based on a review of historical and preliminary price and marketing information, total grower revenue for the 1998–99 crop year (August 1 through July 31) is estimated to be approximately \$39,500,000, and the average grower revenue will be approximately \$33,000. Thus, it can be concluded that the majority of producers of California olives may be classified as small entities.

This rule continues in effect the modification of the order's administrative rules and regulations regarding the structure of handler membership on the committee. The committee locally administers the order and is composed of 16 industry members. Eight of the 16 industry members are producers and 8 are handlers. Previously, handler membership provisions distinguished

between cooperative marketing organizations and independent handlers specifying that two members shall represent cooperative marketing organizations and six members shall represent handlers who are not cooperative marketing organizations. The handler nominee provisions also specified that no more than two nominees for handler member and alternate member positions may be affiliated with the same handler.

This rule also continues in effect the modification of the order's rules and regulations to remove the distinction between cooperative and independent handlers, and to specify that the number of members representing each of the three currently existing industry handlers shall be based on the total volume of olives handled during the nominating crop year and the preceding crop year, with the two handlers handling the largest and second largest volume of olives represented by three members and alternates each, and the remaining handler represented by two members and alternates. In addition, this rule continues in effect the removal of provisions limiting the number of members to which each handler is entitled because the limitation is no longer necessary. The changes were unanimously recommended by the committee and are intended to modify the committee's handler membership to reflect structural changes within the handler segment of the industry, and to remove former barriers to filling two vacant handler positions on the committee. Authority for this rule is provided in § 932.25 which allows the committee, with the approval of the Secretary, to reallocate the committee's producer or handler membership as necessary to assure equitable representation.

Continuing in effect the removal of the distinction between cooperative and independent handlers will not have any impact on handlers or producers in the California olive industry.

One alternative to this rule discussed at the meeting was to leave the language in § 932.159 unchanged; however, the committee believed that the distinction between cooperative and independent was no longer appropriate, because there is only one existing cooperative in the industry and two independent handlers. Another alternative discussed at the meeting was to leave § 932.160 of the order's rules and regulations unchanged so that only two members may be affiliated with the same handler, but with only three handlers currently in the industry that would have resulted in uneven representation between growers with eight members and

handlers with six members, and would have failed to assure equitable representation on the committee as is required pursuant to § 932.25.

This rule will not impose any additional reporting or recordkeeping requirements on any of the three olive handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, as noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the committee's meeting was widely publicized throughout the olive industry and all interested persons were invited to attend the meeting and participate in committee deliberations on all issues. Like all committee meetings, the December 10, 1998, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. All three industry handlers are currently represented on the committee and participated in the deliberations.

An interim final rule concerning this action was published in the **Federal Register** on January 28, 1999. The committee staff advised each handler of such publication by personal contact. In addition, the rule was made available through the Internet by the Office of the Federal Register. That rule provided a 60-day comment period, which ended March 29, 1999. No comments were received.

After consideration of all relevant material presented, including the committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (64 FR 4286), will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

PART 932—OLIVES GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 932 which was published at 64 FR 4286 on January 28, 1999, is adopted as a final rule without change.

Dated: April 21, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99-10773 Filed 4-28-99; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 982

[Docket No. FV99-982-1 FIR]

Hazelnuts Grown in Oregon and Washington; Establishment of Final Free and Restricted Percentages for the 1998-99 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule which established interim and final free and restricted percentages for domestic inshell hazelnuts for the 1998-99 marketing year under the Federal marketing order for hazelnuts grown in Oregon and Washington. The percentages allocate the quantity of domestically produced hazelnuts which may be marketed in the domestic inshell market. The percentages are intended to stabilize the supply of domestic inshell hazelnuts to meet the limited domestic demand for such hazelnuts and provide reasonable returns to producers. This rule was recommended unanimously by the Hazelnut Marketing Board (Board), which is the agency responsible for local administration of the order.

EFFECTIVE DATE: June 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, 1220 SW Third Avenue, Room 369, Portland, OR 97204; telephone: (503) 326-2724, Fax: (503) 326-7440 or George J. Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698, or E-mail: Jay.Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: <http://www.ams.usda.gov/fv/moab.html>.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 115 and Order No. 982, both as amended (7 CFR part 982), regulating the handling of hazelnuts grown in Oregon and Washington, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is intended that this rule apply to all merchantable hazelnuts handled during the 1998-99 marketing year (July 1, 1998, through June 30, 1999). This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues in effect marketing percentages which allocate the quantity of inshell hazelnuts that may be marketed in domestic markets. The Board is required to meet prior to September 20 of each marketing year to compute its marketing policy for that year and compute and announce an inshell trade demand if it determines that volume regulations would tend to effectuate the declared policy of the Act. The Board also computes and announces preliminary free and restricted percentages for that year.

The inshell trade demand is the amount of inshell hazelnuts that handlers may ship to the domestic market throughout the marketing season. The order specifies that the inshell trade demand be computed by averaging the preceding three "normal"

years' trade acquisitions of inshell hazelnuts, rounded to the nearest whole number. The Board may increase the three-year average by up to 25 percent, if market conditions warrant an increase. The Board's authority to recommend volume regulations and the computations used to determine the percentages are specified in § 982.40 of the order.

The National Agricultural Statistics Service (NASS) estimated hazelnut production at 16,500 tons for the Oregon and Washington area. The majority of domestic inshell hazelnuts are marketed in October, November, and December. By November, the marketing season is well under way.

The quantity marketed is broken down into free and restricted percentages to make available hazelnuts which may be marketed in domestic inshell markets (free) and hazelnuts which must be exported, shelled, or otherwise disposed of by handlers (restricted). The preliminary free percentage releases 80 percent of the adjusted inshell trade demand. The preliminary free percentage is expressed as a percentage of the total supply subject to regulation (supply) and is based on the preliminary crop estimate.

At its August 27, 1998, meeting, the Board computed and announced

preliminary free and restricted percentages of 18 percent and 82 percent, respectively. The Board used the NASS crop estimate of 16,500 tons. The purpose of releasing only 80 percent of the inshell trade demand under the preliminary percentage was to guard against an underestimate of crop size. The preliminary free percentage released 2,763 tons of hazelnuts from the 1998 supply for domestic inshell use. The preliminary restricted percentage of the 1998 supply for export and kernel markets totaled 12,623 tons.

Under the order, the Board must meet a second time, on or before November 15, to recommend interim final and final percentages. The Board uses current crop estimates to calculate interim final and final percentages. The interim final percentages are calculated in the same way as the preliminary percentages and release the remaining 20 percent (to total 100 percent of the inshell trade demand) previously computed by the Board. Final free and restricted percentages may release up to an additional 15 percent of the average of the preceding three years' trade acquisitions to provide an adequate carryover into the following season; (i.e., desirable carryout). The final free and restricted percentages must be

effective by June 1, at least 30 days prior to the end of the marketing year, June 30. The final free and restricted percentages can be made effective earlier, if recommended by the Board and approved by the Secretary. Revisions in the marketing policy can be made until February 15 of each marketing year, but the inshell trade demand can only be revised upward, consistent with § 982.40(e).

The Board met on November 12, 1998, and reviewed and approved an amended marketing policy and recommended the establishment of final free and restricted percentages. The Board decided that market conditions were such that immediate release of an additional 15 percent for desirable carryout would not adversely affect the 1998-99 domestic inshell market. Accordingly, no interim final free and restricted percentages were recommended. Final percentages were recommended at 30 percent free and 70 percent restricted. The final percentages released 4,115 tons of inshell hazelnuts from the 1998 supply for domestic use.

The final marketing percentages are based on the Board's final production estimate (14,500 tons) and the following supply and demand information for the 1998-99 marketing year:

	Tons	
Inshell Supply:		
(1) Total production (Board's estimate)		14,500
(2) Less substandard, farm use (disappearance)		1,077
(3) Merchantable production (Board's adjusted crop estimate; Item 1 minus Item 2)		13,423
(4) Plus undeclared carryin as of July 1, 1997, subject to regulation		120
(5) Supply subject to regulation (Item 3 plus Item 4)		13,543
Inshell Trade Demand:		
(6) Average trade acquisitions of inshell hazelnuts for three prior years		4,408
(7) Less declared carryin as of July 1, 1997, not subject to regulation		954
(8) Adjusted Inshell Trade Demand		3,454
(9) Desirable carryout on August 31, 1999 (15 percent of Item 6)		661
(10) Adjusted Inshell Trade Demand plus desirable carryout (Item 8 plus Item 9)		4,115
	Percentages	
(11) Final percentages (Item 10 divided by Item 5) × 100		30 70
		Free Restricted

In addition to complying with the provisions of the order, the Board also considered the Department's 1982 "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" (Guidelines) when making its computations in the marketing policy. This volume control regulation provides a method to collectively limit the supply of inshell hazelnuts available for sale in domestic markets. The Guidelines provide that the domestic inshell market has available a quantity equal to 110 percent of prior years'

shipments before secondary market allocations are approved. This provides for plentiful supplies for consumers and for market expansion, while retaining the mechanism for dealing with oversupply situations. The established final percentages are based on the final inshell trade demand, and will make available an additional 661 tons for desirable carryout. The total free supply for the 1998-99 marketing year is 5,069 tons of hazelnuts, which is the final trade demand of 4,408 tons plus the 661 tons for desirable carryout. This amount

is 115 percent of prior years' sales and exceeds the goal of the Guidelines.

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 800 producers of hazelnuts in the production area and approximately 22 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. Using these criteria, virtually all of the producers are small agricultural producers and an estimated 19 of the 22 handlers are small agricultural service firms. In view of the foregoing, it can be concluded that the majority of hazelnut producers and handlers may be classified as small entities.

Many years of marketing experience led to the development of the current volume control procedures. These procedures have helped the industry solve its marketing problems by keeping inshell supplies in balance with domestic needs. The current volume control procedures fully supply the domestic inshell market while preventing oversupplies in that market.

Inshell hazelnuts sold to the domestic market provide higher returns to the industry than are obtained from shelling. The inshell market is inelastic and is characterized as having limited demand and being prone to oversupply.

Industry statistics show that total hazelnut production has varied widely over the last 10 years, from a low of 13,000 tons in 1989 to a high of 47,000 tons in 1997. Average production has been around 27,000 tons. While crop size has fluctuated, the volume regulations contribute toward orderly marketing and market stability, and help moderate the variation in returns for all producers and handlers, both large and small. For instance, production in the shortest crop year (1989) was 48 percent of the 10-year average (1988–1997). Production in the biggest crop year (1997) was 173 percent of the 10-year average. The percentage releases provide all handlers with the opportunity to benefit from the most profitable domestic inshell market. That market is available to all handlers, regardless of handler size.

NASS statistics show that the producer price per pound has increased over the last 5 years, from \$.32 in 1993 to \$.45 in 1997.

The Board discussed the only alternative to volume regulation percentages which was not to regulate. Without any regulations in effect, the Board believes that the industry would oversupply the inshell domestic market. Although the 1998 hazelnut crop is much smaller than last year, the release of 14,500 tons on the domestic inshell market would cause producer returns to decrease drastically, and completely disrupt the market.

While the level of benefits of this rulemaking is difficult to quantify, the stabilizing effects of the volume regulations impact both small and large handlers positively by helping them maintain and expand markets even though hazelnut supplies fluctuate widely from season to season.

Hazelnuts produced under the order comprise virtually all of the hazelnuts produced in the United States. This production represents, on average, less than 5 percent of total U.S. tree nut production, and less than 5 percent of the world's hazelnut production.

This volume control regulation provides a method for the U.S. hazelnut industry to limit the supply of domestic inshell hazelnuts available for sale in the United States. Section 982.40 of the order establishes a procedure and computations for the Board to follow in recommending to the Secretary the release of preliminary, interim final, and final quantities of hazelnuts to be released to the free and restricted markets each marketing year. The program results in plentiful supplies for consumers and for market expansion while retaining the mechanism for dealing with oversupply situations.

Currently, U.S. hazelnut production can be successfully allocated between the inshell domestic and secondary markets. One of the best secondary markets for hazelnuts is the export market. Inshell hazelnuts produced under the marketing order compete well in export markets because of quality. Europe, and Germany in particular, is historically the primary world market for U.S. produced inshell hazelnuts, although China was the largest importer in 1997–98. A third market is for shelled hazelnuts sold domestically. Domestically produced kernels generally command a higher price in the domestic market than imported kernels. The industry is continuing its efforts to develop and expand secondary markets, especially the domestic kernel market. Small business entities, both producers and handlers, benefit from the expansion efforts resulting from this program.

This rule will not impose any additional reporting or recordkeeping

requirements on either small or large hazelnut handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, as noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Board's meeting was widely publicized throughout the hazelnut industry and all interested persons were invited to attend the meeting and encouraged to participate in Board deliberations. Like all Board meetings, the November 12, 1998, meeting was a public meeting held in a location central to the production area and all entities, both large and small, were able to express their views on this issue. Thus, Board recommendations can be considered to represent the interests of small business entities in the industry. The Board itself is composed of 10 members, of which four are handlers, five are growers, and one is a public member.

An interim final rule concerning this action was published in the **Federal Register** on January 14, 1999. Copies of the rule were mailed by the Board's staff to all Board members and hazelnut handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register. That rule provided for a 60-day comment period which ended March 15, 1999. No comments were received.

After consideration of all relevant material presented, including the Board's recommendation and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (64 FR 2422, January 14, 1999) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, 7 CFR part 982 is amended as follows:

PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON

Accordingly, the interim final rule amending 7 CFR part 982 which was published at 64 FR 2422 on January 14, 1999, is adopted as a final rule without change.

Dated: April 21, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99-10772 Filed 4-28-99; 8:45 am]

BILLING CODE 3410-02-P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 960

[No. 99-25]

RIN 3069-AA-73

Amendment of Affordable Housing Program Regulation

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is adopting as final, with several changes, the Interim Final Rule which amended its regulation governing the operation of the Affordable Housing Program (AHP or Program) to make certain technical revisions clarifying Program requirements and improving the operation of the AHP.

EFFECTIVE DATE: The final rule shall be effective on June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Richard Tucker, Deputy Director, (202) 408-2848, or Janet M. Fronckowiak, Associate Director, (202) 408-2575, Program Assistance Division, Office of Policy, Research and Analysis; or Sharon B. Like, Senior Attorney-Advisor, (202) 408-2930, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Regulatory Background

On August 4, 1997, the Finance Board published a final rule adopting comprehensive revisions to the AHP regulation, see 12 CFR part 960, which, among other changes, authorized the 12 Federal Home Loan Banks (Banks), rather than the Finance Board, to approve applications for AHP subsidies beginning January 1, 1998. See 62 FR 41812 (Aug. 4, 1997) (1997 AHP Regulation). On May 20, 1998, the Finance Board published an Interim Final Rule amending the 1997 AHP Regulation to make certain technical revisions clarifying Program requirements and improving the operation of the AHP. See 63 FR 27668 (May 20, 1998). The Interim Final Rule provided for a 60-day comment period.

The Finance Board received nine comment letters on the Interim Final

Rule. Commenters included: three Banks, two Bank Advisory Councils, one Bank member, and one financial institutions trade association. Because the purpose of the Interim Final Rule was to make certain technical clarifying revisions, comments that raised issues beyond the scope of the Interim Final Rule changes are not addressed in this final rule, but will be considered by the Finance Board in any future rulemaking under the AHP. The provisions of the Interim Final Rule on which significant comments were received are discussed below.

II. Analysis of Final Rule

A. Minimum Credit Product Usage Limit—§§ 960.5(b)(10)(i)(C), (ii)

Section 960.5(b)(10)(i)(C) of the 1997 AHP Regulation authorized a Bank, in its discretion, after consultation with its Advisory Council, to establish a requirement that a member submitting an AHP application have made use of “a credit product” offered by the Bank, other than AHP or Community Investment Program (CIP) credit products, within the previous 12 months (single credit product usage limit). One of the arguments the Finance Board considered in determining to allow imposition of such a limit was that AHP subsidies are derived from a Bank’s earnings and, therefore, fairness suggests that availability of subsidies may be linked to the extent to which a member contributes to the Bank’s earnings through the single purchase of a Bank credit product. The Finance Board determined, after weighing the arguments, that giving the Banks the discretion, after consultation with their Advisory Councils, to adopt a single credit product usage limit would enable the Banks to be most responsive to the needs and views in their Districts. However, in the course of the Banks’ implementation of this change under the AHP, the Banks indicated to the Finance Board that a member’s single use of a Bank credit product does not make a meaningful contribution to Bank earnings, from which AHP subsidies are derived. The Banks argued instead for authority to adopt a credit product usage limit based on the member’s use of a *minimum amount* of a Bank’s credit product. The Banks also proposed that the required level of credit product usage be linked to a member’s asset size.

In response to these arguments, the Interim Final Rule revised § 960.5(b)(10)(i)(C) to permit a Bank, after consultation with its Advisory Council, to establish a requirement that a member submitting an AHP application must have made use of a

minimum amount of a credit product offered by the Bank, other than AHP or CIP credit products, within the previous 12 months, provided that such a minimum threshold for credit product usage established by a Bank shall not exceed 1.5 percent of the member’s total assets, and all members shall have access to some amount of AHP subsidy, as determined by the Bank, regardless of whether they meet the Bank’s minimum threshold for credit product usage (minimum credit product usage limit).

Two commenters opposed this change, for some of the same reasons evaluated and discussed by the Finance Board in the 1997 AHP rulemaking. See 61 FR 57799, 57808-09 (Nov. 8, 1996); 62 FR 41812, 41819 (August 4, 1997); see also, 60 FR 55487, 55490-91 (Nov. 1, 1995). The commenters have not presented new arguments that were not considered by the Finance Board in the 1997 AHP rulemaking. The Finance Board continues to believe that the Banks should have the discretion, after consultation with their Advisory Councils, to adopt a minimum credit product usage limit as appropriate based on the needs and views in the Bank’s District. Accordingly, the minimum credit product usage limit provision contained in the Interim Final Rule is adopted without change in the final rule.

The Interim Final Rule also clarified in § 960.5(b)(10)(ii) that “[a]ny limit on the amount of AHP subsidy available per member must result in equal amounts of AHP subsidy available to all members.” This requirement is intended to ensure that such limits are not structured or applied in a discriminatory manner. A commenter pointed out that, under a technical reading of this language, a Bank would have to make an equal amount of AHP subsidy available to all members, regardless of whether the member meets the minimum threshold requirement for credit product usage. This was not the intent of the amended language in § 960.5(b)(10)(ii). Accordingly, the language has been clarified in the final rule to provide that any limit on the amount of AHP subsidy available per member must result in equal amounts of AHP subsidy available to all members receiving subsidy pursuant to such limit.

B. Procedure for Approval of Applications for Funding—§ 960.6

1. Scoring Criterion for Use of Donated Government-Owned or Other Properties—§ 960.6(b)(4)(iv)(A)

Under § 960.6(b)(4)(iv)(A) of the Interim Final Rule, an application may

receive scoring points if it involves the creation of housing using a significant proportion of units or land donated or conveyed for a nominal price by the federal government or any agency or instrumentality thereof, or by any other party. The Interim Final Rule added language to § 960.6(b)(4)(iv)(A) clarifying that a "nominal price" is a small, negligible amount, most often one dollar, and may be accompanied by modest expenses related to the conveyance of the property.

A commenter objected to the definition of "nominal price," stating that it should be defined as up to 10 percent of the fair market value of the units or land. By defining "nominal price" as "most often one dollar," the Interim Final Rule left some discretion to the Banks to determine, on a case-by-case basis, whether a price higher than one dollar may qualify as nominal. The Finance Board continues to believe that this case-specific approach is preferable to establishing a general standard in the regulation that would apply to all transactions anywhere in the country, regardless of possible variances in what may be considered nominal from region to region and transaction to transaction. Accordingly, the comment is not adopted in the final rule.

Another commenter stated that the term "modest expenses" should be defined. Again, the Finance Board believes that a case-specific approach is more appropriate than establishing a national standard for the definition of "modest expenses." Accordingly, the final rule does not define the term, leaving it to the discretion of each Bank to determine what are modest conveyance expenses for particular transactions in its District.

2. Scoring Criterion for Housing for Homeless Households— § 960.6(b)(4)(iv)(D)

Under § 960.6(b)(4)(iv)(D) of the Interim Final Rule, an application may receive scoring points if it involves "[t]he creation of rental housing reserving at least 20 percent of the units for homeless households, or the creation of transitional housing for homeless households permitting a minimum of six months occupancy." See 12 CFR 960.6(b)(4)(iv)(D). The Interim Final Rule omitted the express exclusion of overnight shelters contained in the 1997 AHP Regulation, because it is clear that overnight shelters do not come within the category of housing permitting a minimum of six months occupancy. The Interim Final Rule also clarified that "rental projects," as defined in § 960.1, include overnight shelters. The intention was to make clear that while

overnight shelters are eligible for AHP funding, they may not receive scoring points under § 960.6(b)(4)(iv)(D). However, by defining "rental projects" to include overnight shelters, the Interim Final Rule unintentionally made overnight shelters eligible for such scoring points under the first clause dealing with rental projects. Accordingly, the final rule revises the first clause in § 960.6(b)(4)(iv)(D) to expressly exclude overnight shelters for homeless households.

3. Scoring Criterion for Economic Diversity—§ 960.6(b)(4)(iv)(F)(8)

The Interim Final Rule revised the second alternative requirement in § 960.6(b)(4)(iv)(F)(8) to provide that applications may receive scoring points for "Economic Diversity" if they involve the creation of housing that provides very low- or low- or moderate-income households with housing opportunities in neighborhoods or cities where the median income *exceeds* the median income for the larger surrounding area—such as the city, county, or Primary Metropolitan Statistical Area—in which the neighborhood or city is located. The general intent of this requirement is to promote housing opportunities for very low- and low- or moderate-income households in areas that are wealthier relative to the surrounding areas to avoid isolation of such households.

A commenter suggested allowing scoring points to be awarded under this criterion for housing in areas where the median income *equals* or *exceeds* the median income for the larger surrounding area. The Finance Board believes that this change would meet the general intent of the requirement and, therefore, has revised the language in the final rule accordingly.

C. Modifications of Applications After Project Completion—§ 960.9

The Interim Final Rule amended § 960.9 of the AHP regulation to clarify the types of changes to an approved AHP project after project completion that would justify a modification to the terms of the approved AHP application. See *id.* § 960.9. The amendment inadvertently omitted the language limiting such modifications to changes "other than an increase in the amount of subsidy approved for the project." This limiting language has been restored in the final rule.

III. Regulatory Flexibility Act

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

applies only to the Banks, which do not come within the meaning of "small entities," as defined in the Regulatory Flexibility Act. See *id.* section 601(6).

IV. Paperwork Reduction Act

This final rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995. See 44 U.S.C. 3501 *et seq.* Therefore, the Finance Board has not submitted any information to the Office of Management and Budget for review.

List of Subjects in 12 CFR Part 960

Credit, Federal home loan banks, Housing, Reporting and recordkeeping requirements. Accordingly, the Interim Final Rule amending 12 CFR part 960, published at 63 FR 27668 (May 20, 1998), is adopted as final with the following changes:

PART 960—AFFORDABLE HOUSING PROGRAM

1. The authority citation for part 960 continues to read as follows:

Authority: 12 U.S.C. 1430(j).

2. Section 960.5 is amended by revising paragraph (b)(10)(ii) to read as follows:

§ 960.5 Minimum eligibility standards for AHP projects.

* * * * *

(b) * * *

(10) *District eligibility requirements.*

(ii) Any limit on the amount of AHP subsidy available per member must result in equal amounts of AHP subsidy available to all members receiving subsidy pursuant to such limit.

3. Section 960.6 is amended by revising paragraphs (b)(4)(iv)(D) and (b)(4)(iv)(F)(8) to read as follows:

§ 960.6 Procedure for approval of applications for funding.

* * * * *

(b) * * *

(4) * * *

(iv) * * *

(D) *Housing for homeless households.*

The creation of rental housing, excluding overnight shelters, reserving at least 20 percent of the units for homeless households, or the creation of transitional housing for homeless households permitting a minimum of six months occupancy.

* * * * *

(F) * * *

(8) *Economic diversity.* The creation of housing that is part of a strategy to end isolation of very low-income households by providing economic diversity through mixed-income housing in low- or moderate-income

neighborhoods, or providing very low- or low- or moderate-income households with housing opportunities in neighborhoods or cities where the median income equals or exceeds the median income for the larger surrounding area—such as the city, county, or Primary Metropolitan Statistical Area—in which the neighborhood or city is located;

* * * * *

4. Section 960.9 is amended by revising the introductory text to read as follows:

§ 960.9 Modifications of applications after project completion.

Modification procedure. If, after final disbursement of funds to a project from all funding sources, there is or will be a change in the project that would change the score that the project application received in the funding period in which it was originally scored and approved, had the changed facts been operative at that time, a Bank, in its discretion, may approve in writing a modification to the terms of the approved application, other than an increase in the amount of subsidy approved for the project, provided that:

* * * * *

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

Dated: April 13, 1999.

Bruce A. Morrison,
Chairman.

[FR Doc. 99-10160 Filed 4-28-99; 8:45 am]

BILLING CODE 6725-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-SW-49-AD; Amendment 39-11153; AD 99-09-20]

RIN 2120-AA64

Airworthiness Directives; Bell Helicopter Textron Canada (BHTC) Model 222, 222B, and 222U Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to BHTC Model 222, 222B, and 222U helicopters. This action requires initial and repetitive visual inspections and verification of the torque of the bolts on the main rotor hub. This amendment is prompted by a report of fatigue cracks around the bolt holes of the main rotor pitch horn (pitch horn) and a cracked main rotor flapping

bearing assembly (flapping bearing assembly) on a BHTC Model 222 helicopter. This condition, if not corrected, could result in fretting-induced fatigue cracking of the flapping bearing assembly and around the bolt holes of the pitch horn, loss of the rotor system, and subsequent loss of control of the helicopter.

DATES: Effective May 14, 1999.

Comments for inclusion in the Rules Docket must be received on or before June 28, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98-SW-49-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Harry Edmiston, Aerospace Engineer, Rotorcraft Certification Office, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222-5158, fax (817) 222-5783.

SUPPLEMENTARY INFORMATION: Transport Canada, which is the airworthiness authority for Canada, has notified the FAA that an unsafe condition may exist on BHTC Model 222, 222B, and 222U helicopters. Transport Canada advises that fatigue cracks at the bolt holes of the pitch horn and in the flapping bearing assembly can lead to loss of control of the helicopter.

BHTC issued Alert Service Bulletin Nos. 222-98-81 and 222U-98-52, both dated April 23, 1998 (ASB), which specify inspecting the main rotor hub in the areas between the pitch horn and main rotor grip tangs (grip tangs) and between the flapping bearing assembly and the main rotor yoke assembly for fretting. The ASB's also specify torque verification procedures for the main rotor grip retaining bolts and the flapping bearing assembly. Transport Canada classified these ASB's as mandatory and issued Transport Canada AD CF-98-16, dated July 15, 1998, in order to assure the continued airworthiness of these helicopters in Canada.

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

for products of these type designs that are certificated for operation in the United States.

The FAA estimates that 88 helicopters will be affected by this proposed AD, that it will take approximately 1 work hour to accomplish the inspection and retorquing of bolts, if necessary, and that the average labor rate is \$60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$15,840 per year, assuming three inspections and retorquing per year and assuming that no parts will need to be replaced.

Since an unsafe condition has been identified that is likely to exist or develop on other BHTC Model 222, 222B, and 222U helicopters of the same type design registered in the United States, this AD is being issued to prevent fretting induced fatigue cracking of the flapping bearing assembly and around the bolt holes of the pitch horn, loss of the rotor system, and subsequent loss of control of the helicopter. This AD requires recurring inspections of the main rotor hub in the areas between the pitch horn and grip tangs and between the flapping bearing assembly and the main rotor yoke assembly for fretting. If fretting is found on any part, replacing that part with an airworthy part is required. This AD also requires verifying the torque on the main rotor grip retaining bolts and the flapping bearing assembly retaining bolts. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability of the helicopter. Therefore, a visual inspection of the main rotor hub between the pitch horn and grip tangs and the flapping bearing assembly and the main rotor yoke assembly for fretting is required. A torque check of the main rotor grip retaining bolts and the flapping bearing assembly retaining bolts is also required. These actions are required within 10 hours TIS and this AD must be issued immediately.

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98-SW-49-AD." The postcard will be date stamped and returned to the commenter.

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

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

of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99-09-20 Bell Helicopter Textron Canada: Amendment 39-11153. Docket No. 98-SW-49-AD.

Applicability: Model 222 helicopters, serial numbers (S/N) 47006 through 47089, Model 222B helicopters, S/N's 47131 through 47156, and Model 222U helicopters, S/N's 47501 through 47574, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fretting induced fatigue cracking of the main rotor flapping bearing assembly (flapping bearing assembly) and around the bolt holes of the main rotor pitch horn (pitch horn), loss of the rotor system, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 10 hours time-in-service (TIS), and thereafter at intervals not to exceed 150 hours TIS:

(1) Perform a visual inspection of the main rotor hub for fretting between the pitch horn and main rotor grip tangs (grip tangs) and between the flapping bearing assembly and the main rotor yoke assembly. If fretting is found on any part, replace it with an airworthy part.

(2) Verify the torque of the main rotor grip retaining bolts and the flapping bearing assembly bolts in the tightening direction, minimum 100 foot-pounds. If 100 foot-pounds torque is reached without movement of the bolts, torque bolts to 125 foot-pounds.

(3) If any bolt moves before 100 foot-pounds torque is reached, remove the pitch horn or the flapping bearing assembly, as applicable, from the main rotor hub assembly for further inspection. Inspect the pitch horn or flapping bearing assembly, as applicable, and all faying surfaces of the pitch horn, flapping bearing assembly, buffers, main rotor yoke assembly, and the grip tangs for fretting. If fretting is found on any part, replace it with an airworthy part.

(4) Apply corrosion preventive compound to the exposed portions of the bolts and nuts.

Note 2: Bell Helicopter Textron Alert Service Bulletin Nos. 222-98-81 and 222U-98-52, both dated April 23, 1998, pertain to the subject of this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Certification Office, FAA, Rotorcraft Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

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

(c) 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 helicopter to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on May 14, 1999.

Note 3: The subject of this AD is addressed in Transport Canada (Canada) AD CF-98-16, dated July 15, 1998.

Issued in Fort Worth, Texas, on April 22, 1999.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99-10669 Filed 4-28-99; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 520 and 556

Oral Dosage Form New Animal Drugs; Piperazine

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the

animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Fleming Laboratories, Inc. The supplemental NADA provides for the safe and effective use of piperazine in chickens, turkeys, and swine for the treatment of certain parasitic infections. The approval reflects compliance with the results of the National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Implementation (DESI) evaluation of the effectiveness of piperazine and FDA's conclusions concerning that evaluation. FDA also is amending the regulations to provide tolerances for piperazine residues.

EFFECTIVE DATE: April 29, 1999.

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

SUPPLEMENTARY INFORMATION: Fleming Laboratories, Inc., P.O. Box 34384, Charlotte, NC 28234, filed a supplement to its approved NADA 10-005 for use of piperazine soluble powder and liquid for oral treatment of chickens and turkeys for roundworm infections and swine for roundworm and nodular worm infections. NADA 10-005 was originally approved on June 9, 1955. The drug was the subject of a NAS/NRC evaluation of effectiveness under FDA's DESI program (DESI 10-005V). The findings of the evaluation were published in the **Federal Register** of February 14, 1969 (34 FR 2213). The NAS/NRC DESI report concluded that the drug is effective as an anthelmintic for dogs, cats, chickens, turkeys, horses, swine, sheep, and cattle. FDA concurred with the conclusions of the report. Fleming Laboratories, Inc., filed a supplemental NADA providing revised labeling that brought its drug into compliance with the results of the NAS/NRC DESI evaluation and FDA's conclusions based on that evaluation.

The supplemental NADA provides for treatment of animals for parasitic infections as follows: (1) Chickens and turkeys, for *Ascaridia* spp., chickens at 50 milligrams (mg)/bird under 6 weeks and 100 mg/bird over 6 weeks; turkeys at 100 mg/bird up to 12 weeks and 200 mg/bird over 12 weeks according to size, at 0.2 to 0.4 percent in feed or 0.1 to 0.2 percent in water for 1 to 2 days; and (2) swine, for *Ascaris suum* and *Oesophagostomum* spp., at 50 mg/pound (lb) body weight, at 0.2 to 0.4 percent in feed or 0.1 to 0.2 percent in water for 1 to 2 days.

The supplement is approved as of March 23, 1999, and the regulations are

amended by adding 21 CFR 520.1807 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In addition, tolerances for residues of piperazine in edible tissues of food-producing animals have been established. The regulations are amended by adding 21 CFR 556.513 to establish the residue tolerances.

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

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

FDA has previously informed manufacturers of piperazine products for food-producing animals not covered by approved applications that such products may be subject to regulatory action. FDA advised sponsors of DESI-reviewed piperazine products to pursue finalization of their NADA's at the earliest possible time. FDA now is providing public notice that it is prepared to take regulatory action against unapproved piperazine products for food-producing animals. In order to provide for an orderly phaseout, the manufacture of piperazine powder and liquid that is not the subject of an approved NADA or abbreviated new animal drug application (ANADA) shall cease by August 27, 1999, and the distribution of said products not manufactured under an approved application shall also cease by that date.

List of Subjects

21 CFR Part 520

Animal drugs.

21 CFR Part 556

Animal drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 520 and 556 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

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

2. Section 520.1807 is added to read as follows:

§ 520.1807 Piperazine.

(a) *Specifications.* A soluble powder or liquid containing piperazine dihydrochloride or dipiperazine sulfate, equivalent to 17, 34, or 230 grams of piperazine per pound or 100 milliliters.

(b) *Sponsor.* See 015565 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.513 of this chapter.

(d) *Conditions of use—(1) Chickens—*
(i) *Amount.* 50 milligrams per bird under 6 weeks, 100 milligrams per bird over 6 weeks.

(ii) *Indications for use.* For removal of large roundworm (*Ascaridia* spp.).

(iii) *Limitations.* For use in drinking water or feed. Use as sole source of drinking water. Prepare fresh solution daily. Use as 1-day single treatment. Withdraw 14 days prior to slaughter. Do not use for chickens producing eggs for human consumption. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

(2) *Turkeys—(i) Amount.* 100 milligrams per bird up to 12 weeks and 200 milligrams per bird over 12 weeks.

(ii) *Indications for use.* For removal of large roundworm (*Ascaridia* spp.).

(iii) *Limitations.* For use in drinking water or feed. Use as sole source of drinking water. Prepare fresh solution daily. Use as 1-day single treatment. Withdraw 14 days prior to slaughter. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

(3) *Swine—(i) Amount.* 50 milligrams per pound of body weight.

(ii) *Indications for use.* For removal of large roundworm (*Ascaris suum*) and nodular worms (*Oesophagostomum* spp.).

(iii) *Limitations.* For use in drinking water or feed. Use as sole source of drinking water. Prepare fresh solution daily. Use as 1-day single treatment. Withdraw 21 days prior to slaughter. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

3. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

4. Section 556.513 is added to subpart B to read as follows:

§ 556.513 Piperazine.

A tolerance of 0.1 part per million piperazine base is established for edible tissues of poultry and swine.

Dated: April 19, 1999.

Margaret Ann Miller,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 99-10696 Filed 4-28-99; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF JUSTICE

28 CFR Part 16

Production or Disclosure of Material or Information

CFR Correction

At 63 FR 51300, Sept. 25, 1998, the correction document published should have stated paragraphs (a) and (b) of § 16.41 were being corrected.

[FR Doc. 99-55516 Filed 4-28-99; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Equal Employment Opportunity Commission

29 CFR Part 1601

Procedural Regulations

CFR Correction

In Title 29 of the Code of Federal Regulations, parts 900 to 1899, revised as of July 1, 1998, page 154, § 1601.74 is corrected by adding footnote four as follows:

§ 1601.74 Designated and notice agencies.

(a) * * *

[FR Doc. 99-55517 Filed 4-28-99; 8:45 am]

BILLING CODE 1505-01-D

⁴ The Colorado State Personnel Board has been designated as a FEP agency for only those charges which relate to appointments, promotions, and other personnel actions that take place in the State personnel system. In addition, it has been designated as a FEP agency for all of the above mentioned charges except charges which allege a violation of section 704(a) of title VII. For this type of charge it shall be deemed a "Notice Agency" pursuant to 29 CFR 1601.71(b).

FEDERAL MARITIME COMMISSION

46 CFR Parts 510, 515 and 583

[Docket No. 98-28]

Licensing, Financial Responsibility Requirements, and General Duties for Ocean Transportation Intermediaries

AGENCY: Federal Maritime Commission.

ACTION: Confirmation of interim final rule and correction.

SUMMARY: This rule confirms as final the interim rule published on March 8, 1999, which added a provision to the Federal Maritime Commission's licensing requirements to allow foreign non-vessel-operating common carriers the opportunity to seek to obtain a license. In addition, this document contains a correction to the final regulations which were published in the same document on March 8, 1999.

DATES: Effective May 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Austin L. Schmitt, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 800 North Capitol Street, NW, Washington, DC 20573-0001, (202) 523-5796

Thomas Panebianco, General Counsel, Federal Maritime Commission, 800 North Capitol Street, NW, Washington, DC 20573-0001, (202) 523-5740

SUPPLEMENTARY INFORMATION:

On February 26, 1999, the Federal Maritime Commission ("FMC" or "Commission") adopted new regulations at 46 CFR part 515 to implement changes made by the Ocean Shipping Reform Act of 1998 ("OSRA"), Pub. L. 105-258, 112 Stat. 1902, to the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. section 1701 *et seq.*, relating to ocean freight forwarders and non-vessel-operating common carriers ("NVOCCs"), 64 FR 11155-11183, March 8, 1999.

As part of the final rule, the Commission published as an interim final rule a provision to allow foreign NVOCCs the opportunity to seek to obtain a license under the provisions of 46 CFR part 515. We explained that pursuant to the definition of "in the United States" in 46 CFR 515.3 adopted by the Commission, a foreign NVOCC could choose to establish a presence in the United States for licensing purposes in accordance with 515.3 and secure financial responsibility applicable to NVOCCs in the United States. To establish a presence in the United States necessary to obtain a license under this part, a foreign NVOCC must set up an

unincorporated office that is resident in the United States. We would not consider the foreign NVOCC's primary location in the United States to be a separate branch office subject to additional licensing and financial responsibility requirements of this part. However, in the event that the licensee seeks to establish other branch offices in addition to its primary United States office, those other offices would be subject to the licensing and financial responsibility requirements applicable to separately incorporated and unincorporated branch offices.

We further limited the option of a foreign entity becoming licensed under this part to NVOCCs, and not freight forwarders, because an "ocean freight forwarder" is defined in § 515.2(o)(1) as a person who dispatches shipments "from the United States." Moreover, a freight forwarder has a fiduciary relationship with its customer, and a foreign freight forwarder, by its very nature, would be performing services for its customers in a foreign country beyond the reach of the Commission. Finally, in order to better assist foreign NVOCCs who seek to become licensed under this part, we amended § 515.11(a)(1) to provide that a foreign NVOCC's experience in ocean transportation intermediary ("OTI") services need not be in the United States.

We sought comments on those aspects of the rule that were implemented as an interim final rule. We received comments from North American Van Lines, Inc., t/a North American International, who supports the Commission's proposal to permit foreign NVOCCs to obtain a license, believing it will result in enhanced compliance with the 1984 Act. No other comments were received, and, therefore, we implement as final those provisions which allow foreign NVOCCs to seek to obtain a license under 46 CFR part 515.

As the Commission is preparing to implement the licensing and financial responsibility requirements of this part, several issues have been raised which we will now address.

With respect to the licensing requirements of § 515.11, in the supplementary information to the final rule, we stated that an NVOCC with a tariff and financial responsibility in effect as of April 30, 1999, would be permitted to continue operating without the requisite three years' experience and character requirement. 64 FR 11158-59. However, in § 515.11(a)(3), the reference to the character requirement was inadvertently omitted. Therefore, § 515.11(a)(3) is corrected to reflect that an NVOCC with a tariff and financial

responsibility in effect as of April 30, 1999 will be permitted to continue operating without satisfying the requisite qualifications of three years' experience and necessary character to render OTI services.

In addition, we stated that an applicant will be provisionally licensed while the Commission reviews its application. Concerns have been raised as to what the Commission intends by the term "provisionally." The Commission will issue licenses to those NVOCCs who have tariffs and financial responsibility in effect on April 30, 1999 and who file license applications and increase their financial responsibility by May 1, 1999. These entities are permitted to continue operating while the Commission processes their applications. Should the review and investigation of applications reveal that an applicant is otherwise unqualified or unsuitable to retain a license, the regular procedures set forth at § 515.16 for revocation or suspension of a license would apply.

OSRA and 46 CFR part 515 require, for the first time, that NVOCCs obtain a license. Consistent with the licensing provisions applicable to freight forwarders under current regulations at 46 CFR part 510, and applicable to all licensed OTIs effective May 1, 1999 under 46 CFR part 515, separately incorporated branch offices are treated as separate entities. Section 515.3 requires a separate license for separately incorporated branch offices. Branch office is defined at § 515.2(c) as "any office in the United States established by or maintained by or under the control of a licensee for the purpose of rendering intermediary services, which is located at an address different from that of the licensee's designated home office. This term does not include a separately incorporated entity." Similarly, subpart C of 46 CFR part 515 requires that separately incorporated branch offices obtain their own financial responsibility. Unincorporated branch offices are not required to obtain their own licenses, but the licensee is required to increase its financial responsibility by \$10,000 for each unincorporated branch office.

Section 515.25(a), in conjunction with the licensing requirements of this part, could be read to require that a separately incorporated branch office of an NVOCC publish its own tariff, because an applicant who seeks to obtain a license to operate as an NVOCC must establish its financial responsibility and publish a tariff. We wish to clarify that a separately incorporated branch office of an NVOCC is not required to publish its own tariff.

An NVOCC branch office which provides intermediary services is required to satisfy the licensing and financial responsibility requirements applicable to unincorporated and separately incorporated branch offices, as freight forwarders previously have been, and continue to be, so required. To the extent that a separately incorporated branch office of an NVOCC is issuing, processing, or otherwise handling, the designated home office's bills of lading, based on the rates published in the designated home office's tariff, it is not required to publish its own tariff.

An office under the corporate umbrella that does not provide intermediary services under this part, but for example provides air freight forwarding, does not fall under the branch office requirements of this part, as it is not established or maintained by or under the control of the licensee for the purpose of rendering intermediary services within the meaning of the 1984 Act or this part. Similarly, a licensed OTI is allowed to use an agent, say for sales work on behalf of the licensed principal, and the agent is not required to obtain its own license and financial responsibility, so long as the agent is not, in actuality, operating as a branch office of the licensee, whether unincorporated or separately incorporated.

The Commission has received OMB approval for this collection of information pursuant to the Paperwork Reduction Act of 1995, as amended. In accordance with that Act, agencies are required to display a currently valid control number. The valid control number for this collection of information is 3072-0012.

The Commission is not aware of any other federal rules that duplicate, overlap, or conflict with the new rule.

List of Subjects in 46 CFR Part 515

Exports, Freight forwarders, Non-vessel-operating common carriers, Ocean transportation intermediaries, Licensing requirements, Financial responsibility requirements, Reports and recordkeeping requirements.

Accordingly, the second sentence of § 515.11(a)(1), which was published as an interim final rule within the final rule adding part 515 at 64 FR 11173 on March 8, 1999, is adopted as a final rule without change.

In addition, the following corrections are made:

1. At the end of the preamble on page 11171 in the first column, in the fourth line above the heading for part 510, the words "proposes to remove" are corrected to read "removes", and in the

following line, the word "add" is corrected to read "adds".

2. In § 515.11(a)(3), which was published at 64 FR 11173 in the third column on March 8, 1999, make the following correction: in the first sentence after the word "experience" and before the word "and" add the phrase "and necessary character to render ocean transportation intermediary services".

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99-10755 Filed 4-28-99; 8:45 am]

BILLING CODE 6730-01-P

FEDERAL MARITIME COMMISSION

46 CFR Part 520

[Docket No. 98-29]

Carrier Automated Tariff Systems

AGENCY: Federal Maritime Commission.

ACTION: Adoption of final rule.

SUMMARY: This rule adopts as final, with certain clarifying modifications, the interim rule published on February 26, 1999, which added a definition for motor vehicles to the Federal Maritime Commission's regulations concerning automated tariff systems.

DATES: Effective May 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Austin L. Schmitt, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 800 North Capitol Street, NW, Room 940, Washington, DC 20573, (202) 523-5796

Thomas Panebianco, General Counsel, Federal Maritime Commission, 800 North Capitol Street, NW, Room 1018, Washington, DC 20573, (202) 523-5740

SUPPLEMENTARY INFORMATION: On March 8, 1999, the Federal Maritime Commission ("FMC" or "Commission") published a final rule establishing requirements for carrier automated tariff systems in accordance with the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. section 1702 *et seq.*, as amended by the Ocean Shipping Reform Act of 1998 ("OSRA"), Public Law 105-258, 112 Stat. 1902, 64 FR 11218. At the same time, the Commission adopted a new definition for the term "motor vehicle." Because this term was not included in the proposed rule, it went into effect as an interim final rule, and interested parties were given an opportunity to comment on it.

The Commission's proposed definition in § 520.2 stated:

Motor vehicle means an automobile, truck, van, or other motor vehicle used for the transportation of passengers and cargo; but does not include equipment such as farm or road equipment which has wheels, but whose primary purpose is other than transportation.

The Commission explained that although the proposed rule did not contain a definition for "motor vehicle," the appearance of the term in OSRA may have created some confusion in the industry. The Commission concluded that the proposed definition appears consistent with the discussion in the Senate Report on S. 414, S. Rep. No. 61, 105th Cong., 1st Sess. (1997) ("Report").

The Commission received only one comment on the definition of "motor vehicle," from Wallenius Lines AB ("Wallenius"), a common carrier engaged in the transportation of vehicles. Wallenius contends that it was involved in the process that led to the elimination of the tariff publishing requirement for "new assembled motor vehicles." It further submits that those involved in this process were clear as to the intent and reach of this exception, and that the legislative history of OSRA would be adequate to reflect that intention. It contends, however, that the Commission's proposed definition has upset this balance by adding to the definition of "motor vehicles" vehicles used for transportation of cargo.

Wallenius believes that the legislative history of OSRA indicates that the commodity described as "new assembled motor vehicles" is substantially narrower than that defined by the Commission. It contends that the Report refers to motor vehicles in terms of automobiles that move in " * * * specialized, roll-on, roll-off vessels, usually in very large quantity, single shipment lots pursuant to a * * * (service) contract." Report at 22. Wallenius submits that this type of service is understood in the automobile manufacturing industry and by its transportation providers as referring to "new, fully assembled automobile manufacturer products the primary purpose of which is the non-commercial transportation of passengers." Wallenius contends that this includes vehicles such as automobiles, sport utility vehicles, passenger minivans and pickup trucks, which move in large quantities, in single shipment lots, for the manufacturer under contract with a carrier.

In this regard, Wallenius notes that the Report refers to prior petitions for exemption before the Commission that related exclusively to automotive manufacturers' products. It also notes that the Report states that the reason for

the excepted treatment under OSRA is the nature of the "new, assembled automobile shipper market," which is described as very concentrated and employing unique shipping practices.

Wallenius believes that the market encompassed by the Commission's proposed definition of "motor vehicles" is significantly broader than the market intended to be reached by the exception. It interprets the Commission's proposed definition as including vehicles solely for the transportation of cargo, including commercial trucks and vans (including "18-wheelers"), and buses and trolleys. It argues, however, that such cargoes are not part of the new, assembled automobile shipper market that OSRA intended to address. Wallenius further asserts that such an extension flies in the face of the general rule of statutory construction that exceptions to statutory provisions should not be expanded by implication. Wallenius, therefore, suggests that the Commission adopt the following definition for "new assembled motor vehicles":

a new, assembled passenger vehicle product which is an automobile, a sport utility vehicle, minivan, pickup truck or other wheeled vehicle, the primary purpose of which is the non-commercial transportation of passengers, and which is tendered for shipment by the manufacturer or the manufacturer's authorized representative.

As an initial matter, Wallenius has overstated the breadth of the Commission's proposed definition for motor vehicle. The definition refers to automobiles, trucks, vans, or other motor vehicles used for the transportation of passengers and cargo. The latter portion of this provision is written in the conjunctive and does not, therefore, include vehicles used solely for the transportation of cargo, e.g. "18-wheelers." It covers simply vehicles used for the transportation of passengers and cargo—for example, automobiles. It was not the intent of the Commission to carve out such a broad exception, as indicated by the further explication that motor vehicle does not include wheeled equipment such as farm or road equipment whose primary purpose is other than transportation.

Wallenius' proposed definition has four distinct elements for a motor vehicle: (1) It must be new and assembled; (2) it must be a passenger vehicle product—i.e. an automobile, a sport utility vehicle, minivan, pickup truck or other wheeled vehicle; (3) its primary purpose must be the non-commercial transportation of passengers; and (4) it must be tendered by the manufacturer or the manufacturer's authorized representative. This particular

definition may be somewhat narrower than that intended by Congress, although, as Wallenius points out, Congress did reference the fact that common carriers of automobiles using specialized roll-on, roll-off vessels did previously petition the Commission for an exemption from tariff filing under the 1984 Act. Moreover, the discussion of the motor vehicle exemption was limited to the common carriage of automobiles and the new, assembled automobile shipper market, and concluded that common carriage requirements are not necessary for that particular market. Report at 22.

Nonetheless, Congress chose the term "motor vehicles" rather than "automobiles" in the statute, and that term must be given its full and proper meaning. The term "motor vehicle" is necessarily broader than the term "automobile." At the very least, "motor vehicle" includes automobiles, but it must include more. In addition, there is nothing in the legislative history that indicates that new, assembled motor vehicles are only excepted if they are tendered by a manufacturer or a manufacturer's authorized representative. Accordingly, the Commission is adopting a compromise definition that should meet most of Wallenius' concerns and still comport with Congress' intent.

The Commission has received OMB approval for this collection of information pursuant to the Paperwork Reduction Act of 1995, as amended. In accordance with that Act, agencies are required to display a currently valid control number. The valid control number for the collection is 3072-0064.

The Commission is not aware of any other federal rules that duplicate, overlap, or conflict with the new rule.

List of Subjects in 46 CFR Part 520

Common carriers; Freight; Intermodal transportation; Maritime carriers; Reporting and recordkeeping requirements.

Accordingly, the interim rule amending 46 CFR part 520 which was published at 64 FR 11218 on March 8, 1999, is adopted as a final rule with the following change:

PART 520—CARRIER AUTOMATED TARIFFS

1. The authority citation for part 520 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1701-1702, 1707-1709, 1712, 1716; Pub. L. 105-258, 112 Stat. 1902; and sec. 424 of Pub. L. 105-383, 112 Stat. 3411.

2. Amend § 520.2 by revising the definition of motor vehicle to read as follows:

§ 520.2 Definitions.

* * * * *

Motor vehicle means a wheeled vehicle whose primary purpose is ordinarily the non-commercial transportation of passengers, including an automobile, pickup truck, minivan, or sport utility vehicle.

* * * * *

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99-10783 Filed 4-28-99; 8:45 am]

BILLING CODE 6730-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98-173; RM-9361]

Radio Broadcasting Services; Condon, OR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of John L. Zolkoske, allots Channel 228A to Condon, OR, as the community's first local aural service. See 63 FR 53008, October 2, 1998. Channel 228A can be allotted to Condon in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 45-14-18 NL; 120-11-06 WL. With this action, this proceeding is terminated.

DATES: Effective May 24, 1999. A filing window for Channel 228A at Condon, OR, 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: Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98-173, adopted March 31, 1999, and released April 9, 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 contractor, International Transcription Services,

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 Oregon, is amended by adding Condon, Channel 228A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99-10751 Filed 4-28-99; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 14

RIN 1018-AE08

Importation, Exportation, and Transportation of Wildlife (User Fee Exemptions for Qualified Fur Trappers)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) are revising our regulations providing for user fee collections from commercial importers and exporters of wildlife and wildlife products. We provide a fee exemption to trappers of fur-bearing wildlife operating small, low volume businesses engaged in wildlife trade on a small scale where there is relatively low cash flow, to individuals who trap fur-bearing wildlife from the wild as a hobby or to supplement their income and who do not deal in manufactured products or live animals as a primary means of income. The exemption from our inspection fee will apply to commercial importers and exporters based upon specific criteria, including country of origin, numbers of items, and permitting requirements. We therefore modify our user fee regulations to grant this relief to certain individuals and small businesses, meeting the outlined criteria, from the designated port inspection fees, non-designated port administrative fees, and hourly

minimums only. This rule still allows us to continue to collect data on fee collections in order to analyze the impact of user fees on small business for future decision making.

DATES: This rule is effective June 1, 1999.

ADDRESSES: Send correspondence concerning this rule to the Director, U.S. Fish and Wildlife Service, P.O. Box 3247, Arlington, Virginia 22203-3247. The complete file for this final rule is available for public inspection, by appointment, during normal business hours.

FOR FURTHER INFORMATION CONTACT: Kevin R. Adams, Chief, Office of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, (703) 358-1949.

SUPPLEMENTARY INFORMATION:

Background

Summary of Public Participation

We received 39 comments on the proposed rule published on January 22, 1998 (63 FR 3298) 13 of which were submitted by individuals who we classified as non-consumptive users, i.e., those that do not hunt or trap wildlife. In addition, 11 comments were received from non-consumptive organizations such as the Animal Welfare Institute, Animal Protection Institute, International Primate Protection League, The Humane Society of the United States, and The American Society For The Prevention Of Cruelty To Animals.

We received four comments from individuals who were consumptive users of wildlife and four from consumptive user organizations such as the International Association of Fish and Wildlife Agencies, the Safari Club International, the Alaska Trappers Association, and the National Trappers Association. The states of Alaska, Illinois, Louisiana, and Nebraska also sent in comments to the proposed rule. We received three comments soliciting exemptions for tropical fish imports, and commercially raised quail and pheasant imports from Canada. We did not address these comments; they did not pertain to this rule.

Issues Raised in Public Comments, and Service Responses

Comment: The Service needs the current fee structure as it is designed to allow the Service to pay for the inspection program. Any exemptions would begin to erode the Service's ability to conduct critical inspections of wildlife being imported and exported.

Response: We acknowledge that the Service utilizes collected fees to support

its inspection program. However, the amounts charged for inspections on certain small businesses, such as low volume subsistence trappers in Alaska, may be prohibitive and cause an undue burden. We believe that proposed exemptions will allow low volume trappers to continue their business without undue hardship.

Comment: Giving an exemption to low volume trappers of fur-bearing wildlife will only "open the door" for other small businesses to demand an exemption, thereby jeopardizing further the Service's ability to recoup inspection costs.

Response: It is likely that other people who have businesses may feel the need to also ask for an exemption. We believe, however, that in the case of the low-volume trapper, the exemptions may be warranted due to:

- The nature of their small low-volume businesses engaged in wildlife trade on a small scale where there is relatively low cash flow;
- Individuals who trap fur-bearing wildlife from the wild as a hobby or to supplement their income;
- Those who do not deal in manufactured products or live animals as a primary means of income.

Comment: The Service's criteria of 100 skins or less is meaningless because large volume shippers will manipulate numbers of furs and skins per shipment to illegally qualify for the exemption.

Response: We have the ability to monitor the volume of importing and exporting by a business or individual and feel that we will be able to detect attempts to subvert the fee system by manipulating shipments.

Comment: Why does the Service inspect Convention on International Trade of Endangered Species (CITES) furs that have already been inspected and tagged by the State of Alaska. Inspecting shipments of these furs upon export is redundant and does not need to be done.

Response: We inspect shipments containing wildlife protected under CITES upon export and import to ensure that the proper permits are present, the shipment is properly declared, and for record keeping and reporting purposes. The State of Alaska places CITES tags on pelts taken in Alaska because most pelts are exported to Canada. However, having a CITES tag affixed to a pelt and the act of exporting are two separate issues requiring different actions. We also inspect imports and exports to ensure compliance with Service regulations.

Comment: Why doesn't the Service maintain the old system of a \$25,000

dollar value exemption for small businesses?

Response: Since 1988, there have been four major studies of our import/export user fee policies. One recommendation consistently made in these studies was to revise our user fee policies and rates to recover the full cost of services provided to individuals and businesses. We therefore adjusted our fees for certain activities in order to recover the actual costs of services provided for all commercial import/export activities.

Comment: The Service's proposed rule does not go far enough in exempting user fees. The Service should also remove the commercial import/export license requirement for trappers.

Response: The studies that analyzed our import/export policies also recommended that we license all commercial importers and exporters of wildlife and wildlife products. As a result, we decided to license all commercial importers and exporters. We believe the \$50 per year licensing requirement is fair and affordable and will not be waived.

Comment: The upper limit of 100 furs per shipment is arbitrary and should be increased to 1000 per shipment because the price a trapper gets for furs and pelts is not high enough to offset the costs of inspection.

Response: We chose the upper limit of 100 furs per shipment because we feel this number adequately represents a low volume of shipping activity. Accordingly, small businesses and individuals who qualify will not have to pay inspection fees in certain situations. Therefore, we believe the upper limit of 100 furs per shipment is appropriate.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 establishes as a principle of regulatory issuance that "* * * agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." Therefore, in order to address the immediate concerns of small business and maintain consistency with the Regulatory Flexibility Act, we will initiate a new licensing and inspection fee system that will accomplish two objectives. First, the new system contained in this rule would grant immediate relief from the economic burden of the increased inspection fees, and/or administrative fees and hourly minimums, to importers and exporters of wildlife and wildlife products at designated ports, border or

special ports, and nondesignated ports that meet specific criteria. Second, by continuing to require that all commercial importers and exporters be licensed, the new system would allow the Service to continue to monitor wildlife import/export activity in order to gather the data necessary to make future decisions on the true impact of our user fees on small businesses and certain individuals.

Authority Citation

We will update the authority citation for this part to delete an obsolete reference at 31 U.S.C. 483(a) and to reflect the current United States Code citation of 31 U.S.C. 9701 regarding fees and charges for Government services.

Inspection Fee Exemption Criteria

We amend the inspection fee system to establish specific criteria that we will use to determine if the inspection fee applies at the time of import or export. The revision uses distinctions that are already established in the regulation. We will use these distinctions to establish if the inspection fee applies to wildlife shipments at the time of import to or export from the United States. Shipments will have to meet several basic criteria in order to qualify for the inspection fee exemption.

The basic exemption criteria are outlined as follows:

- The inspection fee exemption will only apply to shipments that do NOT require permits under 50 CFR parts 16 (Injurious wildlife), 17 (Endangered and threatened wildlife and plants), 18 (Marine mammals), 21 (Migratory bird permits), or 23 (Endangered species convention). Those shipments that contain wildlife that require permits will not be eligible for any inspection fee exemption.

• The wildlife must have been lawfully taken from the wild in the United States, Canada, or Mexico, and imported or exported between the United States and Canada or Mexico. Shipments containing wildlife taken in any other country and imported or exported between any countries other than the United States, Canada, or Mexico will not be eligible for the inspection fee exemption. The wildlife shipment must be imported or exported by the person who took the wildlife from the wild, or by a member of that person's immediate family, provided, that the importer or exporter of record is licensed in accordance with 50 CFR 14.91.

- The shipment must consist of raw fur, raw, salted, or crusted hides or skins, or separate parts thereof, and the shipment cannot exceed 100 raw furs,

raw, salted, crusted, hides or skins or separate parts thereof. We intend that this rulemaking provide financial relief from the burden of the inspection fees for small business and certain individuals who may be disproportionately affected.

We believe a cutoff point of 100 raw furs, raw, salted, or crusted hides or skins, or separate parts thereof will adequately distinguish between small shippers disproportionately affected and those commercial wildlife dealers less impacted by the user fee.

All of the primary criteria for the user fee exemption outlined above serve as a means of limiting the exemption application to certain individuals or small business, while at the same time maintaining the integrity and intent of the user fee rulemaking published on June 21, 1996 (62 FR 31850). By using distinctions already drawn in the regulation, we believe that the criteria represent a balance between maintaining user fee revenues and providing small business economic relief.

In addition to the primary criteria, we will use additional criteria, outlined below, to ensure that the user fee exemption is utilized by those intended and to allow for statistical tracking of the exemption's use. As stated, the importer or exporter of record who is shipping wildlife that otherwise meets the inspection fee exemption criteria will still have to obtain an Import/Export License from the Service at a cost of \$50 annually (see 50 CFR part 14, subpart I). The raw fur, raw, salted or crusted hides or skins, or separate parts thereof cannot have been previously bought or sold if the inspection fee exemption is to apply. The fee exemption will not apply to manufactured products or live animals of any kind.

The reason for the latter two criteria is that the fee exemption is intended to apply to small, low volume businesses engaged in wildlife trade on a small scale where there is relatively low cash flow, or to individuals who take wildlife from the wild as a hobby or to supplement their income and who do

not deal in manufactured products or live animals as a primary means of income. We believe that wildlife traders buying and selling imported wildlife in the United States and those dealing in manufactured products or live animals require a higher level of oversight and are less impacted by the inspection fee.

The importer or exporter whose wildlife shipments meet the user fee exemption criteria will still be required to pay overtime fees or designated port exception permit fees if applicable. If wildlife being shipped requires a Convention on International Trade in Endangered Species (CITES) permit, we will not exempt the shipment from the user fee due to the higher level of oversight we require on these shipments.

Certification

In order for us to have some means of verifying that the raw furs, raw, salted or crusted hides or skins, or separate parts thereof are, in fact, taken from the wild by the licensee who is acting as importer/exporter of record, or taken from the wild by a member of his or her immediate family, the licensee must sign a certification statement supplied by us at the time clearance is requested. The certification statement will ask that the licensee certify, subject to the penalties provided for under 18 U.S.C. 1001 for false or fraudulent statements, that he or she took the raw furs, raw, salted, or crusted hides or skins, or separate parts thereof from the wild or that they were taken from the wild by a member of that person's immediate family. We will consider the term "immediate family" to mean a licensee's spouse, parents, siblings, and children. We believe that extending the meaning to include grandparents, cousins, aunts, or uncles would compromise the intent of this rule. This signed certification statement will have to be presented to a Service officer at the time clearance is requested.

We intend that this inspection fee exemption framework utilize existing regulatory language that grants various exemptions to 50 CFR part 14, including § 14.15 and § 14.62. In addition, 50 CFR

part 14 already exempts certain "classes" of wildlife from various regulatory requirements, including farm-raised fish from the designated port requirement on export, aquatic invertebrates of the Class Pelecypoda from the designated port and declaration requirement, and captive-bred furbearers from the marking requirement. We believe that these distinctions are consistent with the intent of the regulation.

In summary, we will exempt commercial wildlife shipments from the designated port inspection fee and/or the nondesignated port administrative fee and hourly minimums, whichever applies, for shipments meeting the following criteria: no permits are required under 50 CFR parts 16, 17, 18, 21, or 23; imports or exports are between the United States and Canada or Mexico of raw fur, raw, salted, or crusted hides or skins, or separate parts thereof, lawfully taken from the wild in the United States, Canada, or Mexico; imported or exported by the person taking the wildlife from the wild, or taken from the wild by a member of the importer or exporters' immediate family; provided, the importer or exporter of record is licensed; the shipment or any part thereof has not been previously bought or sold; the shipment does not exceed 100 raw furs, raw, salted, or crusted, hides or skins, or separate parts thereof; the shipment does not contain any manufactured products or live animals; overtime fees, if applicable, have been paid; and the importer or exporter has attached a certification statement stating that the shipment contains items taken from the wild by the importer/exporter of record or by a member of that person's immediate family.

The following chart illustrates the commercial user fee charges at designated and nondesignated ports during normal working hours before the June 21, 1996, final rule, after the August 1, 1996, effective date of that final rule, and under this final rule, for comparison:

Fees	Prior to June 21, 1996 Final Rule	After August 1, 1996 effective date	After September 1, 1998 effective date
Designated Port	Under 25k/year No Charge	\$50/year License Fee	\$50/year License Fee.
	\$125/year License Fee	\$55/shipment Inspection Fee	\$55/shipment Inspection Fee if criteria not met.
Nondesignated Port	\$25/shipment Inspection Fee		No Charge if criteria met.
	Under 25K/year No Charge	\$50/year License Fee	\$50/year License Fee.
	\$125/year License Fee	\$55 Administrative Fee plus 2 hour minimum at \$20/hr (\$40).	\$55 Administrative Fee plus 2 hour minimum at \$20/hr (\$40) if criteria not met.
	\$25/shipment Administrative Fee plus 2 hour minimum at \$25/hr (\$50).		No Charge if criteria met.

Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq

This final rule affects only the requirement to pay an inspection fee for shipments and contains no information collections for which Office of Management and Budget approval is required under the Paperwork Reduction Act (44 U.S.C. 3501). Importers/exporters subject to this rule may be subject to the requirement to file a Declaration for Importation or Exportation of Fish or Wildlife (FWS form 3-177; OMB approval number 1018-0012; expiration date August 31, 2000). This rule does not change or affect the information collection requirements associated with the declaration form 3-177. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Required Determinations

The Service has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988. They do not unduly burden the judicial system. The regulations promote simplification and provide immediate relief from the economic burden of the increased inspection fees, and/or administrative fees and hourly minimums, to importers and exporters of wildlife and wildlife products at designated ports, border or special ports, and nondesignated ports that meet specific criteria.

The Service has determined and certifies pursuant to the Unfunded Mandates Act, 2 U.S.C. 1501 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. In 1996, the total value of all wildlife shipments which may be eligible for the exemption was \$700,734. Fees payable to the Service on these shipments would be reduced between \$22,935 and \$39,615 under the rule. Therefore, although user fees will be effected we anticipate that they will not be substantial. The rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency because it affects only Service actions.

Economic Effects

The Service conducted an economic analysis of this rule. The declared value of all wildlife shipments requiring Service clearance in Fiscal Year 1995 was approximately \$860,000,000. In 1996, the total value of all wildlife shipments which may be eligible for the

proposed exemption was \$700,734. Fees payable to the Service on these shipments would be reduced between \$22,935 and \$39,615 under the rule. The effect of this rule is much less than \$100 million annually. We anticipate no substantial indirect economic effects so the effect of this rule is much less than \$100 million annually. We do not expect the shipment volume to rise to a level that would generate a \$100 million annual impact. This rulemaking was not subject to review by the Office of Management and Budget under Executive Order 12866.

Accordingly, under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), this rulemaking will not have a significant economic effect on a substantial number of small entities, which include businesses, organizations, or governmental jurisdictions. This rule exempts small shippers from the Fish and Wildlife Service inspection fee and so represents an adaptation of the current fee structure to provide relief for small shippers, therefore, this rule will have a beneficial effect on such entities.

List of Subjects in 50 CFR Part 14

Animal welfare, Exports, Fish, Imports, Labeling, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, the Service amends Title 50, Chapter I, subchapter B of the Code of Federal Regulations as set forth below:

PART 14—IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

1. Revise the authority citation for Part 14 to read as follows:

Authority: 16 U.S.C. 668, 704, 712, 1382, 1538(d)-(f), 1540(f), 3371-3378, 4223-4244, and 4901-4916; 18 U.S.C. 42; 31 U.S.C. 9701.

2. Amend § 14.4 by revising the section heading and adding alphabetically the definitions “we” and “you” to read as follows:

§ 14.4 What terms do I have to understand?

* * * * *

We means Fish and Wildlife Service or Service.

You means licensee, or importer/exporter of record.

3. Amend § 14.94 by revising the section heading and revising paragraph (a) and adding paragraph (e) to read as follows:

§ 14.94 What fees apply to me?

(a) *License and inspection fees.* We will impose a yearly fee for a license pursuant to § 14.93. In addition, you must pay an inspection fee for each wildlife shipment imported into or exported from the United States at a designated port. If you import into or export from the United States wildlife shipments meeting the criteria outlined in paragraph (e) of this section, you are exempt from the designated port inspection fee, or nondesignated port administrative fee and hourly minimums, whichever apply. However, you must pay applicable overtime fees and permit fees.

* * * * *

(e) Your wildlife shipments meeting all of the following criteria are exempt from the designated port inspection fee or nondesignated port administrative fee and hourly minimums:

(1) The wildlife you are shipping does not require permits under parts 16, 17, 18, 21, 22, or 23 of this subchapter;

(2) You are importing or exporting wildlife between the United States and Canada or Mexico;

(3) The wildlife you are shipping consists of raw fur, raw, salted, or crusted hides or skins, or separate parts thereof, lawfully taken from the wild in the United States, Canada, or Mexico;

(4) You, as the importer or exporter of record, or a member of your immediate family (your spouse, parents, siblings, and children), took the wildlife from the wild;

(5) You are licensed in accordance with § 14.91;

(6) You have not previously bought or sold the wildlife or any part thereof being shipped;

(7) Your shipment does not exceed 100 raw furs, raw, salted, or crusted hides or skins, or separate parts thereof;

(8) Your shipment does not contain any manufactured products or live animals.

(9) You certify that your shipment meets the criteria in this paragraph.

Stephen C. Saunders,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 99-10543 Filed 4-28-99; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 042399D]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Commercial Red Snapper Component

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

ACTION: Notice of closure.

SUMMARY: NMFS closes the commercial fishery for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS has determined that the initial portion of the annual commercial quota for red snapper was reached on April 15, 1999. This closure is necessary to protect the red snapper resource.

DATES: Closure is effective noon, local time, April 15, 1999, until noon, local time, September 1, 1999.

FOR FURTHER INFORMATION CONTACT: Roy Crabtree, 727-570-5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council

and is implemented under the authority of the Magnuson Fishery Conservation and Management Act by regulations at 50 CFR part 622. Those regulations set the commercial quota for red snapper in the Gulf of Mexico at 4.65 million lb (2.11 million kg) for the current fishing year, January 1 through December 31, 1999. Those regulations split the red snapper commercial fishing season into two time periods, the first commencing at noon on February 1 with two-thirds of the annual quota (3.06 million lb (1.39 million kg)) available, and the second commencing at noon on September 1 with the remainder of the annual quota available. During the commercial season, the red snapper commercial fishery opens at noon on the first of each month and closes at noon on the 15th of each month, until the applicable commercial quotas are reached.

Under 50 CFR 622.43(a), NMFS is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by publishing a notification to that effect in the **Federal Register**. Based on current statistics, NMFS has determined that the available commercial quota of 3.06 million lb (1.39 million kg) for red snapper was reached when the fishery closed at noon on April 15, 1999. Accordingly, the commercial fishery in the EEZ in the Gulf of Mexico for red snapper will remain closed until noon, local time, on September 1, 1999. The operator of a vessel with a valid reef fish

permit having red snapper aboard must have landed and bartered, traded, or sold such red snapper prior to noon, local time, April 15, 1999.

During the closure, the bag and possession limits specified in 50 CFR 622.39(b) apply to all harvest or possession of red snapper in or from the EEZ in the Gulf of Mexico, and the sale or purchase of red snapper taken from the EEZ is prohibited. In addition, the bag and possession limits for red snapper apply on board a vessel for which a commercial permit for Gulf reef fish has been issued, without regard to where such red snapper were harvested. However, the bag and possession limits for red snapper apply only when the recreational quota for red snapper has not been reached and the bag and possession limit has not been reduced to zero. The prohibition on sale or purchase does not apply to sale or purchase of red snapper that were harvested, landed ashore, and sold prior to noon, local time, April 15, 1999, and were held in cold storage by a dealer or processor.

Classification

This action is taken under 50 CFR 622.43(a) and is exempt from review under E.O. 12866.

Dated: April 23, 1999.

Bruce Morehead,

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

[FR Doc. 99-10701 Filed 4-26-99; 2:08 pm]

BILLING CODE 3510-22-F

Proposed Rules

Federal Register

Vol. 64, No. 82

Thursday, April 29, 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.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 114

Administrative Claims Under the Tort Claims Act and Representations and Indemnification of SBA Employees

AGENCY: Small Business Administration.
ACTION: Proposed rule.

SUMMARY: SBA is revising a portion of its rules governing Administrative Claims under the Tort Claims Act. Presently a claim must be presented to the SBA District Counsel for the SBA District Office in the same State as the claim. The SBA District Counsel has the authority to deny a tort claim of \$5,000 or less or to recommend any other action to the SBA General Counsel. This proposed rule will provide the same authority to Disaster Area Counsel when the claim is based on the acts or omissions of employees of SBA's Disaster Assistance Program. It will also vest authority to approve or deny a tort claim of \$25,000 or less with SBA's Associate General Counsel for Litigation, rather than the General Counsel.

DATES: Submit comments must on or before June 1, 1999.

ADDRESSES: Address comments Timothy Treanor, Chief Counsel to the Disaster Assistance Program, U.S. Small Business Administration, 409 3rd Street, SW., Suite 7500, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Timothy Treanor, (202) 205-6885.

SUPPLEMENTARY INFORMATION: Under the Disaster Assistance Program, SBA makes direct loans to individual and business victims of natural disasters. SBA makes these loans through an organizational structure that is separate and distinct from other SBA lending programs. The Disaster Assistance Program operates from four permanent Area Offices and from temporary local offices that are from time to time established to handle such disasters. SBA's Disaster Area Office employees and local office employees are located in different offices from other SBA

employees and report to different managers.

Currently, SBA's District Counsels who are not located in disaster offices have exclusive authority to investigate any claim arising within the jurisdiction covered by their Districts, including claims based on acts or omissions of Disaster Assistance employees. District Counsels also have the authority to deny or recommend approval of a claim for \$5,000 or less. Currently, for claims exceeding \$5,000 but less than \$25,000, District Counsels investigate claims and forward them with a recommendation to SBA's General Counsel.

Under this proposed regulation, a claimant could file a tort claim against SBA for the acts or omissions of an employee of SBA's Disaster Assistance Program either at the State's District Office (the one closest to the site of the injury if there are more than one District Offices) or at the nearest Disaster Area Office. The proposed regulation would provide authority identical to that of the District Counsel to the Disaster Area Counsel to investigate and make recommendations concerning claims arising from a Disaster Assistance employee's acts or omissions. It would also vest the Associate General Counsel for Litigation with the authority to decide claims of \$25,000 or less, which is in line with the Agency's current practice.

The proposed regulation also removes inaccurate language from § 114.105 concerning the requirement that District Counsel consult with the General Counsel before approving claims for less than \$5,000 (the District Counsel does not have the authority to approve such claims).

The proposed regulation also removes unnecessary language from §§ 114.106 and 114.108 which purports to characterize § 114.107, and makes other minor, technical changes.

Compliance with Executive Orders 12612, 12778, 12866, the Regulatory Flexibility Act (5 U.S.C. § 601 et seq.), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

SBA certifies that this proposed rule is not a significant rule within the meaning of Executive Order 12866; it is not likely to have an annual economic effect of \$100 million or more, result in a major increase in cost or prices, or have a significant adverse effect on competition or the United States economy. SBA also certifies that this

rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. § 601 et seq. This rule provides for the more efficient administration of SBA's responsibilities under the Federal Tort Claims Act and imposes neither fees or additional administrative responsibilities on small businesses. For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA certifies that this final rule contains no new reporting or record keeping requirements.

For purposes of Executive Order 12612, SBA certifies that this rule has no federalism implications warranting the preparation of a Federalism Assessment. For purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 2 of that Order.

List of Subjects in 13 CFR Part 114

Claims.

For the reasons stated in the preamble, SBA proposes to amend 13 CFR part 114 as follows:

PART 114—ADMINISTRATIVE CLAIMS UNDER THE FEDERAL TORT CLAIMS ACT AND REPRESENTATION AND INDEMNIFICATION OF SBA EMPLOYEES

1. The authority citation for part 114 continues to read as follows:

Authority: 15 U.S.C. 634(b)(1), (b)(6); 28 U.S.C. 2672; 28 CFR 14.11.

2. Revise § 114.102 to read as follows:

§ 114.102. When, where, and how do I present a claim?

(a) *When.* You must present your claim within 2 years of the date of accrual.

(b) *Where.* You may present your claim at the SBA District Office nearest to the site of the action giving rise to the claim and within the same State as the site. If you claim is based on the acts or omissions of an employee of SBA's Disaster Assistance Program, you may present your claim either to the appropriate SBA District Office or to the Disaster Assistance Office nearest to the site of the action giving rise to the claim.

(c) *How.* You must use an official form which can be obtained from the SBA office where you file the claim or give other written notice of your claim,

stating the specific amount of your alleged damages and providing enough information to enable SBA to investigate your claim. You may present your claim in person or by mail, but your claim will not be considered presented until SBA receives the written information.

3. Revise § 114.105 (b) and (c) to read as follows:

§ 114.105 Who investigates and considers my claim?

* * * * *

(b) In those cases in which SBA investigates your claim, and which arise out of the acts or omissions of employees other than employees of the Disaster Assistance program, the SBA District Counsel in the office with jurisdiction over the site where the action giving rise to the claim occurred will investigate and make recommendations or a determination with respect to your claim. In those cases in which SBA investigates your claim, and which arise out of acts or omissions of Disaster Assistance Program employees, the SBA Disaster Area Counsel in the office with jurisdiction over the site where the action giving rise to the claim occurred will investigate and make recommendations or a determination with respect to your claim. The District Counsel, or Disaster Area Counsel, where appropriate, may negotiate with you, and is authorized to use alternative dispute resolution mechanisms, which are non-binding on SBA, when they may promote the prompt, fair, and efficient resolution of your claim.

(c) If your claim is for \$5,000 or less, the District Counsel or Disaster Area Counsel who investigates your claim may deny the claim, or may recommend approval, compromise, or settlement of the claim to the Associate General Counsel for Litigation, who will in such a case take final action.

4. Revise § 114.106 to read as follows:

§ 114.106 What if my claim exceeds \$5,000?

The District Counsel or Disaster Area Counsel, as appropriate, must review and investigate your claim and forward it with a report and recommendation to the Associate General Counsel for Litigation or designee, who may approve or deny an award, compromise, or settlement of claims in excess of \$5,000, but not exceeding \$25,000.

5. Revise § 114.108 to read as follows:

§ 114.108 What if my claim is approved?

SBA will notify you in writing if it approves your claim. The District Counsel or Disaster Area Counsel investigating your claim will forward to you, your agent, or legal representative the forms necessary to indicate satisfaction of your claim and your

acceptance of the payment. Acceptance by you, your agent, or your legal representative of any award, compromise, or settlement releases all your claims against the United States under the Federal Tort Claims Act. This means that it binds you, your agent, or your legal representative, and any other person on whose behalf or for whose benefit the claim was presented. It also constitutes a complete release of our claim against the United States and its employees. If you are represented by counsel, SBA will designate you and your counsel as joint payees and will deliver the check to counsel. Payment is contingent upon the waiver of your claim and is subject to the availability of appropriated funds.

Aida Alvarez,
Administrator.

[FR Doc. 99-10680 Filed 4-28-99; 8:45 am]

BILLING CODE 8025-01-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99-ASO-6]

Proposed Amendment to Class D and Class E Airspace; San Juan, PR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The notice proposes to amend Class D airspace at Fernando Luis Ribas Dominicci Airport, San Juan, PR, and Class E5 airspace at Luis Munoz Marin International Airport, San Juan, PR. A Global Positioning System (GPS) Runway (RWY) 9 Standard Instrument Approach Procedure (SIAP) has been developed for Fernando Luis Ribas Dominicci Airport. As a result, additional Class D controlled airspace for the Fernando Luis Ribas Dominicci Airport extending upward from the surface and additional Class E5 controlled airspace for the Luis Munoz Marin International Airport, extending upward from 700 feet above the surface is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at Fernando Luis Ribas Dominicci Airport. The Class D airspace would be increased from a 3 mile to a 3.9-mile radius of Fernando Luis Ribas Dominicci Airport and within 1 mile each side of the 275 degree bearing from the Fernando Luis Ribas Dominicci Airport, extending from the 3.9-mile radius to 5.3 miles west of the airport. The Class E5 airspace area for the Luis Munoz Marin International Airport would be increased within 1 mile each

side of the 275 degree bearing from the Fernando Luis Ribas Dominicci Airport, extending 2.5 miles west of the 13-mile radius of the Luis Munoz Marin International Airport. The operating status of the Fernando Luis Ribas Dominicci Airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

DATES: Comments must be received on or before June 1, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 99-ASO-6, Manager, Airspace Branch, ASO-520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305-5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5627.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99-ASO-6." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments.

A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

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

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class D airspace at the Fernando Luis Ribas Dominicki Airport, San Juan, PR, and Class E5 airspace at the Luis Munoz Marin International Airport, San Juan, PR. A GPS RWY 9 SIAP has been developed for Fernando Luis Ribas Dominicki Airport. As a result, additional controlled airspace extending upward from the surface and additional controlled airspace extending upward from 700 feet above the surface is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at Fernando Luis Ribas Dominicki Airport. Class D airspace designations are published in Paragraph 5000 and Class E5 airspace designations are published in Paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E5 airspace designations listed in this document would be published subsequently in the Order.

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

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

1. The authority citation for 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.

* * * * *

ASO PR D San Juan, PR [Revised]

Fernando Luis Ribas Dominicki Airport
(Lat. 18°27'25" N., long. 66°05'54" W.)
Luis Munoz Marin International Airport
(Lat. 18°26'22" N., long. 66°00'07" W.)

That airspace extending upward from the surface, to but not including 1,200 feet MSL, within a 3.9-mile radius of San Juan Fernando Luis Ribas Dominicki Airport and within 1 mile each side of the 275 degree bearing from the Fernando Luis Ribas Dominicki Airport, extending from the 3.9-mile radius to 5.3 miles west of the airport; excluding that portion within the San Juan Luis Munoz Marin International Airport, PR, Class C airspace area. This Class D airspace area is effective during the 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 6005. Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO PR E5 San Juan, PR [Revised]

Luis Munoz Marin International Airport
(Lat. 18°26'22" N. long. 66°00'07" W.)
Fernando Luis Ribas Dominicki Airport
(Lat. 18°27'25" N., long. 66°05'54" W.)

That airspace extending upward from 700 feet above the surface south of lat. 18°23'00" N., within a 17-mile radius of Luis Munoz

Marin International Airport and that airspace north of lat. 18°23'00" N., within a 13-mile radius of Luis Munoz Marin international Airport and within one mile each side of the 275 degree bearing from the Fernando Luis Ribas Dominicki Airport, extending 2.5 miles west from the 13-mile radius point.

* * * * *

Issued in College Park, Georgia, on April 19, 1999.

Nancy B. Shelton,

Acting Manager, Air Traffic Division Southern Region.

[FR Doc. 99-10735 Filed 4-28-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

Training of Lessee and Contractor Employees Engaged in Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of public workshop.

SUMMARY: This notice announces a public workshop that MMS will conduct to discuss our proposed revision of the training regulations at 30 CFR Part 250, Subpart O. This workshop will provide the public an opportunity to comment on the proposed rule.

DATES: The date of the public workshop is June 10, 1999, from 8:30 a.m. to 12:30 p.m., at the location listed in the address section.

ADDRESSES: The workshop will be held in the ballroom of the Sheraton Crown Hotel, 15700 John F. Kennedy Boulevard, Houston, Texas 77032. For directions, please call Ms. Donna Daniels of the Sheraton at (281) 442-5100.

FOR FURTHER INFORMATION CONTACT: Mr. Wilbon Rhome, MMS, Operations Analysis Branch, telephone (703) 787-1587, Fax (703) 787-1555, or email wilbon.rhorne@mms.gov.

SUPPLEMENTARY INFORMATION: The goal of this workshop is to give the public an opportunity to provide MMS input on our proposal and to discuss our plans to use a series of performance measures to periodically assess lessee and contractor training programs. These measures may include the following: (1) audits; (2) written testing; (3) hands-on testing; and/or (4) employee interviews. Under the proposed rule, MMS would allow lessees and contractors to develop and implement their own training programs. They will also have the flexibility to

develop alternative training programs. The MMS published the proposed rule in the **Federal Register** on April 20, 1999 (63 FR 19318). We will be accepting comments throughout the 90-day comment period, which closes on July 19, 1999.

Registration

The workshop will not have a registration fee. However, to assess the probable number of participants, MMS asks participants to register by contacting Wilbon Rhome by June 1, 1999, at the phone numbers or email address provided for further information.

Proceedings

Proceedings will be transcribed and copies will be available for purchase. We will provide details for obtaining copies of the proceedings during the workshop.

Dated: April 21, 1999.

E. P. Danenberger,

Chief, Engineering and Operations Division.
[FR Doc. 99-10737 Filed 4-28-99; 8:45 am]

BILLING CODE 4310-MR-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 83

[FRL-6332-8]

Extension of Comment Period for Control of Emissions of Air Pollution From New Nonroad Spark-Ignition Engines Rated Above 19 Kilowatts and New Land-Based Recreational Spark-Ignition Engines; Notice of Proposed Finding

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed finding; notice of extension of comment period.

SUMMARY: EPA is extending the comment period for the Notice of Proposed Finding for new nonroad spark-ignition engines rated above 19 kilowatts and new land-based recreational spark-ignition engines. The Notice of Proposed Finding was published in the **Federal Register** on February 8, 1999 (64 FR 6008). The close of the comment period for the proposed finding is April 12, 1999. EPA is extending the closure of the comment period to June 11, 1999.

DATES: Comments regarding all issues related to the notice of proposed finding will be accepted until June 11, 1999.

ADDRESSES: Comments on this proposal should be sent to Public Docket A-98-

01 at the U.S. Environmental Protection Agency, 401 M Street, SW, Room M-1500, Washington DC 20460. EPA requests that a copy of comments also be sent to Alan Stout, U.S. EPA, Engine Programs and Compliance Division, 2000 Traverwood Dr., Ann Arbor, MI 48105.

FOR FURTHER INFORMATION CONTACT: Ines Storhok, U.S. EPA, Engine Programs and Compliance Division, (734) 214-4575; storhok.ines@epa.gov.

SUPPLEMENTARY INFORMATION: On February 8, 1999, EPA published a notice of proposed finding for an emission control program for new nonroad spark-ignition engines rated above 19 kilowatts and new land-based recreational spark-ignition engines (64 FR 6008). In this proposal, EPA proposed a finding that nonroad spark-ignition engines rated above 19 kilowatts, as well as all land-based recreational nonroad spark-ignition engines, cause or contribute to air quality nonattainment in more than one ozone or carbon monoxide nonattainment area. The comment period ended April 12, 1999. EPA has received several requests to extend the comment period by 60 days to give affected parties more time to address the issues raised in the notice of proposed finding. EPA agrees that an extension of the comment period may be beneficial. Therefore, EPA is extending the comment period to June 11, 1999.

Dated: April 22, 1999.

Robert Perciasepe,

Assistant Administrator for Air and Radiation.

[FR Doc. 99-10728 Filed 4-28-99; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL-6320-3]

Ocean Dumping; Amendment of Site Designation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to amend the site designation for the San Francisco Deep Ocean Disposal Site (SF-DODS), an existing deep ocean dredged material disposal site located off San Francisco, California, by setting a permanent annual disposal volume limit and clarifying conditions and requirements for use of the site.

Use of the SF-DODS, at the proposed annual volume limit of 4.8 million cubic yards, is consistent with, and is an important component of the regional Long Term Management Strategy for the Placement of Dredged Material in the San Francisco Bay Region (LTMS). Clarifications to the original site designation Rule, developed from experience with and monitoring of site use since designation, include addition of management measures and other site use requirements to further minimize the potential for any adverse environmental impacts.

DATES: Comments must be received on or before June 1, 1999.

ADDRESSES: Send questions or comments to: Ms. Kathleen Dadey, Dredging and Sediment Management Team, U.S. Environmental Protection Agency, Region IX (WTR-8), 75 Hawthorne Street, San Francisco, CA 94105, telephone (415) 744-1995.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen Dadey, Dredging and Sediment Management Team, U.S. Environmental Protection Agency, Region IX (WTR-8), 75 Hawthorne Street, San Francisco, CA 94105, telephone (415) 744-1995 or Mr. Allan Ota, telephone (415) 744-1980.

SUPPLEMENTARY INFORMATION: The primary supporting documents for this designation amendment are the Final EIS for the Designation of a Deep Water Ocean Dredged Material Disposal Site off San Francisco, California (August 1993), the Long Term Management Strategy for the Placement of Dredged Material in the San Francisco Bay Region Final Policy EIS/Programmatic EIR (October, 1998), and the SF-DODS designation Final Rule (40 CFR 228.15(l)(3)). All are available for public inspection at the following locations:

1. EPA Region IX, Library, 75 Hawthorne Street, 13th Floor, San Francisco, California 94105.
2. EPA Public Information Reference Unit, Room 2904, 401 M Street, S.W., Washington, DC 20460.
3. ABAG/MTC Library, 101 8th Street, Oakland, California 94607.
4. Alameda County Library, 835 C Street, Hayward, California 94541.
5. Bancroft Library, University of California, Berkeley, California 94720.
6. Berkeley Public Library, 2090 Kittredge Street, Berkeley, California 94704.
7. Daly City Public Library, 40 Wembley Drive, Daly City, California 94015.
8. Environmental Information Center, San Jose State University, 125 South 7th Street, San Jose, California 95192.
9. Half Moon Bay Library, 620 Correas Street, Half Moon Bay, California 94019.

- 10. Hayward Public Library, 835 C Street, Hayward, California 94541.
- 11. Hoover Institute, Stanford University, Stanford, California 94305.
- 12. Marin County Library, Civic Center, 3501 Civic Center Drive, San Rafael, California 94903.
- 13. North Bay Cooperative Library, 725 Third Street, Santa Rosa, California 95404.
- 14. Oakland Public Library, 125 14th Street, Oakland, California 94612.
- 15. Richmond Public Library, 325 Civic Center Plaza, Richmond, California 94804.
- 16. San Francisco Public Library, Civic Center, Larkin & McAllister, San Francisco, California 94102.
- 17. San Francisco State University Library, 1630 Holloway Avenue, San Francisco, California 94132.

- 18. San Mateo County Library, 25 Tower Road, San Mateo, California 94402.
 - 19. Santa Clara County Free Library, 1095 North Seventh Street, San Jose, California 95112.
 - 20. Santa Cruz Public Library, 224 Church Street, Santa Cruz, California 95060.
 - 21. Sausalito Public Library, 420 Litho Street, Sausalito, California 94965.
 - 22. Stanford University Library, Stanford, California 94305.
- Additional supporting documentation is contained in the draft SF-DODS Site Management and Monitoring Plan Implementation Manual, the LTMS EIS/R administrative record, and related documents, available from the EPA Region IX Library (number 1 in the list above).

A. Regulated Entities

Entities potentially regulated by this action are persons, organizations, or government bodies seeking to dispose of dredged material in ocean waters at the SF-DODS, under the Marine Protection Research and Sanctuaries Act, 33 U.S.C. 1401 *et seq.* The Rule would be primarily of relevance to parties in the San Francisco area seeking permits from the U.S. Army Corps of Engineers to transport dredged material for the purpose of disposal into ocean waters at the SF-DODS, as well as the U.S. Army Corps of Engineers itself (when proposing to dispose of dredged material at the SF-DODS). Potentially regulated categories and entities seeking to use the SF-DODS and thus subject to this Rule include:

Category	Examples of potentially regulated entities
Industry and General Public	<ul style="list-style-type: none"> • Ports. • Marinas and Harbors. • Shipyards and Marine Repair Facilities. • Berth owners.
State, local and tribal governments	<ul style="list-style-type: none"> • Governments owning and/or responsible for ports, harbors, and/or berths. • Government agencies requiring disposal of dredged material associated with public works projects.
Federal government	<ul style="list-style-type: none"> • U.S. Army Corps of Engineers Civil Works projects. • Other Federal agencies, including the Department of Defense.

This table lists the types of entities that EPA is now aware could potentially be regulated. EPA notes, however, that nothing in this amendment alters in any way, the jurisdiction of EPA, or the types of entities regulated under the Marine Protection Research and Sanctuaries Act. To determine if you or your organization is potentially regulated by this action, you should carefully consider whether you expect to propose ocean disposal of dredged material, in accordance with the Purpose and Scope provisions of 40 CFR 220.1, and if you wish to use the SF-DODS. If you have questions regarding the applicability of this action to a particular entity, consult the persons listed in the proceeding **FOR FURTHER INFORMATION** section.

B. Background

Section 102(c) of the Marine Protection Research and Sanctuaries Act (MPRSA) of 1972, as amended, 33 U.S.C. 1401 *et seq.*, gives the Administrator of EPA authority to designate sites where ocean disposal may be permitted. On October 1, 1986, the Administrator delegated authority to designate ocean dredged material disposal sites to the Regional Administrator of the EPA Region in which the site(s) is located. Today's

action, proposing to amend the 40 CFR 228.15(l)(3) SF-DODS designation Rule, is being made pursuant to that authority.

By publication of a Final Rule in the **Federal Register** on August 11, 1994 (59 FR 41243), EPA Region IX designated the SF-DODS as an ocean dredged material disposal site. The center of the SF-DODS is located approximately 49 nautical miles (91 kilometers) west of the Golden Gate and occupies an area of approximately 6.5 square nautical miles (22 square kilometers). Water depths within the SF-DODS range from approximately 8,200 to 9,840 feet (2,500 to 3,000 meters). The center coordinates of the oval-shaped site are: 37°39.0' North latitude by 123°29.0' West longitude (North American datum, dated 1983). The north-south axis is approximately four nautical miles (7.5 kilometers); the east-west axis is 2.5 nautical miles (4.5 kilometers).

The SF-DODS is an important component of the LTMS. The LTMS is a cooperative interagency planning process for dredged material management that incorporates concerns and issues of a wide range of stakeholders, including navigation and fishing interests, environmental organizations and the general public. The LTMS seeks to develop a

comprehensive, technically feasible, environmentally suitable, and economically prudent long-range approach to meeting the region's dredged material disposal needs.

In its August 11, 1994 Final Rule, EPA designated the SF-DODS for use for a period of 50 years, with an interim capacity of six million cubic yards per calendar year until December 31, 1996. Because the LTMS regional planning effort was not completed by that date, the SF-DODS designation was subsequently extended (by Final Rule dated December 30, 1996, 61 FR 68964) at an interim annual volume limit of 4.8 million cubic yards until December 31, 1998. The reason for revising the volume limit from six to 4.8 million cubic yards was the revised and substantially decreased estimate of the long term need for ocean disposal of dredged material, resulting primarily from military base closures in the region.

Since the August 11, 1994 and December 30, 1996 Final Rules, substantial effort has been made toward development of a comprehensive dredged material management approach for the region. The federal and state LTMS agencies have prepared the Final LTMS EIS/R which was published in October 1998. The LTMS EIS/R

evaluates dredged material management options for the San Francisco Bay Region over the next 50 years, and contains a comprehensive evaluation of alternatives for dredged material disposal in the San Francisco Bay area, including ocean disposal, in-Bay disposal (placement at designated sites within the San Francisco Bay Estuary that are managed under section 404 of the Clean Water Act), and upland disposal or beneficial reuse. The alternatives evaluated in the LTMS EIS/R include varying levels of dredged material disposal or reuse in each of these three placement environments. The potential environmental and socioeconomic effects of each alternative were evaluated in the EIS/R. Based on these analyses, the environmentally preferred alternative (and the selected action) calls for significantly reducing in-Bay disposal and significantly increasing beneficial reuse and/or upland disposal. Specifically, the LTMS selected alternative includes a long-term goal of 20% in-Bay disposal, 40% beneficial reuse (and/or upland disposal), and 40% ocean disposal, primarily at the SF-DODS.

The LTMS EIS/R recognized, however, that beneficial reuse of dredged material, especially in the earlier years of LTMS implementation, will not always be a practicable alternative. Currently, only limited opportunities for beneficial use of dredged material exist in the Bay area. Although several reuse projects are in the planning stages, their specific capacities and the time frames of their availability are uncertain. In addition, the costs associated with reuse options may render them not practicable for certain projects or entities. For these reasons, a relatively higher proportion of aquatic (ocean plus in-Bay) disposal than called for as the long term goal under the LTMS selected alternative is expected to be necessary until substantial new upland disposal or reuse capacity becomes available.

EPA has determined that disposal of suitable dredged material at the SF-DODS presents less risk of adverse environment impact than does in-Bay disposal (see for example, Section 6.1 of the LTMS Final EIS/R). Therefore, to the extent that disposal at the SF-DODS is practicable, it may be the least environmentally damaging alternative, and in-Bay disposal of dredged material may not be permitted under the Clean Water Act section 404(b)(1) Guidelines (40 CFR part 230). Consequently, EPA has determined that there is a need for continued availability of the SF-DODS for dredged material disposal at the

annual volume limit of 4.8 million cubic yards, and that this disposal volume limit is an important aspect of the regional LTMS planning effort and necessary for its success. Today's action is primarily intended to set a permanent annual volume limit that will allow the SF-DODS to accommodate dredging projects for which beneficial reuse (and/or upland disposal) is not practicable, while minimizing the amount of dredged material disposed in-Bay. In addition, EPA is also proposing several changes that clarify the Site Management and Monitoring Plan (SMMP) for the SF-DODS, and that provide enhanced environmental protection.

C. Disposal Volume Limit

The proposed annual disposal limit for the SF-DODS (as a permanently designated site) is 4.8 million cubic yards. This volume is considerably less than the 6 million cubic yards per year originally determined to be environmentally acceptable for the SF-DODS. To date, project-specific, annual, and confirmatory monitoring efforts have indicated that disposal at the SF-DODS has not resulted in significant adverse environmental impacts, consistent with the conclusions of the original (1993) site designation EIS.

A number of disposal violations have occurred since the SF-DODS was designated in 1994. However, considering that nearly 2,500 barge loads have been disposed at the site over the past three years¹, violations have been relatively rare. Furthermore, EPA has vigorously pursued enforcement of permit violations and will continue to do so.

Public comments on the LTMS EIS/R and on the draft SF-DODS Site Management and Monitoring Plan Implementation Manual expressed the concern that the original SF-DODS site designation EIS (EPA, 1993) contained an inaccurate evaluation of potential impacts due to increased disposal-related vessel traffic to and from the SF-DODS. Specifically, the original site designation EIS concluded that vessel traffic in the area would increase by only approximately two percent as a

¹ For example, during the Oakland Harbor 42 foot deepening project, EPA noted approximately 10 disposal incidents outside the original target area, but within the SF-DODS site, two incidents outside the disposal site, but also outside of the Marine Sanctuaries, and two disposal incidents within the Gulf of the Farallones National Marine Sanctuary. Two incidents resulted, at least in part, from weather- or equipment-related emergencies. Similarly, EPA is aware of only two disposal incidents arising from the recent Richmond Harbor deepening project which were both the result of mechanical failures.

result of trips to the SF-DODS. (The 1998 LTMS EIS/R assumed a worst-case situation of approximately three times the average disposal frequency evaluated in the SF-DODS EIS.) One commenter, using vessel traffic information summarized in the SF-DODS EIS, calculated that worst-case overall vessel traffic increases in the Western Traffic Lane due to dredged material transport could be as great as 77 percent of the existing traffic. The commenter was concerned that this vessel traffic increase could result in significant disturbance-related impacts, especially to seabirds and marine mammals.

EPA has re-evaluated the potential vessel traffic increase, and the potential for this increase to result in adverse environmental impacts. This evaluation, which is presented in detail in the response to comments on the LTMS EIS/R, corroborates the EIS/R commenter's calculations and suggests that overall traffic increases may be between 110 and 162 percent. Nevertheless, EPA has determined that significant adverse impacts are unlikely to result from even the worst-case vessel traffic increases potentially associated with the proposed 4.8 million cubic yard annual disposal volume limit, for the following reasons:

- The worst-case increase in vessel traffic is significant in terms of absolute numbers. However, the majority of other vessels using the Western Traffic Lane (i.e., the one used by dredged material disposal-related vessels) are considerably larger in size, travel faster, carry cargo that is likely to be more dangerous to the aquatic environment if spilled or otherwise discharged, and generally are expected to result in a greater potential for disturbance to birds and mammals along the route to the SF-DODS than do the relatively small and slow-moving tugs and barges transporting dredged material. For example, as documented in the LTMS Final EIS/R, large commercial ships (56%) and tankers (13.3%) comprised the majority of the vessels using the Western Transit Lane during the period of 1980 through 1991.²

- Monitoring to date, including regional environmental monitoring and observers on dredged material disposal vessels, particularly during years of high disposal activity, has confirmed that no adverse effects to seabirds and marine mammals have occurred in terms of distraction, stress or alteration of behavior. Furthermore, seabird and marine mammal monitoring during transits to the SF-DODS will continue, and in some cases may increase, as a result of proposed changes to Mandatory Condition #12 (see below).

² Data are from the Final Environmental Impact Statement for Designation of a Deep Water Ocean Dredged material Disposal Site off San Francisco, California (August 1993).

D. Other Technical Changes to the SF-DODS SMMP

SMMP Implementation Manual: EPA proposes to clarify the SF-DODS Rule to ensure that permittees use the most current information available regarding site management and monitoring by explicitly directing them to adhere to requirements contained in the current version of the SMMP Implementation Manual. EPA intends to use the Implementation Manual as the primary vehicle for addressing new technology, making changes resulting from site monitoring, and incorporating other improvements. In this way, EPA can effect necessary modifications in the most expedient and efficient manner.

Surface Target Area: EPA is proposing modifications to Mandatory Condition #5 to reduce the surface target area of the SF-DODS from the existing radius of 1,000 meters to a circle with a radius of 600 meters. EPA's intent is to ensure that dredged material deposition outside of the SF-DODS boundary is minimized.

Acceptable Sea State: A number of commenters to the SF-DODS SMMP Implementation Manual and the LTMS EIS/R expressed concern regarding the maximum acceptable sea state for transit to the SF-DODS. They felt that the existing limits of "gale warning" and seas "over 18 feet" were not restrictive enough to minimize spillage and accidents. The Corps has incorporated revised acceptable sea states in its contracts for recent dredging projects and EPA has clarified sea states in the SMMP Implementation Manual to address these concerns. EPA proposes to codify a more restrictive sea state limit by modifying Mandatory Condition #1 to specifically limit the acceptable wave height to a maximum of 16 feet. Improvements in technology may result in changes to particular characteristics of the acceptable sea state (e.g., wave period). EPA will update the SMMP Implementation Manual to incorporate these changes, as appropriate.

Scow Loading and Certification: EPA and the Corps have implemented several other modifications to dredging and disposal operations as a result of experience gained from monitoring and managing the SF-DODS to date. We are proposing revisions to Mandatory Condition #2 to clarify dredged material disposal vessel loading limitations and to include more specific provisions for inspections and written certification of each disposal vessel.

Distance from Farallon Islands: The U.S. Coast Guard has noted that EPA does not have authority to restrict vessel traffic within already existing

designated marine traffic lanes. A portion of the existing traffic lane used to transport material to the SF-DODS overlaps the three mile limit around the Farallon Islands. Therefore, EPA is proposing a change to Mandatory Condition #4 to reflect that the permittee must be at all times within the traffic lane, but is encouraged to remain at least three miles from the Farallon Islands whenever possible, consistent with safe navigation practices.

Navigation Systems: Previous experience with disposal at SF-DODS has indicated to EPA that some permittees and/or their contractors may not be interpreting the details of this condition as EPA intended. Therefore, we propose to clarify our intent by providing more specific information in the condition.

Monitoring During Transit: EPA proposes to clarify Mandatory Condition #12 to ensure continued and representative monitoring of birds and marine mammals during transit of dredged material vessels to the SF-DODS and to focus monitoring effort during times when transport of material is high. We intend to ensure that observers are present on a sufficient number of disposal vessel trips to characterize fully the potential impact of disposal site use and transit on seabirds and marine mammals, taking into account, to the extent feasible, seasonal variations in such potential impacts.

Violation Notification: In response to a request from the National Oceanic and Atmospheric Administration, EPA is proposing to modify Mandatory Condition #11 to specifically require permittees to notify the Sanctuary Manager within 24 hours of any permit violation which occurs within the boundaries of either the Gulf of the Farallones National Marine Sanctuary or the Monterey Bay National Marine Sanctuary. Furthermore, EPA will continue to inform the Sanctuary Managers of all violations, both within and outside of the Sanctuaries.

Reporting Requirements: EPA is proposing to modify Mandatory Condition #13 to specifically require permittees to provide all pertinent information related to the dredging and dredged material disposal to the agencies. This will ensure that EPA and the Corps of Engineers have adequate data to determine if permit violations have occurred and to correct such violations at the earliest possible time.

E. Ocean Dumping Site Designation Criteria

Five general criteria and 11 specific site selection criteria are used in the

selection and approval of ocean disposal sites for continued use (40 CFR 228.5 and 40 CFR 228.6(a)). As described in the site designation EIS, the SF-DODS was specifically selected as the alternative which best complies with these criteria.

Monitoring activities conducted pursuant to the requirements of the SF-DODS SMMP have shown that the SF-DODS is in compliance with the site designation criteria and is performing as predicted in the site designation EIS. For example, seafloor mapping indicates that bulk of the dredged material has landed within the site boundary and has not been transported offsite thereafter. Deposits exceeding 17 centimeters in thickness have been identified only at the center of the SF-DODS and no deposits thicker than the five centimeter threshold established in the site designation Final Rule have been detected at or outside of the site boundary. No apparent changes in the basic successional stage of the native benthic communities attributable to dredged material disposal have been observed outside the site boundary. Therefore, any significant disturbances associated with dredged material disposal are limited to within the site boundary. In addition, water column studies have confirmed that plumes resulting from disposal operations dissipate rapidly and that the suspended sediment concentration of plumes decreases to ambient levels shortly after disposal.

Vessel traffic associated with disposal operations has not interfered with overall navigation in the region and has had no significant impact on marine mammals, birds, fish or other flora or fauna in the general region of the SF-DODS. Moreover, management actions taken by EPA and codified in today's proposed Rule further reduce the potential for adverse impacts.

EPA has determined that, in general, disposal of suitable dredged material at the SF-DODS is less environmentally damaging than in-Bay disposal (see for example, Section 6.1 in the LTMS Final EIS/R). Therefore, use of the SF-DODS for disposal of suitable dredged material has reduced potential cumulative adverse impacts to the aquatic environment. Use of the SF-DODS during 1996, 1997 and 1998 resulted in a total of approximately 5.7 million cubic yards of dredged material not being disposed at in-Bay sites.

Taken together, the evaluations presented in the site designation EIS and Final Rule, and the site monitoring results to date, confirm that the SF-DODS is performing as predicted and that it continues to meet the general and

specific site designation criteria of 40 CFR 228.5 and 228.6. Furthermore, EPA Region IX has determined that it is appropriate to designate a permanent annual disposal volume limit of 4.8 million cubic yards for the SF-DODS.

Management of the site continues to be the responsibility of the Regional Administrator of EPA Region IX, in cooperation with the Corps South Pacific Division Engineer and the San Francisco District Engineer, based on the requirements defined in the Final Rule. The requirement for compliance with the Ocean Dumping Criteria of the MPRSA may not be superseded by the provisions of the LTMS or any future comprehensive regional management plan for dredged material. EPA also emphasizes that ocean disposal site designation does not constitute or imply EPA Region IX's or the Corps San Francisco District's approval of ocean disposal of dredged material from any project. Before disposal of any dredged material at the SF-DODS may occur, EPA Region IX and the Corps San Francisco District must evaluate the proposed project according to the Ocean Dumping Criteria (40 CFR part 227) adopted pursuant to the MPRSA. EPA Region IX or the Corps San Francisco District will not allow ocean disposal of material if either agency determines that the Ocean Dumping Criteria are not met.

F. Regulatory Requirements

1. Consistency with the Coastal Zone Management Act

EPA prepared a Coastal Zone Consistency Determination (CCD) document based on information presented in the site designation EIS (August 1993). The CCD evaluated whether the proposed action—designation of "Alternative Site 5" (now SF-DODS) as described in the site designation EIS as an ocean disposal site for up to 50 years, with an annual capacity of six million cubic yards of dredged material meeting ocean disposal criteria—would be consistent with the provisions of the Coastal Zone Management Act. The CCD was formally presented to the California Coastal Commission (Commission) at their public hearing April 12, 1994. The Commission staff report recommended that the Commission concur with EPA's CCD, which the Commission did by a unanimous vote. Because the approved CCD was based on 50 years of site use at up to six million cubic yards of material annually, and none of the provisions in this proposed amendment exceed these parameters, the effects of today's proposal are well within the

scope of the prior review and do not require further Commission review.

2. Endangered Species Act Consultation

During development of the site designation EIS, EPA consulted with the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS) pursuant to the provisions of the Endangered Species Act (ESA), regarding the potential for designation and use of any of the alternative ocean disposal sites under study to jeopardize the continued existence of any federally listed species. This consultation process is fully documented in the August 1993 site designation EIS. NMFS and FWS concluded that none of the three alternative disposal sites, including the SF-DODS, if designated and used for disposal of dredged material meeting the criteria for ocean disposal, would likely jeopardize the continued existence of any federally listed species.

The results of over four years of monitoring data indicate that disposal of dredged material at the SF-DODS has not had an adverse impact on federally listed or candidate species, nor their designated critical habitat.

The ESA consultation was based on site use of up to six million cubic yards of dredged material per year, for 50 years. Since the action now proposed does not exceed these parameters and because conditions have not changed for any of the listed or candidate threatened or endangered species potentially affected by disposal site use, the effects of today's proposal are well within the scope of the original consultation and do not require further Endangered Species Act consultation.

G. Administrative Review

1. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant", and therefore subject to OMB review and other requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to lead to a rule that may:

- (a) Have an annual effect on the economy of \$100 million or more, or adversely affect in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;
- (b) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (c) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(d) Raise novel legal or policy issues arising out of legal mandates, the Presidents priorities, or the principles set forth in the Executive Order.

This proposed amendment should have minimal impact on permittees. Clarifications contained herein do not substantively alter the intent of the Rule nor its interpretation, and in general, codify actions that are already being taken. The annual volume limitation merely makes permanent the temporary volume set in the December 30, 1996 Rule amendment (61 FR 68964). Consequently, EPA has determined that this proposed Rule is not a "significant regulatory action" under the terms of Executive Order 12866.

2. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996

The Regulatory Flexibility Act (RFA) provides that whenever an agency promulgates a final rule under 5 U.S.C. 553, the agency must prepare a regulatory flexibility analysis (RFA) unless the head of the agency certifies that the proposed Rule will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 604 and 605). The amended site designation would only have the effect of clarifying an existing Rule and setting a permanent annual disposal volume, providing a continuing disposal option for dredged material. Consequently, EPA's proposed action will not impose any additional economic burden on small entities. For this reason, the Regional Administrator certifies, pursuant to section 605(b) of the RFA, that the proposed Rule will not have a significant economic impact on a substantial number of small entities.

3. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, is intended to minimize the reporting and record-keeping burden on the regulated community, as well as to minimize the cost of Federal information collection and dissemination. In general, the Act requires that information requests and record-keeping requirements affecting ten or more non-Federal respondents be approved by OMB. Since the proposed Rule would not establish or modify any information or record-keeping requirements, but only clarifies existing requirements, it is not subject to the provisions of the Paperwork Reduction Act.

4. The Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L.

104-4) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any year.

This proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or tribal governments or the private sector. As described elsewhere in this preamble, today's proposed Rule would only have the effect of clarifying an existing Rule and setting a permanent annual disposal volume, providing a continuing disposal option for dredged material. Consequently, it imposes no new enforceable duty on any State, local or tribal governments or the private sector. Similarly, EPA has also determined that this Rule contains no regulatory requirements that might significantly or uniquely affect small government entities. Thus, the requirements of section 203 of the UMRA do not apply to this Rule.

List of Subjects in 40 CFR Part 228

Environmental protection, Water pollution control.

Dated: March 24, 1999.

Alexis Strauss,

Acting Regional Administrator, Region IX.

In consideration of the foregoing, chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

§ 228.15 [Amended]

2. Section 228.15 is amended in paragraph (l)(3)(vi) by adding a sentence before the last sentence; by revising paragraph (l)(3)(vii); and revising paragraphs (l)(3)(viii)(A)(1), (2), (4), (5), (7), (11), (12), and (13) to read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(1) * * *

(3) * * *

(vi) * * * Adherence to the provisions of the most current SMMP Implementation Manual, including mandatory permit conditions, site

monitoring activities, and any other condition(s) EPA or the Corps have required as part of the project authorization or permit, is a requirement for use of the SF-DODS.

* * *

(vii) *Type and capacity of disposed materials.* Site disposal capacity is 4.8 million cubic yards of suitable dredged material per year for the remaining period of site designation. This limit is based on considerations in the regional Long Term Management Strategy for the placement of dredged material within the San Francisco Bay region, and on monitoring of site use since the SF-DODS was designated in 1994.

(viii) * * *

(A) * * *

(I) Transportation of dredged material to the SF-DODS shall only be allowed when weather and sea state conditions will not interfere with safe transportation and will not create risk of spillage, leak or other loss of dredged material in transit to the SF-DODS. No disposal trips shall be initiated when the National Weather Service has issued a gale warning for local waters during the time period necessary to complete dumping operations, or when wave heights are 16 feet or greater. The permittee must consult the most current version of the SMMP Implementation Manual for additional restrictions and/or clarifications regarding other sea state parameters, including, but not limited to wave period.

(2) All vessels used for dredged material transportation and disposal must be loaded to no more than 80 percent by volume of the vessel. Before any disposal vessel departs for the SF-DODS, an independent quality control inspector must certify in writing that the vessel meets the conditions and requirements of a certification checklist that contains all of the substantive elements found in the example contained in the most current SMMP Implementation Manual. For the purposes of paragraph (l)(3)(viii) of this section, "independent" means not an employee of the permittee or dredging contractor; however, the Corps of Engineers may provide inspectors for Corps of Engineers dredged material disposal projects.

* * * * *

(4) Disposal vessels in transit to and from the SF-DODS should remain at least three nautical miles from the Farallon Islands whenever possible. Closer approaches should occur only in situations where the designated vessel traffic lane enters the area encompassed by the 3-mile limit, and where safety may be compromised by staying outside

of the 3-mile limit. In no case may disposal vessels leave the designated vessel traffic lane.

(5) When dredged material is discharged within the SF-DODS, no portion of the vessel from which the materials are to be released (e.g., hopper dredge or towed barge) can be further than 1,900 feet (600 meters) from the center of the target area at 37°39' N, 123°29' W.

* * * * *

(7) Disposal vessels shall use an appropriate navigation system capable of indicating the position of the vessel carrying dredged material (for example, a hopper dredged vessel or towed barge) with a minimum accuracy and precision of 100 feet during all disposal operations. The system must also indicate the opening and closing of the doors of the vessel carrying the dredged material. If the positioning system fails, all disposal operations must cease until the navigational capabilities are restored. The back-up navigation system, with all the capabilities listed in this condition, must be in place on the vessel carrying the dredged material.

* * * * *

(11) The permittee shall report any anticipated or actual permit violations to the District Engineer and the Regional Administrator within 24 hours of discovering such violation. If any anticipated or actual permit violations occur within the Gulf of the Farallones or the Monterey Bay National Marine Sanctuaries, the permittee must also report any such violation to the respective Sanctuary Manager within 24 hours. In addition, the permittee shall prepare and submit reports, certified accurate by the independent quality control inspector, on a frequency that shall be specified in permits, to the District Engineer and the Regional Administrator setting forth the information required by Mandatory Conditions in paragraphs (l)(3)(viii)(A)(8) and (9) of this section.

(12) Permittees, and the Corps in its Civil Works projects, must make arrangements for independent observers to be present on disposal vessels for the purpose of conducting shipboard surveys of seabirds and marine mammals. Observers shall employ standardized monitoring protocols, as referenced in the most current SMMP Implementation Manual. At a minimum, permittees shall ensure that independent observers are present on at least one disposal trip during each calendar month that disposal occurs, AND on average at least once every 25 vessel trips to the SF-DODS.

(13) At the completion of short-term dredging projects, at least annually for ongoing projects, and at any other time or interval requested by the District Engineer or Regional Administrator, permittees shall prepare and submit to the District Engineer and Regional Administrator a report that includes complete records of all dredging, transport and disposal activities, such as navigation logs, disposal coordinates, scow certification checklists, and other information required by permit conditions. Electronic data submittals may be required to conform to a format specified by the agencies. Permittees shall include a report indicating whether any dredged material was dredged outside the areas authorized for dredging or was dredged deeper than authorized for dredging by their permits.

* * * * *

[FR Doc. 99-10729 Filed 4-28-99; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99-116, RM-9536]

Radio Broadcasting Services; Angel Fire, Chama, Taos, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Alpine Broadcasting Limited Partnership seeking the substitution of Channel 256C for Channel 260C at Taos, NM, the modification of Station KHYF's construction permit to specify the alternate Class C channel, the substitution of Channel 260C2 for Channel 256C2 at Angel Fire, NM, the modification of Station KKIT's license to specify the alternate Class C2 channel, the substitution of Channel 221A for Channel 255A at Chama, NM, and the modification of the new station's construction permit (BPH-961115MM) to specify the alternate Class A channel. Channel 256C can be allotted to Taos in compliance with the Commission's minimum distance separation requirements with a site restriction of 60.3 kilometers (37.4 miles) northwest, at coordinates 36-47-33 NL; 106-02-49 WL, to accommodate petitioner's desired transmitter site. Channel 260C2 can be allotted to Angel Fire at Station KKIT's licensed transmitter site, at coordinates 36-22-

33; 105-14-12. Channel 221A can be allotted to Chama at the transmitter site specified in the outstanding construction permit, at coordinates 36-54-11; 106-34-35.

DATES: Comments must be filed on or before June 1, 1999, and reply comments on or before June 16, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard A. Helmick, Cohn and Marks, 1920 N Street, NW, Washington, DC 20036 (Counsel to petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making and Order to Show Cause, MM Docket No. 99-116, adopted March 31, 1999, and released April 9, 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 contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99-10750 Filed 4-28-99; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99-114, RM-8902]

Television Broadcasting Services; Lake Havasu City, AZ and Laughlin, NV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Mojave Broadcasting Company (formerly Meridian Communications Company), permittee of television Station KMCC, Channel 34+, Lake Havasu City, Arizona, requesting the reallocation of NTSC Channel 34+ from Lake Havasu City to Laughlin, Nevada, as that community's first local television transmission service and the modification of its authorization accordingly, pursuant to the provisions of Section 1.420(i) of the Commission's Rules. Additionally, Mojave's request also seeks the reallocation of its DTV Channel 32 from Lake Havasu City, Arizona, to Laughlin, Nevada. Coordinates used for NTSC Channel 34+, as well as DTV Channel 32 at Laughlin, Nevada, are 35-01-57 NL and 114-21-56 WL. As Laughlin, Nevada, is located within 320 kilometers (199 miles) of the United States-Mexico border, the Commission must obtain concurrence of the Mexican government to this proposal.

DATES: Comments must be filed on or before May 31, 1999, and reply comments on or before June 15, 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: Richard E. Wiley and James R. Bayes, Esqs., Wiley, Rein & Fielding, 1776 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99-114, adopted March 31, 1999, and released April 9, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY-A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service,

Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800.

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

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

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

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99-10752 Filed 4-28-99; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-98-4167; Notice 1]

Federal Motor Vehicle Safety Standards; Child Restraint Systems

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

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies a petition for rulemaking requesting that NHTSA amend Standard 213, "Child Restraint Systems," to delete the head excursion requirement for rear-facing convertible restraints. Petitioners believe that infants should be rear-facing until at least 1 year of age, and that the head excursion limit in Standard 213 makes it unnecessarily difficult for manufacturers to recommend their restraints be used rear-facing for children of at least that age. NHTSA is denying the petition because the head excursion limit serves a safety need and there are unknown safety consequences to the petitioners' requested action. Second, more and more manufacturers are able to meet the head excursion requirement and certify rear-facing restraints for children older than 1 year in age. Further, the petitioners did not provide—and

NHTSA has not identified—any data which indicate that injuries could have been prevented by the requested amendment.

FOR FURTHER INFORMATION CONTACT: For nonlegal issues: Mike Huntley, Office of Crashworthiness Standards, Special Vehicle and Systems Division (telephone 202-366-0029).

For legal issues: Deirdre Fujita, Office of the Chief Counsel (202-366-2992). Both can be reached at the National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Petitioners' Request

On March 1, 1997, Stephanie Trombello and Deborah Stewart, Executive Director and Technical Consultant, respectively, of SafetyBeltSafe U.S.A., Inglewood, California, petitioned NHTSA to amend Federal Motor Vehicle Safety Standard No. 213, "Child Restraint Systems" (49 CFR 571.213), concerning certain labeling and occupant excursion requirements in the standard. Petitioners believe that infants should be rear-facing until at least 1 year of age, and that the head excursion limit in Standard 213 makes it unnecessarily difficult for manufacturers of convertible¹ child restraint systems to recommend that their restraints be used rear-facing until the child is at least that age.

Standard 213 specifies performance requirements that a child restraint must meet when tested with dummies representing the range of children for which that child restraint is recommended. Under Standard 213's requirements, child restraints recommended for use by children weighing over 22 lb are tested with a test dummy representing a 3-year-old child. So tested, they must meet all performance requirements of the standard, including limits on how far they allow the rear-facing dummy's head to extend beyond and above the top of the child restraint in a 30-mph dynamic test. (This document refers to these limits as the head excursion limits.) The head excursion limits are set forth in S5.1.3.2 of Standard 213, as follows:

S5.1.3.2. *Rear-facing child restraint systems.* In the case of each rear-facing child restraint system, all portions of the test

¹ A convertible restraint is used to restrain children from birth to about 40 lb. When restraining an infant, the restraint is positioned so that it faces the rear of a vehicle. When restraining a toddler, the restraint is positioned so that it faces the front of a vehicle.

dummy's torso shall be retained within the system and neither of the target points on either side of the dummy's head and on the transverse axis passing through the center of mass of the dummy's head and perpendicular to the head's midsagittal plane, shall pass through the transverse orthogonal planes whose intersection contains the forward-most and top-most points on the child restraint system surfaces.

The petitioners request that Standard 213 be amended to exclude convertible child restraints from the head excursion limit when the restraint is tested rear-facing with the 33 lb dummy. Petitioners state that, but for the head excursion limit,

(S)ome currently available convertible safety seats have performed well in crash tests with the 33-pound dummy in the rear-facing position. (However, we understand that the reason the manufacturers have hesitated to change their instructions to encourage rear-facing use for heavier babies is that the child's head could ramp up and over the top edge of the car seat in a head-on collision.

Petitioners believe that injuries will be prevented if NHTSA amends the standard as they request. Twenty-two (22) lb is the weight of a 50th percentile 12-month-old. Petitioners state that many babies reach 22 lb at six months of age or even earlier. They believe that current labeling on convertible child restraints results in parents of "heavy" infants turning the child forward when the child is less than 1 year.

Petitioners believe that the head excursion limit is unnecessary because a heavy one-year-old is much shorter than the 33 lb (3-year-old) dummy. They suggest that in lieu of the head excursion requirement, parents can be instructed, by way of a label, to limit use of the rear-facing child restraint based on the child's height. They suggest a statement such as "This safety seat may be used in the rear-facing position until the child weighs 30 pounds if the child's head is below the top edge (or within ___ inches of the top edge) of the seat."

II. Evaluation of Petition

NHTSA is denying the petition for the reasons set forth below.

1. Rear-Facing Restraints Certified Above 22 Lb

Infants should be transported rear-facing until the child's skeletal and muscular structure can develop to where they can more safely withstand crash forces in a forward-facing position, which typically occurs at around age 1. Transporting infants rear-facing spreads crash forces evenly across the infant's back and shoulders, the strongest part of the child's body.

Further, the infant's head will be supported by the seating surface in a crash, which helps reduce the likelihood of severe neck injuries in a crash. To better enable child restraint manufacturers to produce rear-facing child restraints for children up to age 1, Standard 213 specifies that child restraints will not be tested with the 3-year-old child test dummy unless the restraint is recommended for use by a child weighing more than the 50th percentile 12-month-old (which weighs 22 lb) (see July 6, 1995 final rule, 60 FR 50477).²

While positioning an infant rear-facing is generally preferable to facing the child forward, that may not be the case if the child restraint system is unable to adequately limit the head excursion of the child, or otherwise meet the performance requirements of Standard 213. If the head excursion limit were deleted, that would negate the agency's ability to evaluate the restraint's ability to limit the upwards ramping of a child's head in a crash and would hamper the evaluation of the restraint's ability to prevent the partial or full ejection of the dummy.

Petitioners state that a "heavy" 1-year-old is much shorter than the 33 lb dummy, but do not provide any values quantifying the height difference. Available data indicate only a 3.5 centimeter (cm) difference in height. NHTSA evaluated data in a 1975 report by the University of Michigan, "Physical Characteristics of Children as Related to Death and Injury for Consumer Product Safety Design," May 1975 (UM-HSRI-BI-75-5, HS 017743), to determine the difference in sitting heights between a 95th percentile 1-year-old and a 50th percentile 3-year-old child. The sitting height (crown-rump) of the 95th percentile 1-year-old (combined sexes) is approximately 50 cm, while that of the 50th percentile 3-year-old (combined sexes) is 53.5 cm.³ The agency believes that the 3.5 cm height difference is not of a magnitude to render the 3-year-old dummy inappropriate as a test device for evaluating the restraint's ability to limit the head excursion of a 95th percentile 12-month-old child. To the contrary, the difference between the two may be unsubstantial.

²The interrelationship of weight, height, and age as they relate to positioning an infant rear facing in a child restraint system was discussed at length in the development of this rule, which amended FMVSS No. 213 to add a greater array of sizes and weights of test dummies for use in the standard's compliance tests.

³The agency's 3-year-old dummy represents a 50th percentile male child. Data on the sitting height of a 50th percentile male are not available.

Petitioners have also not provided data showing that a "heavy" 1-year-old would have adequate head support in a crash without a head excursion limit in the standard. They believe that a child whose head is "below the top edge (or within ___ inches of the top edge) of the seat" will be adequately protected, but do not specify what value should be specified in the blank. They also do not provide data supporting their belief that a child restraint will adequately support a child's head which is "below the top edge" or below that unspecified location on the child restraint. NHTSA is concerned that not enough is known about the safety consequences of reducing the stringency of the head excursion requirement for rear-facing child restraints.

In addition to the above consideration, the current requirement is practicable. Some manufacturers have been able to develop convertible child restraints that they have certified as meeting Standard 213 when tested rear-facing with the 33 lb dummy. NHTSA is aware of at least three manufacturers who currently market convertible child restraints that are certified for children weighing more than 22 lb, in the rear-facing position. Century, Evenflo and Britax have all developed products which they certify meet all requirements of Standard 213 when tested in the rear-facing position with the 33 lb dummy. Thus, NHTSA believes that rear-facing restraints are available to families with "heavy" infants that exceed 22 lb prior to 1 year of age.

In summary, petitioners state that "although the 3-year-old dummy may be too tall for full head support in the rear-facing position, a heavy 1-year-old is much shorter," but did not provide any technical rationale to support eliminating the excursion requirements of the standard when testing convertible restraints in the rear facing position with the 3-year-old dummy. Petitioners did not explain why the head excursion limit should be relaxed given the insubstantial sitting height difference between an average 3-year-old child and a "heavy" 1-year-old child, nor did they explain the extent to which the head excursion limit could be relaxed given that height difference. These factors, in conjunction with the knowledge that various manufacturers have developed convertible restraints that meet the current requirements of the standard while tested rear-facing with the 33 lb, 3-year-old dummy, lead the agency to believe that the current excursion requirement does not impose an unreasonable impediment to restraint manufacturers in the design of rear-facing restraints for children over 22 lb.

2. Excursion Requirements; Total Height Considerations

Petitioners also recommend that Standard 213's labeling requirements should be amended such that "references to the total height of the child should be deleted, since the only significant measurements are the child's weight and the length of the torso." (The standard currently requires that manufacturers label their child restraints with information on both the height and weight of children for whom the restraint is recommended.) The agency discussed at length the relevancy of height as a significant criterion in the development, evaluation, and certification of child restraints in a 1995 rulemaking to incorporate the new set of test dummies into Standard 213 for compliance testing.

In the notice of proposed rulemaking (NPRM) for that regulation, NHTSA had proposed that Standard 213 should require that manufacturers base their height recommendations on the sitting height of the child (51 FR 12225, March 16, 1994). In response to the NPRM, commenters generally agreed that the height of a child is an important factor in the certification and proper use of child restraint systems. While some supported the use of a sitting height criterion as had been proposed by the agency in the NPRM, others objected to its use because of concerns regarding the complexity and potential misinterpretation of information by users of these child restraint systems. Those who opposed adoption of a sitting height criterion proposed incorporation of a sitting height limit which references a readily identifiable body landmark (such as the top of the ears or top of the head) in relation to the top of the head restraint in conjunction with modified labeling requirements to convey information about the proper use of the child restraint to the consumer to prevent whiplash-type injuries.

In the final rule (July 6, 1995, 60 FR 35127), the agency reconfirmed that information about the suitability of a restraint for children of certain heights serves a useful purpose in that it helps ensure the proper fit of a restraint to the child. At the same time, the agency acknowledged that consumers may not know the sitting height of their child as well as they know standing height. The latter is routinely measured by pediatricians and provided to parents during the child's medical examinations. Because standing height is more familiar to parents, the final rule specified recommended standing height,

rather than sitting height, to be on the label.

Since the existing Standard 213 required manufacturers to label each child restraint with recommendations for the maximum height of children who can safely occupy the system, and because NHTSA was unconvinced of a need to change to sitting height, the final rule maintained the status quo. Petitioners have not provided any information supporting their request to change to sitting height and the agency is unaware of any reason to amend the standard as they suggest. Accordingly, the agency is denying this request.

3. Crash Data

Underlying the petition is the implication that infants weighing over 22 lb are being injured because parents position them forward-facing in a vehicle before the infants are 1 year of age. Petitioners did not provide any data or statistics indicating a greater incidence of neck and spinal cord injuries for this segment of the population. NHTSA examined the agency's National Automotive Sampling System (NASS) General Estimates System (GES)⁴ records for the years 1988-1996 for those crashes (1) involving an infant under 1 year of age, and (2) where both the child's weight and the child restraint orientation (rear or forward facing) were known. In 328 total cases investigated by NASS, there were no reported incidences of serious spine or other neck-related injuries. Seventeen (17) percent of the 328 cases (55 of 328) involved infants weighing between 23 and 30 lb who were positioned forward facing in his/her child restraint at the time of the crash, but in only one case did the child receive a serious (AIS level 3 or greater) injury. Injuries to heavy infants placed forward-facing in vehicles have not occurred with any frequency.⁵

⁴Data for the General Estimates System (GES) come from a nationally representative sample of police reported motor vehicle crashes of all types, from minor to fatal. The system began operation in 1988, and was created to identify traffic safety problem areas, provide a basis for regulatory and consumer initiatives, and form the basis for cost and benefit analyses of traffic safety initiatives. The information is used to estimate how many motor vehicle crashes of different kinds take place, and what happens when they occur. Although various sources suggest that about half the motor vehicle crashes in the country are not reported to the police, the majority of these unreported crashes involve only minor property damage and no significant personal injury. By restricting attention to police-reported crashes, the GES concentrates on those crashes of greatest concern to the highway safety community and the general public.

⁵The vast majority (273 of 328, or 83 percent) of reported cases involved infants weighing 22 lb or less. Nearly one half (47 percent) of these infants were positioned forward-facing in their child

In accordance with 49 CFR part 552, this completes the agency's review of the petition. For the aforementioned reasons, the agency has decided not to amend Standard 213 at this time to afford child restraint manufacturers greater latitude in certifying rear-facing convertible restraints. NHTSA has concluded that there is no reasonable possibility that the amendment requested by the petitioners would be issued at the conclusion of the rulemaking proceeding. Accordingly, the petition is denied.

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

Issued on April 20, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99-10777 Filed 4-28-99; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 990330083-9083-01; I.D. 031999B]

RIN 0648-AK32

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Certification of Bycatch Reduction Devices

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

ACTION: Proposed rule; request for comments.

SUMMARY: In accordance with the framework procedure for adjusting management measures of the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP), NMFS proposes procedures for the testing and certification of bycatch reduction devices (BRDs) for use in shrimp trawls in the exclusive economic zone (EEZ) in the Gulf of Mexico. The intended effect is to foster the

restraints. This clearly suggests that nearly one half of the adults placing the infants in the child restraints either: (1) Were unaware that infants are safest rear-facing in child restraints, or (2) chose to ignore the manufacturer's recommendations and placed their child forward-facing in the restraint. This suggests a need to better inform parents about the need to properly position infants weighing less than 22 lb in vehicles.

development and provide for the certification of additional BRDs.

DATES: Written comments must be received on or before May 14, 1999.

ADDRESSES: Comments on the proposed rule and requests for copies of the regulatory impact review (RIR) must be sent to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Comments regarding the collection-of-information requirements contained in this rule should be sent to Edward E. Burgess, Southeast Regional Office, NMFS, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

Requests for copies of the *Gulf of Mexico Bycatch Reduction Device Testing Protocol Manual* should be sent to the Southeast Regional Office, NMFS.

FOR FURTHER INFORMATION CONTACT: Steve Branstetter, NMFS, 727-570-5305.

SUPPLEMENTARY INFORMATION: The fishery for shrimp in the EEZ of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

Amendment 9 to the FMP mandated, with limited exceptions, the use of BRDs in shrimp trawls fished in the EEZ of the Gulf of Mexico shoreward of the 100-fathom (fm) (183-m) depth contour west of 85°30' W. longitude. Excluded from the requirement to use BRDs are vessels trawling for royal red shrimp beyond the 100-fm (183-m) depth contour, vessels trawling for butterfish or groundfish, and vessels trawling for shrimp with no more than two rigid-frame roller trawls that are 16 ft (4.9 m) or less in length. In addition, a vessel may use a single trynet without a BRD installed if the headrope length is 16 ft (4.9 m) or less. The fisheye, Gulf fisheye, and Jones-Davis BRDs are currently certified for use in shrimp trawls in the EEZ of the Gulf of Mexico (63 FR 18139, April 14, 1998; 63 FR 27449, May 19, 1998).

Amendment 9 to the FMP specified that a testing protocol and administrative procedures for conducting tests on additional BRDs would be developed by NMFS, and implemented via a regulatory amendment (framework procedure). In accordance with the framework procedures of the FMP, the Regional Administrator (RA), Southeast Region, NMFS, referred to as the RD in the

codified text, has developed a testing protocol and administrative procedures to be used to certify additional BRDs for use in shrimp trawls in the Gulf of Mexico.

Amendment 9 set forth as the criterion for certification of an additional BRD for use in shrimp trawls in the EEZ of the Gulf of Mexico, that it must reduce the mortality of juvenile (age 0 and age 1) red snapper by a minimum of 44 percent compared to the average level of bycatch mortality on these age groups during 1984–1989. The testing protocol is a standardized scientific procedure to be followed to demonstrate whether a BRD meets the certification criterion.

There are two phases to the proposed procedure—an optional pre-certification phase, and a required certification phase. The pre-certification phase would allow a person to experiment with and gather data on non-certified BRD designs for up to 60 days, without having to carry an observer on the testing vessel or having to comply with a rigorous testing schedule. Thus, this phase would allow a person to experiment with different BRD designs and configurations to improve them and to determine whether they would be likely to meet the certification criterion. A person who wishes to conduct pre-certification phase testing would have to submit an application to the RA for a letter of authorization (LOA). The application would have to set forth basic information about the applicant and testing vessel's owner/operator; the purpose, scope, dates, and location of the requested BRD evaluation; scale diagrams of the BRD design; a description of how the BRD is intended to function; and a copy of the testing vessel's documentation or state registration. Upon receipt of a complete application, the RA would determine whether to issue an LOA to conduct pre-certification testing from the vessel specified in the application. The RA would issue a pre-certification phase LOA if the BRD design is substantially unlike any BRD design previously determined not to meet the BRD certification criterion or, if the design is substantially similar, the application demonstrates that the design could meet the certification criterion through design revision or upon retesting (e.g., the application shows that statistical results could be improved upon retesting by such things as using a larger sample size than that previously used). If a pre-certification LOA is denied, the RA would send the applicant a letter of explanation, together with relevant recommendations to address the deficiencies resulting in the denial. If an

LOA were issued, it would grant a limited exemption from the requirement that a certified BRD be installed in each trawl that is rigged for fishing, for those trawls that are being used in the pre-certification phase testing (i.e., experimental and control trawls). All other trawls under tow must be equipped with certified BRDs. All trawls including those being used in the pre-certification phase testing must be equipped with approved Turtle Excluder Devices (TEDs), unless operating under an authorization issued under 50 CFR 227.72(e)(5)(ii). The letter of authorization would be valid for no more than 60 days and must be onboard the vessel during the tests. For additional details, see the *Gulf of Mexico Bycatch Reduction Device Testing Protocol Manual* (Manual) which is published as an appendix to this proposed rule.

All persons desiring to conduct certification phase testing of a BRD design would be highly encouraged to first conduct pre-certification phase testing. The pre-certification phase allows the BRD design to be adjusted or otherwise optimized and for data to be gathered showing that the design could meet the certification criterion upon certification phase testing. The submission of pre-certification phase data to provide a scientific basis for the conduct of certification testing is not an absolute requirement for the issuance of a certification phase LOA. For example, a request to conduct certification phase testing of a minor modification of a certified BRD design would not need to include pre-certification phase data. Similarly, a request for certification phase testing of a previously failed design that under a different test plan (e.g., larger sample sizes) could yield improved statistical results would likewise not need pre-certification phase data. However, pre-certification phase data would normally be needed to establish a reasonable scientific basis for conducting certification phase testing (e.g., that the BRD could meet the certification criterion upon certification testing).

A person wishing to conduct certification phase testing would also have to submit an application for an LOA. The Manual sets forth what the application for a certification LOA must contain. Unlike the application for a pre-certification phase LOA, this application must set forth a plan meeting the certification testing protocol, must identify who would be the observer (from the list of individuals maintained by the RA as being qualified to be an observer) and that has no current or prior financial relationship

with the entity seeking BRD certification, and that a reasonable scientific basis exists for conducting certification phase testing.

Upon receipt of a complete application for a certification LOA, the RA would determine whether to issue an LOA to conduct certification testing from the vessel specified in the application. The RA would issue the LOA if he/she determines that: (1) The test plan meets the requirements of the protocol; (2) the observer in the application is qualified and has no current or prior financial relationship with any entity seeking BRD certification; (3) the BRD candidate is substantially unlike any BRD previously determined not to meet the current bycatch reduction criterion, or the applicant has shown good cause for retesting (such as the likelihood of improved statistical results yielded from a larger sample size than that previously used); and (4) for BRDs not previously tested for certification, the results of any pre-certification testing indicating a reasonable scientific basis for certification testing. If a certification LOA is denied, the RA would send a letter of explanation to the applicant, together with relevant recommendations to address the deficiencies resulting in the denial. The approved observer would have to be on board the vessel during all test tows. Any change in information or testing circumstances, such as replacement of the observer, would have to be reported to the RA within 30 days. Application forms and standardized forms for recording the tests and for reporting the results are contained in the Manual and its appendices. Additional details and specifications are contained in the Manual. (See ADDRESSES for availability.)

Classification

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

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities as follows:

NMFS prepared a regulatory impact review (RIR) that describes the economic outcomes expected if the proposed rule is implemented. The basic finding of the RIR was that the economic changes are largely in terms of the costs for participants in the certification testing program to apply for the program and complete the pre-certification and certification testing requirements. These

costs are estimated at about \$398,000. Government costs related to developing the testing Manual, issuing permits, processing testing data and making certification decisions are estimated to total about \$86,000. Potential future benefits to the red snapper and shrimp fisheries were attributed to the prospect that the certification of new BRD designs would provide for an enhancement to red snapper stocks and new BRD designs have the potential of lower shrimp loss rates relative to shrimp loss rates of BRDs currently in use. These benefits were not quantified because the size of the benefits depends on how the BRDs to be tested will perform in terms of bycatch reduction and shrimp loss rates. It was determined that the proposed action is not significant under E.O. 12866 because the annual economic impact is much less than \$100 million and none of the other criteria for significance will be met.

The basic determination included a finding that a substantial number of small entities, estimated to comprise most of the offshore Gulf of Mexico fleet of about 4,000 vessels, could be positively impacted, but at a level that is far below the criteria for a significant gross revenue impact. It was also determined that there are no annual compliance costs except for 24 small entities that may be involved in the testing, there are no differential small versus large business impacts, capital costs will not change, and no small entities are expected to cease operations if the proposed rule is implemented.

As a result, a regulatory flexibility analysis was not prepared. Copies of the RIR are available (see ADDRESSES).

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 Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number.

This rule contains collection-of-information requirements subject to the PRA—namely, the BRD certification process, consisting of applications for pre-certification or certification of a new BRD, pre-certification adjusting, the testing itself, the submission of the test results, application for observer position, and references for observers. This requirement has been submitted to OMB for approval. The public reporting burden for this collection of information is estimated to average 211 hours per application, pre-certification phase, testing, and submission of results. The public reporting burden for applying for an observer position will average 1 hour per response and the burden for obtaining references will average 1 hour per response. The collection consists of an Application Form, Vessel Information Form, Gear Specification Form, TED/BRD Specification Form, Station Sheet Form, Species

Characterization Form, Length Frequency Form, and Condition and Fate Form. The average response time for each of these forms is 20 minutes, except for the Species Characterization Form which has a 5 hour response time and the Application Form which has a 2.3 hour response time. In addition, 4 hours will be needed to prepare the final report. Send comments regarding these burden estimates or any other aspect of the collection of information requirement, including suggestions for reducing the burden, to NMFS and to OMB (see ADDRESSES).

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have 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 through the use of automated collection techniques or other forms of information technology.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: April 22, 1999.

Penelope D. Dalton,

Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.7, paragraph (bb) is reserved and paragraph (aa) is added to read as follows:

§ 622.7 Prohibitions.

* * * * *

(aa) Falsify information submitted on the testing of a BRD or the results of such testing, as specified in § 622.41(g)(3)(i) or (h)(4)(i).

(bb) [Reserved]

3. In § 622.41, the first sentence of paragraph (h)(1)(i) is revised and paragraph (h)(4) is added to read as follows:

§ 622.41 Species specific limitations.

* * * * *

(h) * * *

(1) * * *

(i) Except as exempted in paragraphs (h)(1)(ii) through (iv) and paragraph (h)(4)(iii) of this section, on a shrimp trawler in the Gulf EEZ shoreward of the 100-fathom (183-m) depth contour west of 85°30' W. long., each net that is rigged for fishing must have a certified BRD installed. * * *

* * * * *

(4) *Procedures for certification of additional BRDs.* The process for the certification of additional BRDs consists of two phases—an optional pre-certification phase, and a required certification phase.

(i) *Pre-certification.* The pre-certification phase allows a person to test and evaluate a new BRD design for up to 60 days without being subject to the observer requirements and rigorous testing requirements specified for certification testing in the *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual*.

(A) A person who wants to conduct pre-certification phase testing must submit an application, as specified in the *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual*, to the RD. The *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual*, which is available from the RD, upon request, contains the application forms.

(B) After reviewing the application, the RA will make a determination whether to issue a letter of authorization to conduct pre-certification trials upon the vessel specified in the application. The RA would issue a pre-certification phase LOA if the BRD design is substantially unlike any BRD design previously determined not to meet the BRD certification criterion or, if the design is substantially similar, the application demonstrates that the design could meet the certification criterion through design revision or upon retesting (e.g., the application shows that statistical results could be improved upon retesting by such things as using a larger sample size than that previously used). If the RD authorizes pre-certification, the RD's letter of authorization must be on board the vessel during any trip involving the BRD testing.

(ii) *Certification.* A person who proposes a BRD for certification for use in the Gulf EEZ must submit an application to test such BRD, conduct the testing, and submit the results of the test in accordance with the *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual*. The RA will make a determination whether to issue a letter of authorization to conduct

certification trials upon the vessel specified in the application. The determination will be based upon a finding that: The test plan meets the requirements of the protocol; the observer identified in the application is qualified and has no current or prior financial relationship with the entity seeking BRD certification; the application presents a BRD candidate substantially unlike BRDs previously determined not to meet the current bycatch reduction criterion, or the applicant has shown good cause for reconsideration (such as the likelihood of improved statistical results yielded from a larger sample size than that previously used); and for BRDs not previously tested for certification, the results of any pre-certification trials conducted have been reviewed and deemed to indicate a reasonable scientific basis for conducting certification testing. If authorization to conduct certification trials is denied, the RA will provide a letter of explanation to the applicant, together with relevant recommendations to address the deficiencies resulting in the denial. A BRD that meets the certification criterion, as determined under the testing protocol, will be added to the list of certified BRDs in paragraph (h)(2) of this section by publication of a final rule, technical amendment, in the **Federal Register**. The final rule will provide the specifications for the newly certified BRD, including any special conditions deemed appropriate based on the certification testing results.

(iii) A shrimp trawler that is authorized to participate in the pre-certification phase, or to test a BRD in the EEZ for possible certification, has such written authorization on board and is conducting such test in accordance with the *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual* is granted a limited exemption from the BRD requirement specified in paragraph (h)(1) of this section. The exemption from the BRD requirement is limited to those trawls that are being used in the certification trials. All other trawls rigged for fishing must be equipped with certified BRDs.

Note: The *Gulf of Mexico Bycatch Reduction Device Testing Protocol Manual* and appendixes H and I to the Manual are published as appendixes to this document. These appendixes will not appear in the Code of Federal Regulations.

Appendix—Gulf of Mexico Bycatch Reduction Device Testing Protocol Manual

Definitions

Bycatch reduction criterion is that the BRD reduces the mortality of juvenile (age 0 and age 1) red snapper by a minimum of 44 percent from the average level of bycatch mortality ($F=2.06$) on these age classes during the years 1984–1989.

Bycatch reduction device (BRD) is any gear or trawl modification designed to allow finfish to escape from a shrimp trawl.

BRD candidate is a bycatch reduction device to be tested for certification for use in the commercial shrimp fishery of the Gulf of Mexico.

Catch per unit of effort (CPUE) means the number or pounds of fish (e.g., red snapper) or shrimp taken during a pre-defined measure of fishing activity (e.g., per hour).

Certification phase is a required testing phase whereby an individual so authorized by the RA may conduct a discrete testing program, with a sample size adequate for statistical analysis (no less than 30 tows), to determine whether a BRD candidate meets the bycatch reduction criterion.

Certified BRD is a BRD that has been tested according to this protocol and documented to meet the bycatch reduction criterion.

Control trawl means a trawl used during the certification testing that is not equipped with a BRD. The catch of this trawl is compared to the catch of the experimental trawl.

Experimental trawl means the trawl used during the certification tests that is equipped with the BRD candidate.

Evaluation and oversight personnel includes scientists, observers, and other technical personnel who, by reason of their occupational or other experience, scientific expertise or training, are approved by the Regional Administrator (RA) as qualified to evaluate and oversee the application and testing process. Scientists and other technical personnel will (1) review a BRD certification test application for its merit, and (2) critically review the scientific validity of the certification test results.

Observer means a person on the list maintained by the RA of individuals qualified to supervise and monitor a BRD certification test. Applicants may obtain the list of individuals qualified to be an observer from the RA. The individual chosen by the applicant to be the observer may not have any current or prior financial relationship with the entity seeking BRD certification. For

information on observer qualification criteria and the observer application process, see Appendix I.

Pre-certification phase is an optional testing phase whereby an individual, so authorized by the RA, can experiment with the design, construction, and configuration of a BRD and gather data.

Regional Administrator means the Southeast Regional Administrator, National Marine Fisheries Service, 9721 Executive Center Drive North, St. Petersburg, Florida 33702, phone 727–570–5301.

Required measurements refers to the quantification of the dimensions and configuration of the trawl, the BRD candidate, the doors, the location of the BRD in relation to other parts of the trawl gear, and other quantifiable criteria used to assess the performance of the BRD candidate.

Sample size means the number of successful tows (a minimum of 30 tows per test are required).

Shrimp loss means the percent difference in average CPUE (e.g. kg/hr) between the amount of shrimp caught in the control trawl and the amount of shrimp caught in the experimental trawl.

Successful tow means that the control and experimental trawl were fished in accordance with the requirements set forth in the protocol and the terms and conditions of the letter of authorization, that the control or experimental net caught at least five red snapper during the tow, and that no indication exists that problematic events, such as those listed in Appendix D–5, occurred during the tow which would impact or influence the fishing efficiency (catch) of one or both nets.

Tow time means the total time (hours and minutes) an individual trawl was fished while being towed (i.e., the time between “dog-off” and start of haul back).

Trawl means a net and associated gear and rigging, as illustrated in Appendix B–5 of this manual, used to catch shrimp. The terms trawl and net are used interchangeably throughout the manual.

Tuning a net means adjusting the trawl and its components to minimize the differences in shrimp catch between the two nets that will be used as the control and experimental trawls during the certification tests.

I. Introduction

Purpose of the Protocol

This protocol sets forth a standardized scientific procedure for the testing of a BRD candidate and for the evaluation of its ability to meet the bycatch reduction

criterion. For a BRD candidate to be certified by the RA, the BRD candidate must meet the bycatch reduction criterion.

There are two phases to this procedure: An optional, but recommended, pre-certification phase and a required certification phase. An applicant is encouraged to take advantage of the pre-certification phase which allows experimentation with different BRD designs and configurations prior to certification phase testing (see below for details). The certification phase requires the applicant to conduct a discrete testing program, with a sample size of no less than 30 tows to determine whether the BRD candidate meets the bycatch reduction criterion. There is no cost to the applicant for the RA's administrative expenses such as preparing applications, issuing LOAs, or evaluating test results or certifying BRDs. However, all other costs associated with either phase (such as field testing) are at the applicant's expense.

II. Pre-Certification Phase (Optional)

The pre-certification phase provides a mechanism whereby an individual can experiment with the design, construction, and configuration of a prototype BRD for up to 60 days to improve the design's effectiveness at reducing the bycatch of red snapper and to determine whether it is likely to meet the bycatch reduction criterion. To conduct pre-certification phase evaluations of a prototype BRD, the applicant must apply for, receive, and have on board the vessel during testing, a letter of authorization (LOA) from the RA.

A. Application

In order to obtain an LOA to conduct pre-certification phase evaluations of a prototype BRD, an individual must submit a complete application to the RA. A complete application consists of a completed application form, Application to Test A Bycatch Reduction Device in the Exclusive Economic Zone (the form is appended as Appendix J-1), and the following: (1) A brief statement of the purpose and goal of the activity for which the LOA is requested; (2) a statement of the scope, duration, dates, and location of the testing; (3) an 8.5-inch x 11-inch (21.6-cm x 27.9-cm) diagram drawn to scale of the BRD design; (4) an 8.5-inch x 11-inch (21.6-cm x 27.9-cm) diagram drawn to scale of the BRD and approved TED in the shrimp trawl; (5) a description of how the BRD is supposed to work; and (6) a copy of the testing

vessel's documentation or its state registration.

An applicant requesting a pre-certification LOA of an unapproved hard or soft TED as a BRD must first apply for and obtain from the RA an experimental TED authorization pursuant to 50 CFR 227.72(e)(5)(ii). The pre-certification phase LOA application must also append a copy of that authorization.

B. Issuance

The RA will review the application for completeness. If the application is incomplete, the RA will inform the applicant of the incompleteness and give the applicant an opportunity to cure. If incompleteness is not cured within 30 days, it will be returned to the applicant. Upon receipt of a complete application, the RA will issue a LOA to conduct pre-certification phase testing upon the vessel specified in the application if the BRD design is substantially unlike BRD designs previously determined not to meet the current performance criterion, or if the design is substantially similar, if the application demonstrates that the design could meet the bycatch reduction criterion through design revision or upon retesting (e.g., the application shows that statistical results could be improved upon retesting by such things as a larger sample size than that previously used). If a pre-certification phase LOA is denied, the RA will return the application to the applicant along with a letter of explanation including relevant recommendations as to curing the deficiencies which caused the denial. In arriving at a decision, the RA may consult with evaluation and oversight personnel. Issuance of a LOA allows the applicant to remove or disable the existing BRD in one net (to create a control net), and to place the prototype BRD in another net in lieu of a certified BRD (to create an experimental net). All other trawls under tow during the test must be equipped with a certified BRD. All trawls under tow during the pre-certification phase tests must be equipped with an approved TED unless operating under an authorization issued pursuant to 50 CFR 227.72(e)(5)(ii). The LOA, and experimental TED authorization if applicable, must be on board the vessel while the pre-certification phase tests are being conducted. The term of the LOA will be 60 days.

C. Applicability

The pre-certification phase allows an individual to compare the catches of a control net to the catches of the

experimental net (net equipped with the prototype BRD) to estimate the potential efficiency of the prototype BRD. If that individual subsequently applies for a certification phase LOA to test this design he/she must include the results of the pre-certification phase evaluation with the certification application. The RA will use this information to determine if there is a reasonable scientific basis to conduct certification phase testing. Therefore, for each paired tow, the applicant should keep a written record of the weight of the shrimp catch, the weight of the finfish catch, and the total catch (in numbers) of red snapper of each net. The form contained in Appendix D should be used to record this information.

III. Certification Phase (Required)

In order to have a BRD certified, it must under certification phase testing, be consistent with requirements of the testing protocol and LOA, and be determined by the RA to meet the bycatch reduction criterion.

A. Application

In order to conduct certification phase testing, an individual must obtain a certification phase LOA. In order to obtain a certification phase LOA, an individual must submit a complete application to the RA. The complete test application consists of an Application to Test A Bycatch Reduction Device in the Exclusive Economic Zone (Appendix J-1), a copy of the vessel's current Coast Guard certificate of documentation or, if not documented, its state registration certificate; the name of a qualified observer who will be on board the vessel during all certification test operations (see Appendix I); and a test plan showing: (1) An 8.5-inch x 11-inch (21.6-cm x 27.9-cm) diagram drawn to scale of the BRD candidate; (2) an 8.5-inch x 11-inch (21.6-cm x 27.9-cm) diagram drawn to scale of the BRD candidate and approved TED in the shrimp trawl; (3) a description of how the BRD candidate is supposed to work; (4) the results of previous pre-certification phase tests; (5) the location, time, and area where the certification phase tests would take place; and (6) the identity of the observer from the list of qualified individuals maintained by the RA and certification that the observer has no current or prior financial relationship with the applicant or entity seeking BRD certification.

An applicant requesting a certification phase LOA to test an unapproved hard or soft TED as a BRD must first apply for and obtain from the RA an experimental TED authorization pursuant to requirements of 50 CFR part

227.72(e)(5)(ii). The application for the certification phase LOA also must append a copy of that authorization.

A.1 Special Circumstances Not Covered By Protocol

Because actual testing conditions may vary, it may be necessary to deviate from the prescribed protocol to determine if a BRD candidate meets the bycatch reduction criterion. Any foreseeable deviations from the protocol must be described and justified in the application, and if scientifically acceptable will be approved by the RA in the LOA. The RA may consult with evaluation personnel to determine whether the deviations are scientifically acceptable. Without the RA's approval in the LOA, results from any tests deviating from the protocol may be rejected as scientifically unacceptable, and could result in a denial of certification.

B. Observer Requirement

A qualified observer must be on board the vessel during all certification testing operations (See Appendix I). A list of qualified observers is available from the RA. Observers may include employees or individuals acting on behalf of NMFS, state fishery management agencies, universities, or private industry who meet the minimum requirements outlined in Appendix I, but the individual chosen may not have a current or prior financial relationship with the entity seeking BRD certification. It is the responsibility of the applicant to ensure that a qualified observer is on board the vessel during the certification tests. Compensation to the observer, if necessary, must be paid by the applicant. Any change in information or testing circumstances, such as replacement of the observer, would have to be reported to the RA, within 30 days. Under 50 CFR 600.746, the owner and operator of any fishing vessel required to carry an observer as part of a mandatory observer program under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801, *et seq.*) is required to comply with guidelines, regulations, and conditions to ensure their vessel is adequate and safe to carry an observer, and to allow normal observer functions to collect scientific information as described in this protocol. A vessel owner is deemed to meet this requirement if the vessel displays one of the following: (i) A current Commercial Fishing Vessel Safety Examination decal, issued within the last 2 years, that certifies compliance with regulations found in 33 CFR, chapter I, and 46 CFR, chapter I; (ii) a certificate

of compliance issued pursuant to 46 CFR 28.710; or (iii) a valid certificate of inspection pursuant to 46 U.S.C. 3311.

C. Issuance

The RA will review the application for completeness. If the application is not complete, the RA will notify the applicant of the incompleteness and give the applicant an opportunity to cure. If the incompleteness is not cured within 30 days, the RA will return the application to the applicant. Upon receipt of a complete application, the RA will issue a LOA to conduct certification phase testing of the BRD candidate specified in the application if: (1) The test plan meets the requirements of the protocol; (2) the qualified observer named in the application has no current or prior financial relationship with the entity seeking BRD certification; (3) the BRD candidate design is substantially unlike BRD designs previously determined not to meet the current bycatch reduction criterion, or if the BRD candidate design is substantially similar, the application demonstrates that the design could meet the bycatch reduction criterion upon retesting (e.g., the application shows that statistical results could be improved upon retesting by such things as a larger sample size than that previously used); and (4) the results of any pre-certification phase testing conducted indicate a reasonable scientific basis for further testing. The submission of pre-certification phase data to provide a scientific basis for the conduct of certification testing is not an absolute requirement for the issuance of a certification phase LOA. For example, a request to conduct certification phase testing of a minor modification of a certified BRD design would not need to include pre-certification phase data. Similarly, a request for certification phase testing of a previously failed design that under a different test plan (e.g., larger sample sizes) could yield improved statistical results would likewise not need pre-certification phase data. However, pre-certification phase data would normally be needed to establish a reasonable scientific basis for conducting certification phase testing (e.g., that the BRD could meet the certification criterion upon certification testing). In arriving at a decision, the RA may consult with evaluation and oversight personnel. If a LOA to conduct certification phase testing is denied, the RA would provide a letter of explanation to the applicant, together with relevant recommendations to address the deficiencies resulting in the denial. Issuance of a LOA allows the applicant to remove or disable the

existing certified BRD in one net (to create a control net) and to place the BRD candidate in another net in lieu of a certified BRD (to create an experimental net). All other trawls under tow during the tests must be equipped with a BRD. All trawls under tow during the certification tests must be equipped with an approved TED unless operating under an authorization issued pursuant to 50 CFR 227.72(e)(5)(ii). The LOA will specify the date when the applicant may begin to test the BRD candidate, the observer who will conduct the onboard data collection, and the vessel to be used during the test. The LOA and experimental TED authorization, if applicable, must be onboard the vessel while the certification phase tests are being conducted.

D. Testing Protocol

Certification testing must be conducted in areas and at times when commercial shrimp trawling normally occurs, and when juvenile red snapper (age 0 and age 1) are available to the gear. The best time for testing a BRD candidate is July and August (July 1–August 31) due to the availability of red snapper on the penaeid shrimp commercial grounds located shoreward of the 100-fm (183-m) depth contour west of 85°30' W. longitude, the approximate longitude of Cape San Blas, FL. Data should be recorded on the forms found in Appendices B through G, using the instructions provided for each form.

D.1. Tuning the Control and Experimental Trawls Prior to BRD Certification Trials

The primary assumption in assessing the bycatch reduction efficiency of the BRD candidate during paired-net tests is that the inclusion of the BRD candidate in the experimental net is the only factor causing a difference in catch from that of the control net. Therefore, it is imperative that the fishing efficiency of the two nets be as similar as possible prior to starting the certification tests. Catch data from no more than 20 tuning tows should be collected on nets that will be used as control and experimental trawls to determine if there is a between-net or between-side (port vs. starboard) difference in fishing efficiency (bias). Any net/side bias will be reflected as differing catch rates of shrimp and red snapper between two nets that were towed simultaneously. During the tuning tows, these nets should be equipped with identical approved hard TEDs, without the BRD candidate being installed. Using this information, the applicant should

identify and minimize the causes for any net/side bias, to the extent practicable, by making appropriate trawl gear adjustments. Form D-1 from Appendix D should be used to record the net/side bias data collected from these tows. These data will enable the RA to determine if any net/side bias existed in either trawl in assessing the BRD candidate's performance.

If the applicant is testing a soft TED as a BRD, it will be imperative that little or no position or side bias with the trawl nets be demonstrated before the certification trials are initiated. Once any net/side bias is corrected using identical approved hard TEDs in both nets, any alterations in catch rate following the substitution of the soft TED into the experimental net can then be attributed to that TED's influence.

D.2. Retention of Data Collected During Tuning Trials

All data collected during tuning trials and used for minimizing the net/side bias must be documented and submitted to the RA along with the testing data for evaluation. Additional information on tuning shrimp trawls is available from the Harvesting Technology Branch, Mississippi Laboratories, Pascagoula Facility, 3209 Frederic Street, Pascagoula, Mississippi 39568-1207; phone (601) 762-4591.

D.3. Certification Tests

The certification tests must follow the testing protocol where paired identical trawls are towed by a trawler in areas west of Cape San Blas, Florida, where shrimp and juvenile red snapper occur. For tests of BRD candidates that do not encompass testing a hard or soft TED as the BRD candidate, identical approved hard TEDs are required in each trawl and one of the trawls must be equipped with a functioning BRD candidate. To test a hard or soft TED as a BRD candidate, the control net must be equipped with an approved hard TED, and the experimental net must be equipped with the TED that is acting as the BRD candidate.

A minimum sample size of 30 successful tows per test is required. Additional tows may be necessary for sufficient statistical evidence, especially if red snapper catch is highly variable. A gear change (i.e., changing nets, doors, or rigging) during a test constitutes the beginning of a new test. All certification tows must be no less than 2 hours and no more than 8 hours in duration. The applicant may select any tow time within this range. Once a tow time is selected, no tow time during a series of tests may vary by more than 10 percent.

To avoid potential biases associated with trynet catches, the outside trawls on quad-rigged vessels must be used as the control and experimental trawls, and for double-rigged vessels, the use of a trynet is prohibited.

The functioning BRD candidate must be switched every 4-6 tows (approximately every 2 days) between the two trawl nets. This process must be repeated, ensuring that an equal number of successful tows are made with the BRD candidate employed in both the port and starboard nets, until a minimum of 30 successful tows have been completed. For BRDs incorporated in the codend of the net, this process can be facilitated by the use of zippers, or other quick-connection devices, to more easily move the codends between nets; however, simply switching the entire net will not satisfy this requirement because doing so would not resolve net bias. Such quick-connection devices must be attached behind the TED. The TED must not be moved unless the BRD is actually incorporated into the TED portion of the net. Where a hard TED is being tested as a BRD candidate, that portion of the net including the TEDs must be moved, and again, quick-connection devices located in front of the TEDs may be used.

A different procedure must be followed to conduct tests of an approved or experimental soft TED as a BRD candidate. To conduct these tests, the applicant must first demonstrate that little or no side/net bias exists between the two nets to be used in the test (see D.1.). Removing the soft TED from one trawl net and installing it in the other net is not required. For these tests, the control (with a hard TED) and experimental (with the soft TED) nets must be disconnected from the doors and their positions switched from one side of the vessel to the other. The first switch must be made after successfully completing approximately 25 percent of the total number of intended tows. This process must be repeated, at 25 percent intervals, until at least 30 successful tows are completed (i.e., every 7-8 successful tows).

Following each paired tow, the catches from the control and experimental nets must be examined separately. This requires that the catch from each net be kept separate from each other, as well as from the catch taken in other nets fished during that tow. First, the observer must weigh the total catch of each test net (control and experimental nets). If the catch in a net does not fill one standard 1-bushel [ca. 10 gallon] (30 liters) polyethylene shrimp basket (ca. 70 pounds) (31.8 kg), but the tow is otherwise considered

successful, data must be collected on the entire catch of that net, and recorded as a "select" sample (see Appendix E). If the catch in a net exceeds 70 pounds (31.8 kg), a well-mixed sample consisting of one standard 1-bushel [ca. 10 gallon] (30 liters) polyethylene shrimp basket must be taken from the total catch of that net.

Data must be collected on Form E-1 for the following species or general groups found in each of the samples: (1) Penaeid shrimp—brown, white and pink shrimp from each sample must be separated by species, counted and weighed; in addition, the weight for those penaeid shrimp species caught in each test net, but that were not included in the sample, must be recorded so that a total shrimp catch for each net (by weight) is documented; (2) crustacea—mantis shrimp, sugar shrimp, seabobs, crabs, lobsters and other similar species—must be weighed as an aggregate; (3) other invertebrates—squid, jellyfish, starfish, sea pansies, shells, and other similar species—must be weighed as an aggregate; (4) each finfish species or species group listed in Appendix E must be weighed and counted; (5) other finfish—including all other fish not listed on the above-referenced form must be weighed as an aggregate; and (6) debris (mud, rocks, and related matter) must be weighed as an aggregate.

"Select" finfish species (page E-3) (i.e., particular species to be quantified from the total catch and not just the sample) are red snapper, Spanish mackerel, and king mackerel. All individuals of the "Select" species from each test net (control and experimental net) must be collected, counted, weighed, and recorded. Lengths for as many as 30 individuals of each select species must be recorded on Form F-1. These data are necessary to robustly determine age-class composition, and specific mortality reductions attributable to each of the age classes.

Applicants must also collect qualitative information, using Form G-1, on the condition (alive or dead) and fate (floated off, swam down, eaten) of the discards whenever possible, and note the presence of any predator species such as sharks, porpoises, and jacks that are observed. The condition and fate of the bycatch is important for determining the fishing mortality and waste associated with this discard.

E. Reports

A report on the BRD candidate test results must be submitted for certification. The report must contain a comprehensive description of the tests, copies of all completed data forms used

during the certification trials, and photographs, drawings, and similar material describing the BRD. The captain or owner must sign and submit the cover form (Appendix A). The report must include a description and explanation of any unforeseen deviations from the protocol which occurred during the test. Applicants must provide information on the cost of materials, labor, and installation of the BRD candidate. In addition, any unique or special circumstances of the tests, including special operational characteristics or fishing techniques which enhance the BRD's performance, should be described and documented as appropriate.

F. Certification

The RA will determine whether the required reports and supporting materials are sufficient to evaluate the BRD candidate's efficiency. The RA also will determine whether the applicant adhered to the prescribed testing protocol, and whether the BRD candidate meets the bycatch reduction criterion for juvenile red snapper. In arriving at a decision, the RA may consult with evaluation and oversight personnel.

Final determination of the effectiveness of the BRD candidate will be determined by the RA. The statistical protocol in Appendix H provides the methodology that the RA will use to estimate the reduction in bycatch mortality on age-1 juvenile red snapper if the test is conducted during the primary period (July or August). Tests conducted during other parts of the year will, most likely, catch both age 0 and age 1 red snapper. To evaluate the overall reduction in mortality rate of these juvenile age classes attributable to the BRD candidate will require alternative extensive analysis, involving use of the Goodyear (1995) stock assessment model to assign mortality reductions by specific size classes within the age 0 and age 1 red snapper catch.

Following a favorable determination of these criteria, the RA will certify the BRD (with any appropriate conditions as indicated by test results) and announce the certification in the **Federal Register**, via a final rule, technical amendment, amending the list of certified BRDs.

IV. BRDs Not Certified and Resubmission Procedures

The RA will advise the applicant, in writing, if a BRD is not certified. This notification will explain why the BRD was not certified and what the applicant may do to either modify the BRD or the

testing procedures to improve the chances of having the BRD certified in the future. If certification was denied because of insufficient information, the RA will explain what information is lacking. The applicant must provide the additional information within 60 days from receipt of such notification; thereafter, the applicant must re-apply. If the RA subsequently certifies the BRD, the RA will announce the certification in the **Federal Register**, via a final rule, technical amendment, amending the list of certified BRDs.

V. Decertification of BRDs

The RA will decertify a BRD whenever it is determined that it no longer satisfies the bycatch reduction criterion for juvenile red snapper. Before determining whether to decertify a BRD, the Council and public will be advised and provided an opportunity to comment on the advisability of any proposed decertification. The RA will consider any comments from the Council and public, and if the RA elects to proceed with decertification of the BRD, the RA will publish proposed and final rules in the **Federal Register** with a comment period of not less than 15 days on the proposed rule.

VI. Interactions With Sea Turtles

The following section is provided for informational purposes. Sea turtles are listed under the Endangered Species Act as either endangered or threatened. The following procedures apply to incidental take of sea turtles under 50 CFR 227.72(e)(1):

“(i) Any specimen so taken must be handled with due care to prevent injury to live specimens, observed for activity, and returned to the water according to the following procedures:

(A) Sea turtles that are dead or actively moving must be released over the stern of the boat. In addition, they must be released only when trawls are not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels.

(B) Resuscitation must be attempted on sea turtles that are comatose or inactive but not dead by:

(1) Placing the turtle on its back (carapace) and pumping its breastplate (plastron) with hand or foot; or

(2) Placing the turtle on its breastplate (plastron) and elevating its hindquarter several inches for a period from 1 to 24 hours. The amount of the elevation depends on the size of the turtle; greater elevations are needed for larger turtles. Sea turtles being resuscitated must be shaded and kept wet or moist. Those that revive and become active must be

released over the stern of the boat only when trawls are not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels. Similarly, sea turtles that fail to move within several hours (up to 24, if possible) must be returned to the water in the same manner.

(ii) Any specimen so taken must not be consumed, sold, landed, off-loaded, transshipped, or kept below deck.”

References

Gulf of Mexico Fishery Management Council, 1997. Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico. Including a Final Supplemental Environmental Impact Statement and Regulatory Impact Review and Social Impact Assessment. Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619, 153 p.

Goodyear, C. P.; 1995. Red snappers in U.S. waters of the Gulf of Mexico. National Marine Fisheries Service, Southeast Fisheries Science Center, Miami Laboratory, Miami, FL. Laboratory Report, Contribution # MIA 95/96-05, 171 p.

Hoese, H. Dickson and Richard H. Moore; 1977. Fishes of the Gulf of Mexico, Texas, Louisiana, and Adjacent Waters. Texas A&M University Press. College Station, TX, 327 p.

SAFMC; 1997. Final Bycatch Reduction Device Testing Protocol Manual. South Atlantic Fishery Management Council, 1 Southpark Cir., Ste 306, Charleston, S.C. 29407, 34 p.

Ward, John M., Teofilo Ozuma and Wade Griffen; 1995. Cost and Revenues in the Gulf of Mexico Shrimp Fishery. NOAA Tech. Mem. NMFS-SEFSC-371, 76 p.

Appendix H Statistical Procedures for Analyzing BRD Evaluation Data

NMFS will calculate the reduction in bycatch mortality (F) based on data gathered during the testing. Both age 0 and age 1 red snapper, ranging in length from 10 mm to 200 mm, occur frequently in shrimp trawls. During the July/August (July 1–August 31) period, the most recently spawned year class of fish have not fully recruited to the shrimp grounds; thus the catch is represented by a relatively narrow length range of individuals, all of which are considered to be age 1. The numerical reduction in catch-per-unit-effort (CPUE) of this specific age class is expected to be a good predictor of fishing mortality (F) reduction, although the size composition data will be checked for any particular test. The analysis of the data collected under this testing protocol will be based on a modified paired t-test. Because of the varying age and size composition of the red snapper catch taken at other times of the year, more detailed analyses

through use of a stock assessment model (Goodyear 1995) incorporating the size-specific reduction performance of the device and the seasonal progression of F must be conducted to determine if the BRD candidate will meet the bycatch reduction criterion. Based on the time of the year that the test is conducted, NMFS will utilize the appropriate technique to assess the performance of the BRD candidate as a service for the BRD sponsor.

All experimental tows must be conducted in conformance with the requirements of the BRD testing

protocol. Data collected from the no than 20 tuning tows of the control and experimental trawls (without the BRD candidate installed) must be included to determine if any net bias exists prior to beginning certification phase testing. To further reduce problems caused by no or low catches, a tow must contain a minimum catch of 5 red snapper in at least one trawl for inclusion in the analysis. Once conducted, the tow and the corresponding collected data become the permanent part of the record and cannot be discarded. Only the successful tows will count toward the

minimum required; however, information from other tows, if appropriate, will be used in the analysis.

Statistical Approach for Calculation of Bycatch Mortality (F) Reduction for Devices Tested in July/August

The statistical approach assumes that the BRD to be tested does not achieve the minimum required reduction rate, (R_o). The hypotheses to be tested are as follows:

H_o : BRD does not achieve the minimum required reduction rate,

$$R = \frac{\mu_c - \mu_b}{\mu_c} \leq R_o, \text{ i.e. } (1 - R_o) \mu_c - \mu_b \leq 0.$$

H_a : BRD does achieve the minimum required reduction rate,

$$R = \frac{\mu_c - \mu_b}{\mu_c} > R_o, \text{ i.e. } (1 - R_o) \mu_c - \mu_b > 0.$$

R denotes the actual reduction rate (unknown), R_o denotes the minimum required reduction rate, μ_c denotes the actual mean CPUE with the control, and μ_b denotes the actual mean CPUE with the BRD.

With any hypothesis testing, there are two risks involved known as type I error (a true H_a is rejected as being an H_o) and type II error (a true H_o is accepted as being an H_a). The probabilities of committing these errors are denoted by alpha and beta, respectively. The probabilities are inversely related to each other. As alpha increases, beta decreases and vice versa. An alpha of 10 percent will be used. The two hypotheses are tested using a 'modified' paired t-test.

The CPUE values for the control and BRD trawls for each successful tow is computed first and is used in the following computations:

$$t = \frac{(1 - R_o) \bar{x} - \bar{y}}{s_{d0} / \sqrt{n}},$$

where:

\bar{x} is the observed mean CPUE for the control,

\bar{y} is the observed mean CPUE for the BRD,

s_{d0} is the standard deviation of $d_i = \{ (1 - R_o)X_i - Y_i \}$ values, n is the number of successful tows used in the analysis, and $i = 1, 2, \dots, n$.

The H_o will be rejected if $t > t_{\alpha, n-1}$ where $t_{\alpha, n-1}$ denotes the (1 - alpha) 100th percentile score in the t distribution with (n - 1) degrees of freedom.

A (1 - alpha) 100% two-sided confidence interval on R consists of all values of R_o for which $H_o: R = R_o$ (versus $H_a: R \neq R_o$) cannot be rejected at the level of significance of alpha. One-sided confidence intervals on R could also be computed appropriately.

Appendix I—Qualifications of Observer

An observer:

1. Must have a Bachelor's degree in fisheries biology or closely related field from an accredited college, have at least 6 months experience working with a university, college, state fisheries agency, NMFS, or private research organization such as the Gulf and South Atlantic Fisheries Development Foundation as an observer on a trawler (including research trawlers) in the southeast region, or have successfully completed a training course conducted

or approved by the Director of the NMFS Southeast Fisheries Science Center.

2. Must not have a current or prior financial relationship with the entity seeking BRD certification. In addition, any individual:

1. Applying to serve as an observer must provide the names, addresses, and telephone numbers of at least three references who can attest to the applicant's background, experiences, and professional ability. These references will be contacted; unsatisfactory references may be a basis for disapproval of an applicant as an observer.

2. Wishing to serve as an observer should submit a resume and supporting documents to the Director, Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL 33149. The Center will use this information to determine which names will be included on a list of qualified observers. If an applicant is not approved as an observer, the RA will notify the applicant of the disapproval and will provide an explanation for the denial.

[FR Doc. 99-10634 Filed 4-28-99; 8:45 am]

BILLING CODE 3510-22-P

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

Agricultural Marketing Service

[Docket No. FV99-905-2 NC]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection for Oranges, Grapefruit, Tangerines, and Tangelos grown in Florida, Marketing Order No. 905.

DATES: Comments on this notice must be received by June 28, 1999.

ADDITIONAL INFORMATION OR COMMENTS: Contact Tershira T. Yeager, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; Telephone: (202) 720-5127 or Fax: (202) 720-5698, or E-mail: moabdocket_clerk@usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida, Marketing Order No. 905.

OMB Number: 0581-0094.

Expiration Date of Approval: December 31, 1999.

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

Abstract: Marketing order programs provide an opportunity for producers of fresh fruits, vegetables and specialty crops, in a specified production area, to work together to solve marketing problems that cannot be solved

individually. Order regulations help ensure adequate supplies of high quality product and adequate returns to producers. Under the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601-674), industries enter into marketing order programs. The Secretary of Agriculture is authorized to oversee the order operations and issue regulations recommended by a committee of representatives from each commodity industry.

The information collection requirements in this request are essential to carry out the intent of the AMAA, to provide the respondents the type of service they request, and to administer the Florida citrus marketing order program, which has been operating since 1939.

The Florida citrus marketing order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the "order". The order authorizes the issuance of grade, size, container, and pack regulations. It also authorizes the limitation of shipments of certain grades or sizes. Regulatory provisions apply to oranges, grapefruit, tangerines and tangelos shipped outside of the production area, except for those shipments specifically exempt.

The order, and rules and regulations issued thereunder, authorize the Citrus Administrative Committee (committee), the agency responsible for local administration of the order, to require handlers and producers to submit certain information. Much of this information is compiled in aggregate and provided to the industry to assist in marketing decisions.

The committee has developed forms as a means for persons to file required information with the committee relating to citrus supplies, shipments, dispositions, and other information needed to effectively carry out the purpose of the Act and order. As shipments occur throughout the year, these forms are utilized accordingly. A USDA form is used to allow producers to vote on amendments to the order and whether the order should be continued. In addition, producers and handlers who are nominated by their peers to serve as representatives on the committee must file nomination forms with the Secretary.

Formal rulemaking amendments to the order must be approved in referenda conducted by the Secretary. Also, the Secretary may conduct a continuance referendum to determine industry support for continuation of the order. Handlers are asked to sign an agreement to indicate their willingness to abide by the provisions of the order whenever the order is amended. These forms are included in this request.

The forms covered under this information collection require the minimum information necessary to effectively carry out the requirements of the order, and their use is necessary to fulfill the intent of the AMAA as expressed in the order.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Programs regional and headquarter's staff, and authorized employees of the committee. AMS is the primary user of the information and authorized committee employees are the secondary user.

Estimate of Burden: Public reporting burden for this proposed collection of information is estimated to average 0.16915 hours per response.

Respondents: Florida citrus producers and for-profit businesses handling fresh citrus.

Estimated Number of Respondents: 1176.

Estimated Number of Responses per Respondent: 1.02.

Estimated Total Annual Burden on Respondents: 204 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581-0094 and the Florida Citrus

Marketing Order No. 905, and be mailed to Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; Fax: (202) 720-5698; or E-mail: moabdocket_clerk@usda.gov.

Comments should reference the docket number and the date and page number of this issue of the **Federal Register**. All comments received will be available for public inspection in the Office of the Docket Clerk during regular USDA business hours at 14th and Independence Avenue, SW., Washington, DC, room 2525-S.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: April 21, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99-10774 Filed 4-28-99; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request Form FCS-42, Annual Report of the Nutrition Education and Training Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food and Nutrition Service's (FNS) intention to request Office of Management and Budget (OMB) approval of the FCS-42, Annual Report of the Nutrition Education and Training Program.

DATES: Written comments on this notice must be received on or before June 28, 1999.

ADDRESSES: 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 has practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on 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. Comments may be sent to: Robert Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 1008, Alexandria, VA 22302.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION: Requests for additional information or copies of the proposed information form should be directed to Robert Eadie (703) 305-2618.

SUPPLEMENTARY INFORMATION:

Title: Form FCS-42, Annual Report of the Nutrition Education and Training Program.

OMB Number: 0584-0062.

Expiration Date: 03/31/99.

Type of Request: Renewal of information collection approval by OMB.

Abstract: Section 19(g)(2) of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1788(g)(2)), requires that "State educational agencies shall provide reports on expenditures of Federal funds, program participation, program costs, and related matters, in such form and at such times as the Secretary may prescribe." Section 227.30(f)(3) of the Nutrition Education and Training (NET) program regulations further require State agencies to submit to FNS an annual performance report. This information is captured on the FCS-42, Annual Report of the Nutrition Education and Training Program.

The information provided by the FCS-42 is used by the Department and the State agency to assess NET implementation status, monitor program accomplishments, and evaluate each State's progress in achieving the goals and objectives in the national strategic plan and the State agency implementation plan. Data from the FCS-42 is also entered into the Special Nutrition Programs Integrated Information System from which regional and national totals are derived.

Affected Public: State and territorial governments, FNS regional offices administering NET Program.

Estimated Number of Respondents: 56.

Estimated Time per Response: Twelve hours for reporting and 4 hours for recordkeeping for a total of 16 hours.

Estimated Total Annual Burden on Respondents: 896.

Dated: April 16, 1999.

Samuel Chambers, Jr.,

Administrator, Food and Nutrition Service.

[FR Doc. 99-10674 Filed 4-28-99; 8:45 am]

BILLING CODE 3410-30-U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Export Materials, Inc. and TIC Ltd.

In the matters of: Export Materials, Inc., 3727 Greenbrier Drive, No. 108, Stafford, Texas 77477; and TIC Ltd., Suite C, Regent Centre, Explorers Way, P.O. Box F-40775, Freeport, The Bahamas, Respondents.

Decision and Order on Renewal of Temporary Denial Order

On October 23, 1998, I issued a Decision and Order on Renewal of Temporary Denial Order (hereinafter "Order" or "TDO"), renewing for 180 days a May 5, 1997 Order naming, *inter alia*, Export Materials, Inc. and Thane-Coat International Ltd. (hereinafter collectively referred to as the "Respondents"), as persons temporarily denied all U.S. export privileges. 63 FR 58706-58707 (November 2, 1998).¹ The Order will expire on April 21, 1999.

On April 1, 1999, pursuant to Section 766.24 of the Export Administration Regulations (15 CFR Parts 730-774 (1998)) (hereinafter the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (hereinafter the "Act"),² the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (hereinafter "BXA"), requested that I renew the Order against TIC Ltd.³ and

¹ The May 5, 1997 Order also named Thane-Coat, Inc.; Jerry Vernon Ford, president, Thane-Coat, Inc.; and Preston John Engebretson, vice-president, Thane-Coat, Inc., as persons temporarily denied all U.S. export privileges. I am issuing a separate Decision and Order today renewing the TDO against Thane-Coat, Ford, and Engebretson in a "non-standard" format.

² The Act explored on August 20, 1994. Executive Order 12924 (3 CFR, 1994 Comp.: 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 CFR 1995 Comp. 501 (1996)), August 14, 1996 (3 CFR, 1996 Comp. 298 (1997)), August 13, 1997 (3 CFR, 1997 Comp. 306 (1998)), and August 13, 1998 (63 FR 44121, August 17, 1998, continued the Regulations in effect under the International Emergency Economic Powers Act (currently codified at 50 U.S.C.A §§ 1701-1706 (1991 & Supp. 1998)).

³ In its initial request for the issuance of a TDO and its October, 1997 and April, 1998 renewal requests, BXA identified this company as Thane-Coat International, Ltd. The company is incorporated in the Bahamas as TIC Ltd.

Export Materials, Inc. for an additional 180 days.

In its request, BXA stated that, as a result of an ongoing investigation, it had reason to believe that, during the period from approximately June 1994 through approximately July 1996, Thane-Coat, Inc., through Ford and Engebretson, and using its affiliated companies, TIC Ltd. and Export Materials, Inc., made approximately 100 shipments of U.S.-origin pipe coating materials, machines, and parts to the Dong Ah Consortium in Benghazi, Libya. These items were for use in coating the internal surface of prestressed concrete cylinder pipe for the Government of Libya's Great Man-Made River Project.⁴ Moreover, BXA's investigation gave it reason to believe that the Respondents and the affiliated parties employed a scheme to export U.S.-origin products from the United States, through the United Kingdom, to Libya, a country subject to a comprehensive economic sanctions program, without the authorizations required under U.S. law, including the Regulations. The approximate value of the 100 shipments at issue was \$35 million. In addition, the Respondents and the affiliated parties undertook several significant and affirmative actions in connection with the solicitation of business on another phase of the Great Man-Made River Project.

BXA has stated that it believes that the matters under investigation and the information obtained to date in that investigation support renewal of the TDO issued against the Respondents.⁵ BXA believes that a temporary denial order is necessary to give notice to companies in the United States and abroad that they should cease dealing with TIC Ltd. and Export Materials, Inc. in export-related transactions involving U.S.-origin goods.

Based on BXA's showing, I find that it is appropriate to renew the order temporarily denying all U.S. export privileges of TIC Ltd. and Export Materials, Inc. I find that such renewal is necessary in the public interest to prevent an imminent violation of the Regulations and to give notice to companies in the United States and abroad to cease dealing with these persons in any commodity, software, or

technology exported or to be exported from the United States and subject to the Export Administration Regulations, or in any other activity subject to the Regulations. Moreover, I find such renewal is in the public interest in order to reduce the substantial likelihood that TIC Ltd. and Export Materials, Inc. will engage in activities which are in violation of the Regulations.

Accordingly, it is therefore ordered:

First, that TIC Ltd., Suite C, Regent Centre, Explorers Way, P.O. Box F-40775, Freeport, the Bahamas, and all of its successors or assigns, officers, representatives, agents, and employees when acting on its behalf, and Export Materials, Inc., 3727 Greenbriar Drive, No. 108, Stafford, Texas 77477, and all of its successors or assigns, officers, representatives, agents, and employees when acting on its behalf (hereinafter referred to collectively as the "denied persons"), may not directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported, or to be exported, from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of any denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition, or attempted acquisition, by any denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby any denied person acquires, or attempts to acquire, such ownership, possession or control;

C. Take any action to acquire from, or to facilitate the acquisition or attempted acquisition from any denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from any denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by any denied person, or service any item, of whatever origin, that is owned, possessed or controlled by any denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment, as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to any denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade of related services, may also be made subject to the provisions of the Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S. origin technology.

Fifth, that, in accordance with the provisions of Section 766.24(e) of the Regulations, TIC Ltd. or Export Materials, Inc. may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022.

Sixth, that this Order is effective immediately and shall remain in effect for 180 days.

Seventh, that, in accordance with the provisions of Section 766.24(d) of the Regulations, BXA may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. Any respondent may oppose a request to renew this Order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of the Order

⁴ BXA understands that the ultimate goal of this project is to bring fresh water from wells drilled in southwest and southwest Libya through prestressed concrete cylinder pipe to the coastal cities of Libya. This multibillion dollar, multiphase engineering endeavor is being performed by the Dong Ah Construction Company of Seoul, South Korea.

⁵ On April 1, 1999, BXA requested that I renew the October 23, 1998 TDO against Thane-Coat, Inc., Jerry Vernon Ford, and Preston John Engebretson in a "non-standard" format.

A copy of this Order shall be served on each Respondent and this Order shall be published in the **Federal Register**.

Entered this 20th day of April 1999.

F. Amanda DeBusk,

Assistant Secretary for Export Enforcement.
[FR Doc. 99-10739 Filed 4-28-99; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Thane-Coat, Inc., Jerry Vernon Ford and Preston John Engebretson; Decision and Order on Renewal of Temporary Denial Order

In the Matters of: Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477; Jerry Vernon Ford, President, Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477, and with an address at 7707 Augustine Drive, Houston, Texas 77036; and Preston John Engebretson, Vice-President, Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477, and with an address at 8903 Bonhomme Road, Houston, Texas 77074, Respondents.

On October 23, 1998, I issued a Decision and Order on Renewal of Temporary Denial Order (hereinafter "Order" or "TDO"), renewing for 180 days, in a "non-standard" format, a May 5, 1997 Order naming, *inter alia*, Thane-Coat, Inc.; Jerry Vernon Ford, president, Thane-Coat, Inc.; and Preston John Engebretson, vice-president, Thane-Coat, Inc. (hereinafter referred to collectively as the "Respondents"), as persons temporarily denied all U.S. export privileges. 63 FR. 58707-58709 (November 2, 1998).¹ The Order will expire on April 21, 1999.

On April 1, 1999, pursuant to Section 766.24 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1998)) (hereinafter the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app §§ 2401-2420 (1991 & Supp. 1998)) (hereinafter the "Act"),² the Office of Export

Enforcement, Bureau of Export Administration, United States Department of Commerce (hereinafter BXA"), requested that I renew the Order against Thane-Coat, Inc., Jerry Vernon Ford, and Preston John Engebretson for 180 days in a non-standard format, consistent with the terms agreed to by and between the parties in April 1998.

In its request, BXA stated that, as a result of an ongoing investigation, it had reason to believe that, during the period from approximately June 1994 through approximately July 1996, Thane-Coat, Inc., through Ford and Engebretson, and using its affiliated companies, TIC Ltd. and Export Materials, Inc., made approximately 100 shipments of U.S.-origin pipe coating materials, machines, and parts to the Dong Ah Consortium in Benghazi, Libya. These items were for use in coating the internal surface of prestressed concrete cylinder pipe for the Government of Libya's Great Man-Made River Project.³ Moreover, BXA's investigation gave it reason to believe that the Respondents and the affiliated companies employed a scheme to export U.S.-origin products from the United States, through the United Kingdom, to Libya, a country subject to a comprehensive economic sanctions program, without the authorizations required under U.S. law, including the Regulations. The approximate value of the 100 shipments at issue was \$35 million. In addition, the Respondents and the affiliated companies undertook several significant and affirmative actions in connection with the solicitation of business on another phase of the Great Man-Made River Project.

BXA has stated that it believes that the matters under investigation and the information obtained to date in that investigation support renewal of the TDO issued against the Respondents.⁴ In that regard, in April 1998, BXA and the Respondents reached an agreement, whereby BXA sought a renewal of the TDO in a "non-standard" format, denying all of the Respondents' U.S. export privileges to the United Kingdom, the Bahamas, Libya, Cuba, Iraq, North Korea, Iran, and any other country or countries that may be made

subject in the future to a general trade embargo by proper legal authority. In return, the Respondents agreed that, among other conditions, at least 14 days in advance of any export that any of the Respondents intends to make of any item from the United States to any destination world-wide, the Respondents will provide to BXA's Dallas Field Office (i) notice of the intended export, (ii) copies of all documents reasonably related to the subject transaction, including, but not limited to, the commercial invoice and bill of lading, and (iii) the opportunity, during the 14-day notice period, to inspect physically the item at issue to ensure that the intended shipment is in compliance with the Export Administration Act, the Export Administration Regulations, or any order issued thereunder. BXA has sought renewal of the TDO in a "non-standard" format.

Based on BXA's showing, I find that it is appropriate to renew the order temporarily denying the export privileges of Thane-Coat, Inc., Jerry Vernon Ford, and Preston John Engebretson in a "non-standard" format, incorporating the terms agreed to by and between the parties in April 1998. I find that such renewal is necessary in the public interest to prevent an imminent violation of the Regulations and to give notice to companies in the United States and abroad to cease dealing with these persons in any commodity, software, or technology subject to the Regulations and exported or to be exported to the United Kingdom, the Bahamas, Libya, Cuba, Iraq, North Korea, Iran, and any other country or countries that may be made subject in the future to a general trade embargo by proper legal authority, or in any other activity subject to the Regulations with respect to these specific countries. Moreover, I find such renewal is in the public interest in order to reduce the substantial likelihood that Thane-Coat, Inc., Ford and Engebretson will engage in activities which are in violation of the Regulations.

Accordingly, it is therefore ordered:

First, that Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477, and all of its successors or assigns, officers, representatives, agents, and employees when acting on its behalf; Jerry Vernon Ford, President, Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477, and with an address at 7707 Augustine Drive, Houston, Texas 77036, and all of his successors, or assigns, representatives, agents and employees when acting on his behalf; and Preston John Engebretson, Vice-President, Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477, and with an

¹ The May 5, 1997 Order also named Thane-Coat International, Ltd. and Export Materials, Inc. as persons temporarily denied all U.S. export privileges. I am issuing a separate Decision and Order today renewing the TDO against Thane-Coat International, Ltd. (under its legal name of TIC Ltd.) and Export Materials in a "standard" format.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), and August 13, 1998 (63 FR 44121, August 17, 1998), continued the Regulations in effect under the International

Emergency Economic Powers Act (currently codified at 50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

³ BXA understands that the ultimate goal of this project is to bring fresh water from wells drilled in southeast and southwest Libya through prestressed concrete cylinder pipe to the coastal cities of Libya. This multibillion dollar, multiphase engineering endeavor is being performed by the Dong Ah Construction Company of Seoul, South Korea.

⁴ On April 1, 1999, BXA requested that I renew the TDO against TIC Ltd. and Export Materials, Inc. in a "standard" format.

address at 8903 Bonhomme Road, Houston, Texas 77074, and all of his successors, or assigns, representatives, agents, and employees when acting on his behalf (all of the foregoing parties hereinafter collectively referred to as the "denied persons"), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") subject to the Export Administration Regulations (hereinafter the "Regulations") and exported or to be exported from the United States to the United Kingdom, the Bahamas, Libya, Cuba, Iraq, North Korea, or Iran, or to any other country or countries that may be made subject in the future to a general trade embargo pursuant to proper legal authority (hereinafter the "Covered Countries"), or in any other activity subject to the Regulations with respect to the Covered Countries, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item that is subject to the Regulations and that is exported or to be exported from the United States to any of the Covered Countries, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States to any of the Covered Countries that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of any of the denied persons any item subject to the Regulations to any of the Covered Countries;

B. Take any action that facilitates the acquisition, or attempted acquisition by any of the denied persons of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States to any of the Covered Countries, including financing or other support activities related to a transaction whereby any of the denied persons acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from any of the denied persons of any item subject to the Regulations that has been exported from

the United States to any of the Covered Countries;

D. Obtain from any of the denied persons in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States to any of the Covered Countries; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States to any of the Covered Countries, and which is owned, possessed or controlled by any of the denied persons, or service any item, of whatever origin, that is owned, possessed or controlled by any of the denied persons if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States to any of the Covered Countries. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, at least 14 days in advance of any export that any of the denied persons intends to make of any item from the United States to any destination world-wide, the denied person will provide to BXA's Dallas Field Office (i) notice of the intended export, (ii) copies of all documents reasonably related to the subject transaction, including, but not limited to, the commercial invoice and bill of lading, and (iii) the opportunity, during the 14-day notice period, to inspect physically the item at issue to ensure that the intended shipment is in compliance with the Export Administration Act, the Export Administration Regulations, or any order issued thereunder.

Fourth, that, after notice and opportunity for comment, as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to any of the denied persons by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services, may also be made subject to the provisions of this Order.

Fifth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Sixth, that, in accordance with the provisions of Section 766.24(e) of the Regulations, Thane-Coat, Ford, or Engbretson may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law

Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022.

Seventh, that this Order is effective immediately and shall remain in effect for 180 days.

Eighth, that, in accordance with the provisions of Section 766.24(d) of the Regulations, BXA may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. Any respondent may oppose a request to renew this Order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be served on each Respondent and shall be published in the **Federal Register**.

Entered this 20th day of April, 1999.

F. Amanda DeBusk,

Assistant Secretary for Export Enforcement.

[FR Doc. 99-10738 Filed 4-28-99; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1034]

Expansion of Foreign-Trade Zone 87; Lake Charles, LA

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 Lake Charles Harbor & Terminal District, grantee of Foreign-Trade Zone 87, submitted an application to the Board for authority to expand FTZ 87 to include sites at the Lake Charles Harbor & Terminal District Industrial Park East (Site 5) and the Chennault Airpark (Site 6) in Calcasieu Parish, Louisiana, within the Lake Charles Customs port of entry (FTZ Docket 23-98; filed 4/22/98);

Whereas, notice inviting public comment was given in the **Federal Register** (63 FR 24155, 5/1/98) 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 87 is approved, subject to the Act and the

Board's regulations, including Section 400.28.

Signed at Washington, DC, this 7th day of April 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99-10767 Filed 4-28-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-357-007]

Carbon Steel Wire Rod From Argentina; Antidumping Duty Administrative Review; Extension of Time Limit

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit.

SUMMARY: The Department of Commerce (the Department) is extending the time limit of the preliminary results of the antidumping duty administrative review of Carbon Steel Wire Rod from Argentina. This review covers the period November 1, 1997 through October 31, 1998.

EFFECTIVE DATE: April 29, 1999.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or Linda Ludwig, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-0405 or 482-3833, respectively.

SUPPLEMENTARY INFORMATION: Owing to the complexity of model match issues in this case, it is not practicable to complete this review within the original time limit. See Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, Enforcement Group III, to Robert S. LaRussa, Assistant Secretary for Import Administration, dated April 20, 1999. Therefore, the Department is extending the time limit for completion of the preliminary results until September 30, 1999, in accordance with Section 751(a)(3)(A) of the Trade and Tariff Act of 1930, as amended by the Uruguay Round Agreements Act of 1994.

Dated: April 20, 1999.

Roland MacDonald,

Acting Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 99-10769 Filed 4-28-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-839, A-583-833]

Initiation of Antidumping Duty Investigations: Certain Polyester Staple Fiber From the Republic of Korea and Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 29, 1999.

FOR FURTHER INFORMATION CONTACT: Cynthia Thirumalai and Marian Wells, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-4087 and (202) 482-6309, respectively.

Initiation of Investigations

The Applicable Statute and Regulations

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's regulations are to the provisions codified at 19 CFR part 351 (1998).

The Petition

On April 2, 1999, the Department of Commerce ("the Department") received a petition filed in proper form by E.I. DuPont de Nemours, Inc.; NanYa Plastics Corporation, America; Arteva Specialities S.a.r.l., d/b/a KoSa; Wellman, Inc.; and Intercontinental Polymers, Inc., hereinafter collectively referred to as "the petitioners." (However, NanYa Plastics Corporation, America is not a petitioner in the Taiwan case.)

In accordance with section 732(b) of the Act, the petitioners allege that imports of certain polyester staple fiber ("polyester fiber") from the Republic of Korea ("Korea") and Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are both materially

injuring and threatening further material injury to an industry in the United States.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated that they account for at least 25 percent of the total production of the domestic like product and more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition (see "Determination of Industry Support for the Petition" section, below).

Scope of the Investigations

For purposes of these investigations, the product covered is certain polyester staple fiber. Certain polyester staple fiber is defined as synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut-to-lengths varying from one inch (25 mm) to five inches (127 mm). The merchandise subject to these investigations may be coated, usually with a silicon or other finish, or not coated. Certain polyester staple fiber is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture. Merchandise of less than 3.3 decitex (less than 3 denier) classified under the Harmonized Tariff Schedule of the United States ("HTSUS") at subheading 5503.20.00.20 is specifically excluded from these investigations. Also specifically excluded from these investigations are polyester staple fibers of 10 to 18 denier that are cut-to-lengths of 6 to 8 inches (fibers used in the manufacture of carpeting).

The merchandise subject to these investigations is classified in the HTSUS at subheadings 5503.20.00.40 and 5503.20.00.60. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioners to ensure that the scope language accurately reflects the product for which they are seeking relief. Moreover, as discussed in the preamble to the Department's regulations (62 FR 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments by May 12, 1999. Comments should be addressed to Import Administration's

Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of our preliminary determinations.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the "industry" as: "the producers as a whole of a domestic like product." Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product, they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.¹ Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind

of merchandise to be investigated, which normally will be the scope as defined in the petition.

The domestic like product referred to in the petition is the single domestic like product defined in the "Scope of Investigations" section, above. The Department has no basis on the record to find this definition of the domestic like product to be inaccurate. The Department, therefore, has adopted this domestic like product definition.

In this case, the Department has determined that the petition and supplemental information contained adequate evidence of sufficient industry support; therefore, polling was not necessary. See Initiation Checklists dated April 22, 1999 (public versions on file in the Central Records Unit of the Department of Commerce, Room B-099). To the best of the Department's knowledge, the producers who support the petition account for more than 50 percent of the production of the domestic like product. Additionally, no person who would qualify as an interested party pursuant to section 771(b)(A), (C), (D), (E) or (F) of the Act has expressed opposition on the record to the petition. Accordingly, the Department determines that this petition is filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Export Price and Normal Value

The following is a description of the allegations of sales at less than fair value upon which our decision to initiate these investigations is based. Should the need arise to use any of this information in our preliminary or final determinations for purposes of facts available under section 776 of the Act, we may re-examine the information and revise the margin calculations, if appropriate.

Korea

The petitioners identified Daehan Synthetic Fiber Co., Ltd. (also known as Tae Kweng); Kohap, Ltd.; Saehan Industries, Inc.; Sam Yang Co.; and SK Chemicals as producers and exporters of polyester fiber to the United States. The petitioners have based U.S. price on export price ("EP") because information obtained by the petitioners indicates that Korean producers sold polyester fiber to unaffiliated importers in the United States. As a basis for its EP calculation, the petitioners have used multiple offers for sale of the subject merchandise to unaffiliated purchasers in the United States between December 1998 and February 1999. The terms of some of these sales offers were FOB whereas other sales were offered on a

delivered basis. Where applicable, the petitioners calculated a net U.S. price by subtracting the estimated cost of foreign inland freight to the port of export, using information obtained through foreign market research. Where applicable, the petitioners then subtracted ocean freight expenses, which were calculated as the difference between the CIF and the U.S. customs values reported in the U.S. import statistics for January through December 1998, and estimated U.S. inland freight costs. U.S. import duties were estimated by the petitioners using the HTSUS schedule and then subtracted from the prices. Where applicable, the petitioners also subtracted amounts for U.S. merchandise processing fees and U.S. harbor maintenance fees in accordance with section 772(c)(2)(A) of the Act. (The Department corrected the petitioners' calculations of U.S. import duties, U.S. merchandise processing fees, and U.S. harbor maintenance fees.) Finally, the petitioners calculated imputed credit expenses based on average payment terms of 60 days and the average U.S. prime lending rate for December 1998, as published in the *International Financial Statistics*, and added this amount to normal value ("NV").

The petitioners obtained gross unit prices and multiple offers for sale in Korea during the period contemporaneous with the U.S. sales offers for products which were either identical or similar to those sold to the United States. The petitioners used the market research information which indicated that the volume of home market sales is sufficient to form a basis for normal value. Since the home market prices and offers for sale were based on delivered terms, the petitioners subtracted the estimated transportation costs to home market customers. Next, the petitioners deducted a discount offered to Korean customers who pay cash. The resulting home market net prices were then converted from kilograms to pounds and to U.S. dollar prices using the official exchange rate in effect for the month of the comparison U.S. sale. Lastly, the petitioners added the imputed credit expenses incurred in the U.S. market (see above). The petitioners did not adjust for packing because they assumed that packing costs were the same for the home market and for U.S. sales.

Taiwan

The petitioners identified Far Eastern Textile Ltd. ("Far Eastern"); Nan Ya Plastics Corporation; Shinkong Synthetic Fibers Corp.; and Tuntex Distinct Corp. as producers and

¹ See *Algoma Steel Corp. Ltd., v. United States*, 688 F. Supp. 639, 642-44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380-81 (July 16, 1991).

exporters of polyester fiber to the United States. The petitioners have based U.S. price on export price ("EP") because information obtained by the petitioners indicates that Taiwanese producers sold polyester fiber to unaffiliated importers in the United States. As a basis for its EP calculation, the petitioners have used multiple offers for sale of the subject merchandise to unaffiliated purchasers in the United States between December 1998 and February 1999. The terms of some of these sales offers were FOB Taiwan whereas other sales were offered on a delivered basis. The petitioners calculated net U.S. prices by subtracting estimated costs incurred to transport polyester fiber from the port of export to the U.S. port, and from the U.S. port to the customer's location in the U.S., where applicable. No adjustment for transportation costs from the factory to the port of export were made because this information was not available to the petitioners. The petitioners deducted international freight and insurance costs which were calculated as the difference between the CIF and the U.S. customs values reported in the U.S. import statistics for January through December 1998. The petitioners also subtracted U.S. import duties, U.S. harbor maintenance fees, and U.S. merchandise processing fees, where applicable. (The Department corrected the petitioners' calculations of U.S. import duties, U.S. harbor maintenance fees, and U.S. merchandise processing fees.) The petitioners calculated imputed credit expenses based on average payment terms reported in the market research report and the average U.S. prime lending rate for the month of the U.S. sales as published in the *International Financial Statistics*. The petitioners adjusted for the difference in imputed credit expenses by subtracting home market credit expenses and by adding U.S. imputed credit expenses to the home market prices found through foreign market research.

With respect to NV, the petitioners provided information on sales prices in Taiwan and constructed value ("CV") for one type of polyester staple fiber. The petitioners received prices for actual recent sales or offers for sale to unaffiliated customers in Taiwan by the four Taiwanese companies which produce subject merchandise. The petitioners used market research information which indicated that the volume of home market sales is sufficient to form a basis for normal value. Since the home market prices were inclusive of delivery charges, the petitioners subtracted estimated

delivery costs. The petitioners used average inland freight costs incurred to deliver in the U.S. as a proxy for delivery costs. We accepted this proxy because this information was reasonably available to the petitioners and this is a conservative methodology since average delivery distances are greater in the U.S. and delivery costs are determined by weight and distance. The petitioners did not adjust for packing because they assumed that packing costs were the same for the home market and for U.S. sales. The petitioners converted home market prices and quantities to U.S. dollars and to pounds, respectively.

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of polyester fiber from Korea and Taiwan are being, or are likely to be, sold at less than fair value. Based on a comparison of EP to home market prices, the petitioners' calculated dumping margins range from 48.14 to 84.03 percent for Korea and from 8.03 to 23.62 percent for Taiwan. In addition, for Taiwan, the estimated dumping margin based on a comparison of EP to CV is 70.70 percent.

Allegation of Sales Below Cost in Taiwan

Pursuant to section 773(b) of the Act, the petitioners alleged that home market sales of the foreign like product in Taiwan were made at prices below the cost of production ("COP") and requested that the Department initiate a country-wide investigation of sales below cost. The petitioners calculated COP for six denier, non-conjugated and non-silicon coated polyester fiber by using the CV for one company, Far Eastern. According to the petitioners, six denier is one of the most common denier categories and is, therefore, representative of the foreign like product to be compared to subject merchandise sold in the United States. In addition, petitioners selected Far Eastern because it is the largest and, hence, probably the most efficient, producer of polyester fiber in Taiwan and accounted for the largest share of exports to the United States. Based on the foregoing, costs for Far Eastern, according to petitioners, are representative of the costs of other producers of polyester fiber.

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing ("COM"), selling, general and administrative expenses ("SG&A") and packing. The petitioners used the product-specific costs reported by a U.S. producer as a starting point to calculate the COM. The petitioners made

adjustments to the U.S. producer's manufacturing cost to account for known differences in costs between the United States and Taiwan. To calculate SG&A, the petitioners took the ratio of SG&A to the costs of sales from Far Eastern's 1997 audited financial statements and applied this ratio to the calculated COM. In accordance with section 773(e) of the Act, the petitioners added an amount for profit calculated from the 1997 audited financial statements of Far Eastern. The petitioners then compared this cost to Far Eastern's home market price for this product as reported in the market research report and found that the home market price was below the COP.

Allegations and Evidence of Material Injury and Causation

The petition alleges that the U.S. industry producing the domestic like product is being materially injured, and is threatened with material injury, by reason of the imports of the subject merchandise sold at less than NV. The petitioners explained that the industry's injured condition is evident in the declining trends in net operating profits and income, net sales volumes and values, profit to sales ratios, and capacity utilization. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are supported by accurate and adequate evidence and meet the statutory requirements for initiation. See Initiation Checklists.

Initiation of Antidumping Investigations

Based upon our examination of the petition, we have found that the petition meets the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of polyester fiber from Korea and Taiwan are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended, we will make our preliminary determinations by September 9, 1999.

Initiation of Cost Investigations

Pursuant to section 773(b) of the Act, petitioners provided information demonstrating reasonable grounds to believe or suspect that sales in the home market of Taiwan were made at prices below the COP and, accordingly, requested the Department to conduct a country-wide sales-below-COP

investigation in connection with the requested antidumping investigation in Taiwan. The Statement of Administrative Action ("SAA"), accompanying the URAA, H.R. Doc. No. 103-316, vol. 1 at 833 (1994), states that an allegation of sales below COP need not be specific to individual exporters or producers. The SAA also states that "Commerce will consider allegations of below-cost sales in the aggregate for a foreign country, just as Commerce currently considers allegations of sales at less than fair value on a country-wide basis for purposes of initiating an antidumping investigation." Id.

Further, the SAA provides that "new section 773(b)(2)(A) retains the current requirement that Commerce have 'reasonable grounds to believe or suspect' that below-cost sales have occurred before initiating such an investigation." Reasonable grounds will "exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices." Id. Based upon the comparison of the price from the petition for the representative foreign like product to its adjusted costs of production, in accordance with section 773(b)(2)(A)(i) of the Act, we find the existence of "reasonable grounds to believe or suspect" that sales of the foreign like product in Taiwan were made below COP. Accordingly, the Department is initiating the requested country-wide cost investigation.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the Governments of Korea and Taiwan. We will attempt to provide a copy of the public version of the petition to the exporters named in the petition.

International Trade Commission Notification

We have notified the ITC of our initiation of these investigations, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine by May 17, 1999 whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury by reason of imports of polyester fiber from Korea and Taiwan. A negative ITC determination will result in the investigation being terminated; otherwise, these investigations will

proceed according to statutory and regulatory time limits.

This notice is published in accordance with section 777(i) of the Act.

Dated: April 22, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99-10770 Filed 4-28-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-357-804]

Silicon Metal From Argentina; Antidumping Duty Administrative Review; Extension of Time Limit

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit.

SUMMARY: The Department of Commerce (the Department) is extending the time limit of the preliminary results of the antidumping duty administrative review of Silicon Metal from Argentina. This review covers the period September 1, 1997 through August 31, 1998.

EFFECTIVE DATE: April 29, 1999.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or Linda Ludwig, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-0405 or 482-3833, respectively.

SUPPLEMENTARY INFORMATION: Owing to the complexity of cost issues in this case, it is not practicable to complete this review within the original time limit. See Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, Enforcement Group III, to Robert S. LaRussa, Assistant Secretary for Import Administration, dated April 20, 1999. Therefore, the Department is extending the time limit for completion of the preliminary results until September 30, 1999, in accordance with Section 751(a)(3)(A) of the Trade and Tariff Act of 1930, as amended by the Uruguay Round Agreements Act of 1994.

Dated: April 20, 1999.

Roland MacDonald,

Acting Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 99-10768 Filed 4-28-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Duty-Free Entry of Scientific Instrument

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instrument shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. The application may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 99-004. Applicant: U.S. Department of Commerce, Pacific Marine Center, 7600 Sand Point Way N.E., Seattle, WA 98115-0700. Instrument: Multibeam Echosounder (Sonar). Manufacturer: ELAC NAUTIK, Germany. Intended Use: The instrument will be used for the survey and mapping of coastal ocean waters for the detection, location and identification of 2 wrecks and other obstructions on the sea floor. The objective in the surveys will be to determine depths of hazards to aid in the safety of navigation and general bathymetry. Application accepted by Commissioner of Customs: April 9, 1999.

Docket Number: 99-005. Applicant: University of Connecticut, Department of Psychology, 406 Babbidge Road, Storrs, CT 06269-1020. Instrument: Fiber Electrode Manipulator System. Manufacturer: Thomas Recording, Germany. Intended Use: The instrument will be used for studies of the electrical activity of brain cells (neurons) of the cerebral cortex. Two sets of experiments will be conducted in fully awake rabbits. The first set is aimed at understanding the transformations performed upon inputs to the cortex by the intracortical circuitry and how these transformations lead to parallel and distinct efferent outflows. The second set of experiments examines the nature of a large population of neurons throughout sensory cortex that have no demonstrable (supra-threshold) receptive fields. Application accepted

by Commissioner of Customs: April 13, 1999.

Frank W. Creel,

Director, Statutory Import Programs Staff.
[FR Doc. 99-10766 Filed 4-28-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

North Carolina State University; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 99-002. Applicant: North Carolina State University, Raleigh, NC 27695. Instrument: Lifetime Measurement System, Model JANUS 200-M. Manufacturer: Amecon Messtechnik, Germany. Intended Use: See notice at 64 FR 10991.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides laser excitation/microwave detection of the photoconduction decay for contactless measurement of the carrier lifetime and lifetime mapping of silicon wafers from 15 to 300 mm diameter. The National Institute of Standards and Technology advised April 8, 1999 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.
[FR Doc. 99-10765 Filed 4-28-99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-427-817, C-533-818, C-560-806, C-475-827, C-580-837]

Certain Cut-to-Length Carbon-Quality Steel Plate From France, India, Indonesia, Italy, and the Republic of Korea: Postponement of Time Limit for Countervailing Duty Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Postponement of Time Limit for Preliminary Determination of Countervailing Duty Investigations

EFFECTIVE DATE: April 29, 1999.

FOR FURTHER INFORMATION CONTACT: Eric Greynolds (France), at (202) 482-6071; Robert Copyak (India), at (202) 482-2209; Kathleen Lockhard (Indonesia), at (202) 482-1168; Kristen Johnson (Italy), at (202) 482-4406; and Stephanie Moore (Republic of Korea), at (202) 482-3692, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

POSTPONEMENT OF PRELIMINARY DETERMINATIONS: On March 8, 1999, the Department initiated the countervailing duty investigations on certain cut-to-length carbon-quality steel plate from France, India, Indonesia, Italy, and the Republic of Korea. See Notice of Initiation of Countervailing Duty Investigations: Certain Cut-To-Length Carbon-Quality Steel Plate from France, India, Indonesia, Italy and the Republic of Korea, 64 FR 12996 (March 16, 1999). The preliminary determinations currently must be issued by May 12, 1999.

On April 19, 1999, Bethlehem Steel Corporation, U.S. Steel Group, a unit of USX Corporation, Gulf States Steel, Inc., IPSCO Steel Inc., and Tuscaloosa Steel Corporation (petitioners) made a timely request pursuant to 19 CFR 351.205(e) of the Department's regulations for a postponement of the preliminary determinations in accordance with section 703(c)(1)(A) of the Tariff Act of 1930, as amended (the Act). Petitioners requested a postponement because of the extraordinarily complicated nature of these cases, the large number of foreign producers involved, and to allow time for the Department to determine the extent to which particular subsidies are being used.

For reasons identified by petitioners, we see no compelling reason not to postpone the preliminary

determinations. Therefore, we are postponing the preliminary determinations under section 703(c)(1)(A) of the Act. See Memorandum from Holly Kuga to Robert S. LaRussa, dated April 21, 1999 (on file in the public file of the Central Records Unit, Room B-099 of the Department of Commerce). We will make our preliminary determinations in these investigations no later than July 16, 1999.

This notice of postponement is published pursuant to section 703(c)(2) of the Act.

Dated: April 21, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99-10771 Filed 4-28-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Hearing and Availability of the Draft Environmental Impact Statement (DEIS) for Disposal and Reuse of Naval Air Station (NAS) Alameda and the Fleet and Industrial Supply Center (FISC), Alameda Annex and Facility, Alameda, CA

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy has prepared and filed with the U.S. Environmental Protection Agency a DEIS for disposal and reuse of NAS Alameda and FISC Alameda Annex and Facility. A public hearing will be held for the purpose of receiving oral and written comments on the DEIS. Federal, State and local agencies and interested individuals are invited to be present at the hearing.

DATES: The meeting will be held on May 18, 1999, at 7:00 p.m.

ADDRESSES: Alameda High School, Little Theatre; 2200 Central Avenue; Alameda, California (at the corner of Central Avenue and Walnut Street).

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Hemstock (Code 7032JH), Engineering Field Activity, West, Naval Facilities Engineering Command, 900 Commodore Drive, San Bruno, California, telephone (650) 244-3023, facsimile (650) 244-3206.

SUPPLEMENTARY INFORMATION: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500-1508), the Department

of the Navy (Navy) has prepared and filed with the U.S. Environmental Protection Agency (EPA) the DEIS for Disposal and Reuse of NAS Alameda and FISC Alameda Annex and Facility in Alameda, California. A public hearing will be held for the purpose of receiving oral and written comments on the DEIS. Federal, State and local agencies, as well as interested individuals and organizations are invited to be present or represented at the hearing.

A Notice of Intent (NOI) to prepare the DEIS was published in the **Federal Register** on February 22, 1996 (61 FR 36).

Public scoping meeting announcements were published in four local newspapers: the San Leandro Times on February 29, 1996; the Alameda Journal on March 1 and 5, 1996; the Oakland Tribune and the Alameda Times-Star on March 3 and 5, 1996. A public scoping meeting was held on March 13, 1996 at the Alameda High School Cafeteria, 2200 Central Avenue, Alameda, California.

The proposed action is the disposal of Navy property for subsequent reuse and redevelopment, in accordance with the 1990 Defense Base Closure and Realignment Act, and the 1993 and 1995 Base Realignment and Closure Commission recommendations. Approximately 1,693 acres (685 hectares) of land (1,102 acres (446 hectares) of dry land and 591 acres (239 hectares) of submerged land) are available for disposal and are the focus of this DEIS. NAS Alameda was operationally closed on April 30, 1997 and FISC Alameda Annex and Facility (FISC Alameda) was operationally closed on September 30, 1998. Approximately 969 acres (392 hectares) of the total 2,662 acres (1,076 hectares) of dry and submerged land at NAS Alameda and FISC Alameda are being transferred to other Federal agencies.

The DEIS evaluates four reuse alternatives: the Reuse Plan (Preferred Alternative), Seaport Alternative, Residential Alternative and Reduced Density Alternative. A fifth alternative, no action, assumes no disposal of property and retention of the property by Navy in caretaker status. Under the No Action Alternative, the operation of Miller Elementary School at NAS Alameda would continue through an existing lease agreement. All other current leases of NAS Alameda property to the Alameda Reuse and Redevelopment Authority (ARRA) and FISC Alameda property to the City of Alameda would continue until their expiration.

The Reuse Plan Alternative is based on the NAS Alameda Community Reuse Plan (Reuse Plan) that was developed by the ARRA, the Local Redevelopment Authority. The Reuse Plan envisions a mixed use for the properties that includes industrial, commercial residential and community uses within six distinct planning areas. Community uses would include public parks and open space, schools, a golf course and a recreational vehicle park. Industrial uses would include office, marine-related light industry and research and development businesses. Residential housing would include reuse of existing housing as well as new construction. Commercial uses would include neighborhood shopping districts, offices, hotels and a conference facility. No decision on the proposed action will be made until the NEPA process has been completed.

Potential impacts evaluated in the DEIS include, but are not limited to: land use, visual resources, socioeconomic, public services, utilities, cultural resources, biological resources, geology and soils, water resources, traffic and circulation, air quality, noise, and hazardous materials and waste. With two exceptions, potentially significant impacts under all of the reuse alternatives can be mitigated to nonsignificant levels. Potentially significant but mitigable impacts include: traffic impacts on-site, at key local intersections and on some roadway and freeway segments under all alternatives; traffic impacts on the Webster/Posey Tubes under the Reuse Plan Alternative; and air quality impacts at two local intersections under the Reuse Plan, Seaport, and Residential Alternatives where carbon monoxide concentrations would exceed Federal and State standards. The two significant impacts that cannot be mitigated are visual impacts from cargo cranes and port facilities under the Seaport Alternative that would disrupt existing views, and increased predation of the endangered California least tern under the Seaport and Residential Alternatives. The DEIS has been distributed to affected Federal, State and local agencies and other interested parties. In addition, copies of the DEIS are available for review at the Alameda Public Library (Main Library, West End Branch and Bay Farm Island Branch) and the Oakland Public Library (Main Library and Eastmont Branch).

A public hearing will be held to inform the public of the DEIS findings and to solicit and receive oral and written comments. The hearing will be held at 7:00 p.m. on May 18, 1999, at the Alameda High School, Little

Theatre, 2200 Central Avenue, Alameda, California (at the corner of Central Avenue and Walnut Street). Federal, State and local agencies and interested parties are invited to be present at the hearing. Oral comments will be heard and transcribed by a court recorder; written comments are also requested to ensure accuracy of the record. All comments, both oral and written, will become part of the official record. In the interest of available time, each speaker will be asked to limit oral comments to three minutes. Longer comments should be summarized at the public hearing and submitted in writing either at the hearing or mailed to Mr. Jerry Hemstock at the address given above. Written comments are requested not later than June 1, 1999.

Dated: April 19, 1999.

Pamela A. Holden,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99-10746 Filed 4-28-99; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF ENERGY

Final Programmatic Environmental Impact Statement for Alternative Strategies for the Long-Term Management and Use of Depleted Uranium Hexafluoride

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Department of Energy (DOE) announces the availability of the Final Programmatic Environmental Impact Statement (PEIS) for Alternative Strategies for the Long-Term Management and Use of Depleted Uranium Hexafluoride (DOE/EIS-0269). This Final PEIS, prepared pursuant to the National Environmental Policy Act (NEPA), assesses the potential environmental impacts of reasonable alternatives to manage DOE's nearly 700,000 metric tons of depleted uranium hexafluoride (UF₆) stored in 57,634 steel cylinders at the East Tennessee Technology Park (formerly known as the K-25 facility) on the Oak Ridge Reservation, and the gaseous diffusion plant sites at Portsmouth, Ohio, and Paducah, Kentucky. The Final PEIS also includes analyses of the impacts of an additional 11,212 cylinders recently transferred to DOE from the United States Enrichment Corporation under two recent memoranda of agreement.

The management strategies considered in the Final PEIS include continuation of depleted UF₆ storage at

the current locations, two long-term storage alternatives (one as UF₆ and one as an oxide, after conversion) at a consolidated location, two alternatives to convert and use the material (one as uranium oxide and one as uranium metal), and a disposal alternative.

DOE has identified a preferred alternative in the Final PEIS. DOE's preferred alternative for the long-term management and use of depleted UF₆ is to begin conversion of the UF₆ inventory as soon as possible, either to uranium oxide, uranium metal, or a combination of both, while allowing for future use of as much of this inventory as possible. The preferred alternative in the Final PEIS was revised based in part on public comments on the Draft PEIS. The Record of Decision, to be issued no sooner than 30 days after the Environmental Protection Agency's Notice of Availability of the Final PEIS, will identify DOE's decision for the long-term management and use of depleted UF₆.

ADDRESSES: Copies of this Final PEIS are available at the Office of Environment, Safety and Health National Environmental Policy Act home page at <http://www.eh.doe.gov/nepa>, or on the Office of Nuclear Energy, Science and Technology home page at <http://www.ne.doe.gov>. You may request copies of this Final PEIS by calling the toll-free number 1-800-517-3191, by faxing requests to (301) 903-4905, or by mailing them to: Scott Harlow, Depleted Uranium Hexafluoride Program, Office of Nuclear Energy, Science and Technology (NE), U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874. You may also request copies of this Final PEIS via the Depleted Uranium Hexafluoride home page at <http://www.ead.anl.gov/uranium.html>, or via electronic mail to: scott.harlow@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT: For general information on the DOE NEPA process, please contact: Carol Borgstrom, Director, Office of NEPA Policy and Assistance, Office of Environment, Safety and Health, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20545, (202) 586-4600 or 1-800-472-2756.

SUPPLEMENTARY INFORMATION:

Background

On January 25, 1996, DOE issued a Notice of Intent (61 FR 2239) to prepare a programmatic environmental impact statement on alternative strategies for the long-term management and use of depleted UF₆. The unique properties and value of depleted UF₆, such as its

high purity and density, as well as the large volume (nearly 700,000 metric tons) in storage, made it appropriate to evaluate, analyze, and decide the long-term management of this material separately from other DOE materials in storage or awaiting disposition.

The purpose of this PEIS was to assess and consider the potential environmental impacts of a range of reasonable alternative strategies for the long-term management and use of depleted UF₆ currently stored at sites near Paducah, Kentucky; Portsmouth, Ohio; and Oak Ridge, Tennessee. The Final PEIS addresses the potential environmental impacts of the activities for each strategy.

During February 1996, public scoping meetings were held in Paducah, Piketon, and Oak Ridge. The Draft PEIS incorporates the public comments received during the scoping period. During February and March 1998, public hearings on the draft PEIS were held in Paducah, Kentucky; Piketon, Ohio; Oak Ridge, Tennessee; and Washington, DC. All comments submitted by the public were considered by DOE in preparing the Final PEIS.

The Final PEIS and related documents prepared by DOE are available for review at the following locations:

Kentucky

U.S. Department of Energy,
Environmental Information Center,
175 Freedom Boulevard, Kevil, KY
42053, (502) 462-2550

Ohio

U.S. Department of Energy,
Environmental Information Center,
3930 U.S. Route 23, Piketon, OH
45661, (740) 289-3317

Tennessee

U.S. Department of Energy, Information
Resource Center, 105 Broadway
Avenue, Oak Ridge, TN 37830, (423)
241-4582; and, U.S. Department of
Energy, Public Reading Room,
Building 1916-T2, Suite 300, 230
Warehouse Road, Oak Ridge,
Tennessee 37830

Washington, DC

U.S. Department of Energy, Freedom of
Information Reading Room, Room 1E-
190, 1000 Independence Avenue,
S.W., Washington, DC 20585, (202)
586-3142

Subsequent Document Preparation

Following issuance of the Final PEIS and Record of Decision, DOE will prepare additional project-specific NEPA documents as appropriate.

Issued in Washington, D.C. April 16, 1999.

William D. Magwood, IV,

*Director, Office of Nuclear Energy, Science
and Technology.*

[FR Doc. 99-10764 Filed 4-28-99; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

**Federal Energy Regulatory
Commission**

[Docket No. CP98-6-003]

**Dauphin Island Gathering Partners;
Notice of Proposed Changes in FERC
Gas Tariff**

April 23, 1999.

Take notice that on March 25, 1999, Dauphin Island Gathering Partners (DIGP) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to that filing to become effective March 16, 1999. The tariff sheets implement the first Revised Volume no. 1 of DIGP's FERC Gas Tariff, with the exception of rate sheets previously filed on March 15, 1999. DIGP states the filing is in compliance with the Commission's Order issued February 13, 1998.

Further, DIGP proposes a change to Section 21.2 of its tariff provisions to limit the annual maintenance allocation to no more than 48 hours per calendar month.

DIGP states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest 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 Sections 385.214 of 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed no later than April 30, 1999 in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. 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. This filing may also be viewed on the web at <http://www.ferc.fed.us/online/rims.htm>

(please call (202) 208-2222 for assistance).

David P. Boergers,
Secretary.

[FR Doc. 99-10651 Filed 4-28-99; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT99-7-001]

Destin Pipeline Company, L.L.C., Notice of Tariff Filing

April 23, 1999.

Take notice that on April 19, 1999, Destin Pipeline Company, L.L.C. (Destin) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, Substitute Second Revised Sheet No. 123, to become effective on May 1, 1999.

Destin states that the purpose of this filing is to correct a pagination error in Destin's March 30, 1999, filing.

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. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

David P. Boergers,
Secretary.

[FR Doc. 99-10656 Filed 4-28-99; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP85-221-109]

Frontier Gas Storage Company; Notice of Sale Pursuant to Settlement Agreement in Compliance With Commission Order

April 23, 1999.

Take notice that on April 21, 1999, Frontier Gas Storage Company

(Frontier), c/o Reid & Priest, Market Square, 701 Pennsylvania Ave., NW, Suite 800, Washington, DC 20004, in compliance with provisions of the Commission's February 13, 1985, Order in Docket No. CP82-487-000, *et al.* and the Commission's April 2, 1999 ORDER ADDRESSING COMPLIANCE FILING AND PROTESTS (87 FERC ¶ 61,015) (1999) in Docket No. CP85-221-105, resubmitted an executed Service Agreement, dated May 8, 1998 under Rate Schedule LVS-1, that was previously filed May 12, 1998, together with an addendum to such Service Agreement which states the sales price of the gas to be sold to Prairieland Energy Marketing, Inc.

Any person desiring to be heard or to make a protest with reference to said filing should, within 10 days of the publication of such notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 or 385.211. 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 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. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

David P. Boergers,
Secretary.

[FR Doc. 99-10650 Filed 4-28-99; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99-120-000]

Geysers Statutory Trust; Notice of Application for Commission Determination of Exempt Wholesale Generator Status and Request for Expedited Consideration

April 23, 1999.

Take notice that on April 22, 1999, Geysers Statutory Trust (Applicant) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to

Part 365 of the Commission's Regulations.

Applicant is a Connecticut statutory trust which was formed for the benefit of Steam Heat LLC, a Delaware limited liability company, to purchase from Geysers Power Company LLC (Geysers Power) and hold legal title to the Geysers geothermal generating facilities, fifteen geothermal power electric generating plants totaling approximately 766 MW, and to lease the Geysers geothermal generating facilities to Geysers Power under a long-term lease.

Applicant states that fourteen of these generating facilities were part of Pacific Gas and Electric Company's integrated system. Therefore, a rate or charge in connection with these generating facilities was in effect under the laws of California on October 24, 1992. On April 6, 1999, the Public Utilities Commission of the State of California (CPUC) mailed a final Opinion Granting Requested Authorization, D.99-04-026, which concluded that allowing these facilities to be an exempt wholesale generator within the meaning of PUCHA would benefit consumers, would be in the public interest, and would not violate California law. Applicant attached a copy of the CPUC D.99-04-026 to its application.

Applicant further states that copies of the application were served upon the California Independent System Operator Corporation, the California Power Exchange Corporation, the Securities and Exchange Commission, and the CPUC.

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments 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). The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments should be filed on or before May 4, 1999, and must be served on the applicant. 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 or on the Internet at <http://www.ferc.fed.us/online/rims.htm>. (please call (202) 208-2222 for assistance).

David P. Boergers,
Secretary.

[FR Doc. 99-10653 Filed 4-28-99; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Docket No. RP99-280-001]

**Mid Louisiana Gas Company; Notice of
Proposed Changes In FERC Gas Tariff**

April 23, 1999.

Take notice that on April 12, 1999, Mid Louisiana Gas Company (Mid Louisiana) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet, with an effective date of May 10, 1999:

Fourth Revised Sheet No. 157

Mid Louisiana states that the purpose of this filing is to comply with Commission regulations (18 CFR 375.307(e)(4)) and to correct a pagination error on Sheet 157 as originally submitted in this proceeding. This repaginated sheet references provisions which incorporate GISB Standard 1.3.32 as adopted by the Commission in Docket RM96-1-008.

Mid Louisiana requests that the Commission grant a waiver of the filing deadline as stipulated in the Order thereby allowing the indicated tariff sheet(s) be accepted to be effective May 10, 1999.

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. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

David P. Boergers,
Secretary.

[FR Doc. 99-10659 Filed 4-28-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Docket No. EL95-71-002]

**Public Service Company of New
Hampshire v. New Hampshire Electric
Cooperative, Inc.; Notice of
Amendment to Refund Report**

April 23, 1999.

Take notice that on April 12, 1999, the Public Service Company of New Hampshire tendered for filing an Amendment to Refund Report in the above captioned matter. On October 6, 1998, the Commission ordered Public Service Company of New Hampshire (PSNH) to recalculate bills and to refund with interest certain charges it had made to the New Hampshire Electric Cooperative, Inc. and to file a refund report with the Commission (85 FERC ¶ 61,044). PSNH filed its refund report on October 26, 1998. By letter dated March 12, 1998, the Commission's Division of Rate Applications requested additional information from PSNH regarding its Amended Refund Report filed on January 13, 1999. PSNH provided that explanation by a letter addressed to the Secretary of the Commission on April 9, 1999.

Copies of this filing were served upon the New Hampshire Electric Cooperative, Inc., Bio Energy Corporation and the Executive Director and Secretary of the New Hampshire Public Utilities Commission.

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 May 3, 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. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

David P. Boergers,
Secretary.

[FR Doc. 99-10655 Filed 4-28-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Docket No. CP99-328-000]

**Sabine Pipe Line Company; Notice of
Request Under Blanket Authorization**

April 23, 1999.

Take notice that on April 20, 1999, Sabine Pipe Line Company (Sabine), P.O. Box 4781, Houston, Texas 77210-4781, filed in Docket No. CP99-328-000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to install and operate two sales taps under its blanket certificate to deliver gas to Equilon Enterprises LLC (Equilon), under Sabine's blanket certificate issued in Docket No. CP83-199-000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

The sales taps will connect Sabine's 22-inch mainline to Equilon's crude pump stations in Vermilion and Calcasieu Parishes, Louisiana. The taps will be located in Section 17, Township 12 South, Range 1 East in Vermilion Parish, Louisiana, and Section 3, Township 11 South, Range 7 West in Calcasieu Parish, Louisiana.

Sabine states that it will construct and be reimbursed for the connections, including meter stations and approximately 150 feet of 4-inch pipeline, that will connect Equilon's facilities and Sabine's existing mainline piping. Sabine states that it will own and operate instrumentation and telemetry for flow control, the control valve assemblies and the connections to Sabine's mainline piping. Sabine states that Equilon will own and operate facilities downstream of the measurement and flow control stations. Sabine states that the maximum quantity of gas that will be delivered through each of the proposed taps is 4,000 Dth per day. Sabine also states that the proposed delivery points will be available to all existing and potential shippers receiving service under Sabine's FT-1 and IT-1 rate schedules set forth in Sabine's FERC Gas Tariff. The estimated cost to construct each sales tap is \$85,000.

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. 99-10652 Filed 4-28-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99-121-000]

Steam Heat LLC, Notice of Application for Commission Determination of Exempt Wholesale Generator Status and Request for Expedited Consideration

April 23, 1999.

Take notice that on April 22, 1999, Steam Heat LLC (Applicant) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant is a Delaware limited liability company formed to hold the beneficial ownership interest in Geysers Statutory Trust, a Connecticut statutory trust that was formed to purchase from Geysers Power Company, LLC (Geysers Power) and hold legal title to the Geysers geothermal generating facilities, fifteen geothermal power electric generating plants totaling approximately 766 MW, and to lease the Geysers geothermal generating facilities to Geysers Power under a long-term lease.

Applicant states that fourteen of these generating facilities were part of Pacific Gas and Electric Company's integrated system. Therefore, a rate or charge in effect under the laws of California on October 24, 1992. On April 6, 1999, the Public Utilities Commission of the State of California (CPUC) mailed a final Opinion Granting Requested Authorization, D.99-04-026, which concluded that allowing these facilities to be an exempt wholesale generator

within the meaning of PUHCA would benefit consumers, would be in the public interest, and would not violate California law. Applicant attached a copy of the CPUC D.99-04-026 to its application.

Applicant further states that copies of the application were served upon the California Independent System Operator Corporation, the California Power Exchange Corporation, the Securities and Exchange Commission, and the CPUC.

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments 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). The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments should be filed on or before May 4, 1999, and must be served on the applicant. 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 or on the Internet at <http://www.ferc.fed.us/online/rims/htm> (please call (202) 208-2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99-10654 Filed 4-28-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT99-18-000]

Transcontinental Gas Pipe Line Corporation; Notice of Refund Report

April 23, 1999.

Take notice that on April 13, 1999, Transcontinental Gas Pipe Line Corporation (Transco) filed a report reflecting the flow through of refund received from CNG Transmission Corporation (CNG).

On April 2, 1999, in accordance with Section 4 of its Rate Schedule LSS and Section 3 of its Rate Schedule GSS, Transco states that it refunded to its LSS and GSS customers \$797,567.00 resulting from the final refund of CNG Transmission Corporation Docket No. RP97-406, et al. The refund covers the period from January 1998 to December 1998.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 4, 1999. 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. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99-10657 Filed 4-28-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99-1886-000, et al.]

Virginia Electric and Power Company, et al.; Electric Rate and Corporate Regulation Filings

April 22, 1999.

Take notice that the following filings have been made with the Commission:

1. Virginia Electric and Power Company

[Docket No. ER99-1886-000]

Take notice that on April 20, 1999, Virginia Electric and Power Company (Virginia Power), tendered for filing a refund report to amend its February 22, 1999, filing of a Service Agreement for Long Term Firm Point-to-Point Transmission Service with The Wholesale Power Group under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Refund Report, Virginia Power demonstrated the process by which the Company refunded the time value of money collected for the respective service from the date of receipt of the funds until 60 days after the filing.

Virginia Power requests an effective date of April 20, 1999.

Copies of the filing were served upon The Wholesale Power Group, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Montaup Electric Company

[Docket Nos. ER97-4691-001 and ER98-861-0010]

Take notice that on April 2, 1999, Montaup Electric Company filed a compliance refund report, as directed by the Commission's letter order approving settlement issued March 6, 1998, in the above-docketed proceedings.

Comment date: May 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Cleco Energy LLC, Northwest Natural Gas Company, Wolverine Power Supply Corp., Inc., Northeast Energy Services, Inc., Equitable Power Services Co., Oceanside Energy, Inc., Rocky Mountain Natural Gas & Electric LLC

[Docket Nos. ER98-1170-003, ER97-683-004, ER98-411-008, ER97-4347-006, ER94-1539-020, ER97-181-005, and ER98-3108-002]

Take notice that on April 19, 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 web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202-208-2222 for assistance).

4. Merrill Lynch Capital Services, Inc., PacifiCorp, Union Electric Development Corporation, DePere Energy Marketing, Inc., PEC Energy Marketing, Inc., SkyGen Energy Marketing LLC, Stand Energy Corporation

[Docket Nos. ER99-830-003, ER97-3926-002, ER97-3927-002, ER97-3928-002, ER97-3929-002, ER97-3930-002, ER97-3931-002, ER97-3663-007, ER97-1432-008, ER97-1431-008, ER99-972-001, and ER95-362-017]

Take notice that on April 20, 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 web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202-208-2222 for assistance).

5. The Montana Power Company

[Docket No. ER99-2370-000]

Take notice that on April 20, 1999, The Montana Power Company (Montana), tendered for filing with the

Federal Energy Regulatory Commission an amendment to its original filing in the above referenced docket. The original filing, and this amendment, pertain to unexecuted Network Integration Transmission Service Agreements and Network Operating Agreements with Golden Sunlight Mines, Inc. (Golden Sunlight), Cenex Harvest States Cooperatives (Cenex), Illinova Energy Partners, Inc. (Illinova), and Energy West Resources, Inc. (Energy West), Ash Grove Cement Company (Ash Grove), and Montana Refining Company (Montana Refining) under Montana's FERC Electric Tariff, Fourth Revised Volume No. 5 (Open Access Transmission Tariff).

A copy of the filing was served upon Golden Sunlight, Cenex, Illinova, Energy West, Ash Grove and Montana Refining.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. FirstEnergy Trading Services, Inc.

[Docket No. ER99-2516-000]

Take notice that on April 16, 1999, FirstEnergy Trading Services, Inc. (FirstEnergy Trading), tendered for filing a Notice of Succession to Rate Schedule FERC No. 1—Market-Based Rate Schedule, and Supplement No. 1, to Rate Schedule FERC No. 1—Code of Conduct, of FirstEnergy Trading & Power Marketing, Inc. FirstEnergy Trading also notified the FERC that it had become affiliated with a fully-integrated natural gas company.

FirstEnergy Trading has asked that the Notice of Succession be permitted to become effective on May 1, 1999.

Comment date: May 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. PacifiCorp

[Docket No. ER99-2534-000]

Take notice that on April 20, 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 Modesto Irrigation District, Puget Sound Energy, and Public Utility District No. 1 of Snohomish County, Washington.

Copies of this filing were supplied the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. PP&L, Inc.

[Docket No. ER99-2535-000]

Take notice that on April 20, 1999, PP&L, Inc. (PP&L), tendered for filing an Interconnection Agreement and Addendum to Interconnection Agreement between PP&L and Cinergy Capital & Trading, Inc.

PP&L also requests waiver of the notice provisions necessary to permit the Interconnection Agreement and the Addendum to be made effective as of April 21, 1999, a date one day after the date of filing.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Southern Company Services, Inc.

[Docket No. ER99-2536-000]

Take notice that on April 20, 1999, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company (MPC), and Savannah Electric and Power Company (collectively referred to as Southern Company), tendered for filing a service agreement for network integration transmission service between SCS, as agent for Southern Company, and Southern Wholesale Energy (SWE), a Department of SCS, as agent for MPC, under the Open Access Transmission Tariff of Southern Company.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Navitas, Inc.

[Docket No. ER99-2537-000]

Take notice that on April 20, 1999, Navitas, Inc. (Navitas), petitioned the Commission for acceptance of Navitas Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

Navitas intends to engage in wholesale electric power and energy purchases and sales as a marketer. Navitas may also engage in other nonjurisdictional activities, such as facilitating the purchase and sale of wholesale energy without taking title to the electricity, selling electricity to retail customers in states in which retail electric power competition has been implemented, and arranging services in related areas such as transmission and fuel supplies. Navitas is not in the business of generating or transmitting electric power. Navitas is a wholly-owned subsidiary of Northern Alternative Energy, Inc., which through its affiliates, develops wind-driven

generation facilities, the power from which is dedicated under long-term contracts.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. PacifiCorp

[Docket No. ER99-2538-000]

Take notice that on April 20, 1999, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, an umbrella Service Agreement with Salt River Project Agricultural Improvement and Power District under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 12.

PacifiCorp requests, pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations, that a waiver of prior notice be granted and that the Commission accept for filing the enclosed Service Agreements and assign an effective date of April 21, 1999.

Copies of this filing were supplied to the Public Utility Commission of Oregon and the Washington Utilities and Transportation Commission.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Commonwealth Edison Company

[Docket No. ER99-2539-000]

Take notice that on April 20, 1999, Commonwealth Edison Company (ComEd), tendered for filing two revised Firm Service Agreements with Commonwealth Edison Company, in its wholesale merchant function, (WMD), under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of March 22, 1999, for the revised service agreements, and accordingly, seeks waiver of the Commission's notice requirements.

Copies of this filing were served on WMD.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Full Power Corporation

[Docket No. ER99-2540-000]

Take notice that on April 19, 1999, Full Power Corporation tendered for filing pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, an application for waivers and blanket approvals under various regulations of the Commission, and an order accepting its Rate Schedule No. 1, to be effective June 18, 1999, or the date that the Commission issues an order in this proceeding, whichever is earlier. Full

Power intends to engage in electric energy and capacity transactions as a marketer.

Comment date: May 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Carthage Energy, LLC

[Docket No. ER99-2541-000]

Take notice that on April 19, 1999, Carthage Energy, LLC (Carthage Energy), tendered for filing with the Federal Energy Regulatory Commission Carthage Energy's Electric Power Sales Tariff, FERC Electric Rate Schedule No. 1, which permits Carthage Energy to make wholesale power sales at market-based rates.

Carthage Energy requests an effective date of April 20, 1999.

Notice of said filing has been served upon the New York State Public Service Commission.

Any person desiring to be heard or to protest such filing

Comment date: May 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Vermont Yankee Nuclear Power Corporation

[Docket No. ER99-2542-000]

Take notice that on April 19, 1999, Vermont Yankee Nuclear Power Corporation (Vermont Yankee), tendered for filing a proposed modification to its wholesale electric rates to reduce the annual expense allowance for post-retirement benefits other than pensions.

Comment date: May 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. PacifiCorp

[Docket No. ER99-2543-000]

Take notice that on April 20, 1999, PacifiCorp tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, Non-Firm and Short-Term Firm Point-To-Point Transmission Service Agreements with (DukeSolutions) and Western Area Power Administration (WAPA) and Utah Municipal Power Agency. (UMPA) under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 11.

PacifiCorp requests pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations, that a waiver of prior notice be granted and that an effective date of April 21, 1999, be assigned to the enclosed Service Agreements.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Old Dominion Electric Cooperative, Central Hudson Gas & Electric Corporation

[Docket Nos. ER99-2547-000 and [ER99-2549-000]

Take notice that on April 19, 1999, the above-mentioned public utilities filed their quarterly transaction report for the first quarter ending March 31, 1999.

Comment date: May 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Kincaid Generation L.L.C. Ameren Services Company, Pacific Northwest Generating Cooperative

[Docket Nos. ER99-2548-000 ER99-2550-000 and ER99-2551-000]

Take notice that on April 20, 1999, the above-mentioned public utilities filed their quarterly transaction report for the first quarter ending March 31, 1999.

Comment date: May 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 such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions 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. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99-10681 Filed 4-28-99; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[FERC Docket Nos. CP99-163-000 CA State Clearinghouse No. 99041103 CSLC EIR No. 696]

California State Lands Commission; Questar Southern Trails Pipeline Company; Notice of Intent/Preparation to Prepare a Joint Environmental Impact Statement/Report for the Proposed Questar Southern Trails Pipeline Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings and Route Inspection

April 26, 1999.

The staffs of the Federal Energy Regulatory Commission (FERC) and the California State Lands Commission (CSLC) will jointly prepare an environmental impact statement/report (EIS/EIR) that will analyze and present the environmental impacts of the construction and operation of facilities proposed in Questar Southern Trails Pipeline Company's (QST) Southern Trails Pipeline Project.¹ The FERC will use this EIS/EIR in its decision-making process, i.e., whether or not to issue a Certificate of Public Convenience and Necessity for the proposed project. The CSLC will use the document to consider QST's application for leasing the State's Sovereign and School Lands for the pipeline.

The FERC will be the lead Federal agency in the preparation of this EIS/EIR while the CSLC will be the State Lead Agency for California. The document, which will avoid much duplication of environmental analyses, will satisfy the requirements of both the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA).

Additionally, with this notice the FERC is inviting other Federal agencies and two Native American Tribes to participate (see appendix 1) in the preparation of the EIS/EIR.² These entities may choose to become cooperating agencies once they have evaluated QST's proposal relative to their respective responsibilities.

If you are a landowner receiving this notice, you may be contacted by a QST representative about the acquisition of an easement to construct, operate, and maintain the Southern Trails Pipeline

System. QST would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the FERC, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, QST could initiate condemnation proceedings in accordance with state law. A fact sheet addressing a number of typically-asked questions, including the use of eminent domain, is attached to this notice as appendix 2.

Summary of the Proposed Facilities

QST acquired Four Corners Line 90 and portions of Line 91 and 92 from ARCO Pipeline Company. This existing crude oil pipeline network extends from the Four Corners area of New Mexico, into southern Utah, and across Arizona to Long Beach, California. Southern Trails requests FERC authorization to convert the existing pipeline from crude oil to natural gas service, and to operate these pipeline and additional compression facilities as a new natural gas transmission system. QST proposes to construct five new pipeline extensions and interconnects, realign/reroute five existing pipeline segments, replace a number of short segments of existing pipeline, and construct seven compressor stations. The conversion and construction of these facilities would enable QST to transport 80 to 90 million cubic feet of natural gas per day (MMcfd) to customers in New Mexico and Arizona, and 120 MMcfd to customers in southern California.

Overall, the proposed Southern Trails Pipeline Project consists of the following facilities:

- About 693 miles of existing pipeline, to be converted from crude oil to natural gas service (610 miles of 16-inch, 80 miles of 12-inch, and 3 miles of 20-inch-diameter pipeline);
- Five new pipeline extensions and interconnects totaling about 59.8 miles (36.1 miles in New Mexico; 17.4 miles in Arizona; 6.8 miles in California) with diameters of 20 and 22 inches (only one 0.6-mile segment would be 22 inches in diameter);
- Five reroutes/realignments of the existing pipeline totaling about 8.7 miles of 16-inch-diameter pipe in California.
- 41 replacement segments of the existing pipeline totaling about 9.5 miles (4.6 miles in California; 4.9 miles in Arizona) of 16-inch-diameter pipe;
- Seven new compressor stations (6 of which would be located on existing oil pump station sites), with a total of 17,356 horsepower of compression (3 sites in

California; 2 sites in Arizona; 1 site in Utah; 1 site in New Mexico); and

- Construction of 9 new meter stations, about 50 new block valves and related appurtenant facilities.

The general locations of the facilities proposed by QST are shown in appendix 3. A detailed listing of the facilities is presented in table 1.

Land Requirements for Construction

QST proposes to build its new pipeline extensions, reroutes, and replacement segments in construction rights-of-way ranging from 24 to 60 feet wide. After construction, 0 to 60 feet of new right-of-way would be maintained as permanent easement. Specific widths of the rights-of-way would vary, depending on the proposed pipeline diameter for each location. The extensions would be built generally parallel and adjacent to existing pipelines, using as much of the existing rights-of-way as possible during construction. Of the seven compressor stations to be constructed, only the one proposed for a new site (in Mohave Valley, Arizona) would require additional acreage (1.7 acres). The other six compressor stations would be located on existing oil pump station sites.

Additional temporary work space may be required at river, road, or railroad crossings, or where similar obstacles are encountered. QST would purchase the temporary and permanent easements necessary for constructing and operating the project.

Construction of the pipeline extensions and reroute segments would normally follow standard pipeline construction methods: right-of-way clearing and grading; trenching; pipe stringing, bending, welding, joint coating, and lowering in; backfilling of the trench; and cleanup and restoration. QST would implement site-specific erosion control and revegetation measures and use special construction techniques for wetland and water crossings and for construction in residential/urban areas. These construction procedures and mitigation plans will be presented and their adequacy assessed in the Draft EIS/EIR. Where necessary, the joint FERC-CSLC staffs will make appropriate recommendations to avoid or mitigate potential impact.

¹ QST's application was filed with the FERC pursuant to section 7 of the Natural Gas Act and Part 157 of the FERC's regulations.

² "We," "us," and "our" refer to the staffs of the CSLC and the FERC's Office of Pipeline Regulation. The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the FERC's Public Reference and

Files Maintenance Branch, 888 First Street, NE, Washington, DC 20462, or call (202) 208-1371. Copies of the appendices were sent to all those receiving this notice in the mail.

TABLE 1.—FACILITIES ASSOCIATED WITH THE QUESTAR SOUTHERN TRAILS PIPELINE PROJECT

Proposed facilities	Pipe diameter (inches)	Pipe length (miles)	New compression (horsepower)	County
New Mexico:				
TransColorado Extension	20	35.4	.....	San Juan.
Shiprock Compressor Station	N/A	N/A	2,350	San Juan.
Utah:				
Red Mesa Compressor Station	N/A	N/A	2,195	San Juan.
Arizona:				
Replacement (Mohave County)	16	.50	.....	Mohave.
Replacement (Mohave County)	16	.24	.....	Mohave.
Replacement at Kayenta	16	1.80	.....	Navajo.
Replacement at Dennehotso	16	1.61	.....	Apache.
Transwestern Extension	16	.40	.....	Mohave.
Topock Extension	20	17.14	.....	Mohave.
Chaco Extension	22	.50	.....	San Juan.
Mohave Valley Compressor Station	N/A	N/A	3,936	Mohave.
Cameron Compressor Station	N/A	N/A	1,770	Coconino.
Cameron Tap Site	N/A	N/A	.....	Coconino.
Tuba City Tap Site	N/A	N/A	.....	Coconino.
Kayenta Tap Site	N/A	N/A	.....	Navajo.
Red Mesa Tap Site	N/A	N/A	.....	Apache.
California:				
Replacement (Danby—Ward Valley)	16	.07	.....	San Bernardino.
Replacement (Danby—Ward Valley)	16	.17	.....	San Bernardino.
Replacement (Danby—Ward Valley)	16	.33	.....	San Bernardino.
Replacement (Danby—Ward Valley)	16	.15	.....	San Bernardino.
Replacement (Danby—Ward Valley)	16	.08	.....	San Bernardino.
Replacement (Danby—Ward Valley)	16	.48	.....	San Bernardino.
Replacement (Danby—Ward Valley)	16	.41	.....	San Bernardino.
Replacement (Danby—Ward Valley)	16	.09	.....	San Bernardino.
Replacement (Danby—Ward Valley)	16	.30	.....	San Bernardino.
Replacement (Danby—Ward Valley)	16	.44	.....	San Bernardino.
Replacement (Danby—Ward Valley)	16	.07	.....	San Bernardino.
Replacement (Danby—Ward Valley)	16	.16	.....	San Bernardino.
Replacement (Danby—Ward Valley)	16	.01	.....	San Bernardino.
Replacement (Danby—Ward Valley)	16	.42	.....	San Bernardino.
Replacement (Danby—Ward Valley)	16	.36	.....	San Bernardino.
Reroute at City of Orange	16	.76	.....	Orange.
Realignment at Corona #1 (Rincon Street & Sheridan Street)	16	.06	.....	Riverside.
Realignment at Corona #2 (San Miguel Drive & Laguna Drive)	16	.06	.....	Riverside.
Realignment at Corona #3 (Mariposa Drive)	16	.06	.....	Riverside.
Reroute at Cabazon	16	8.0	.....	Riverside.
Del Amo Extension	20	6.50	.....	Los Angeles.
Beaumont Compressor Station	N/A	N/A	1,934	Riverside.
Morongo Valley Compressor Station	N/A	N/A	2,372	San Bernardino.
Danby Compressor Station	N/A	N/A	2,372	San Bernardino.

All components of the proposed pipeline system would be designed and tested in accordance with U.S. Department of Transportation safety standards and specifications found at Title 49 of the Code of Federal Regulations, Part 192 (49 CFR 192), Transportation of Natural and other Gas by Pipeline; Minimum Federal Safety Standards. The existing pipeline would be cleaned and the entire system hydrostatically tested before being placed in service. QST would be required to obtain appropriate Federal, state, and/or Tribal discharge permits prior to pipeline cleaning and hydrostatic testing.

The EIS/EIR Process

NEPA requires the FERC to take into account the environmental impacts that

could result from a major Federal action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. The CSLC, as State Lead Agency for California, is required to consider the same potential impacts within the State of California under CEQA. The EIS/EIR we are preparing will give both the CSLC and the FERC the information we need to do that.

NEPA and CEQA also require us to discover and address concerns the public may have about proposals. We call this "scoping". The main goal of the scoping process is to focus the analysis in the EIS/EIR on the important environmental issues, and to separate those issues that are insignificant and do not require detailed study. By this NOI/NOP, we are requesting public comments on the scope of the issues to

be analyzed and presented in the EIS/EIR. All comments received will be considered during the preparation of the document. State and local government representatives are encouraged to notify their constituents of QST's proposal and encourage them to comment on their areas of concern.

The EIS/EIR will discuss impacts that could occur as a result of the construction and operation of the proposed project. These impacts may include, but are not limited to:

Geology and Soils

- Landslide and seismic hazards
- Erosion and sedimentation control
- Right-of-way restoration

Water Resources

- Impact on wetland hydrology
- Effect of pipeline crossings on streams and canals

- Biologic Resources
 - Short- and long-term effects of right-of-way clearing and maintenance on wetlands and riparian areas
 - Effects of habitat alteration
 - Impact on threatened and endangered species
 - Impact on fisheries
 - Cultural Resources
 - Impact on historic and prehistoric sites
 - Native American and tribal concerns
 - Socioeconomics
 - Effects of construction workforce demands on public services
 - Effects of increased employment and taxes on local economy
 - Air quality
 - Effect of compressor station emissions on air quality
 - Noise
 - Effect of compressor station operation on nearby noise-sensitive receptors
 - Reliability and Safety
 - Assessment of hazards associated with natural gas transmission pipelines
 - Land Use
 - Impact on the Havasu National Wildlife Refuge
 - Effect of right-of-way clearing and construction of aboveground facilities on visual aesthetics in residential and scenic areas
 - Consistency with city and county land use plans
 - Impact on residences
 - Construction impact on urban traffic flow
 - Paleontology
 - Impact on significant fossil resources encountered during pipeline construction
 - Cumulative Impacts
 - Identification of projects likely to take place in the time frame and/or proximity of the proposed project
 - Analysis of cumulative impact and mitigation measures
- We will also evaluate possible alternatives to the project, including the No-Action/Project alternative. The EIS/EIR will include recommendations for specific mitigation measures to lessen or avoid impacts on the various resource areas, as well as a Mitigation Monitoring Program.
- Our independent analysis of the issues will result in the publication of

a Draft EIS/EIR which will be mailed to Federal, state, and local agencies, reservations crossed by the pipeline or disturbed by construction, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the FERC's official service list for these proceedings. A 45-day comment period will be allocated for the review of the Draft EIS/EIR. We will consider all comments on the Draft EIS/EIR and revise the document, as necessary, before issuing a Final EIS/EIR. The Final EIS/EIR will include our response to each comment received.

Public Participation and Scoping Meetings

You can help us by sending a letter with your specific environmental comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded.

- Send your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Room 1A, Washington, DC 20426;
 - Reference Docket No. CP99-163-000;
 - Send a copy of your letter to the following individuals:
Branch Chief, PR-11.1, Environmental Review & Compliance Branch, Federal Energy Regulatory Commission, 888 First Street, NE, Room 72-50, Washington, DC 20426
Daniel Gorfain, EIR Project Manager, California State Lands Commission, 100 Howe Avenue, Suite 100 South, Sacramento, CA 95825-8202; and
 - Mail your comments so that they will be received in Washington, DC on or before May 26, 1999.
- In addition to asking for written comments, we invite you to attend any of the joint public scoping meetings the FERC and CSLC will conduct. The purpose of the scoping meetings is to provide state and local agencies, interested groups, landowners, and the general public with an opportunity to learn more about the project and

another chance to prevent us with environmental issues or concerns they believe should be addressed in the EIS/EIR. QST representatives will be present at the meetings to describe the proposed project, both in general and for the specific area where each meeting is held.

The locations and times for these meetings are listed on the next page. Priority will be given to commenters who represent groups, and a transcript of each meeting will be made so that your comments will be accurately recorded.

Route Inspection

On May 3-13, 1999, we will also be conducting an inspection of the existing and proposed routes and locations of facilities associated with QST's proposal. This inspection will include both aerial and ground components. Anyone interested in participating in the inspection activities may contact the FERC's Office of External Affairs (identified at the end of this notice) for more details and must provide their own transportation.

Becoming an Intervenor

In addition to involvement in the EIS/EIR scoping process, you may want to become an official party to the FERC proceeding by becoming an "intervenor." Among other things, intervenors have the right to receive copies of case-related FERC documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor, you must file a Motion to Intervene according to Rule 214 of the FERC's Rules of Practices and Procedure (18 CFR 385.214) which is attached as appendix 4.

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by Section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your scoping comments considered or to speak at a meeting.

SCHEDULE FOR EIS/EIR PUBLIC SCOPING MEETINGS

[NOTE: All meetings will last for 1 hour, or until the submission of public comments is concluded (whichever occurs later)]

Date and time	Community	Location
Tuesday, May 4, 1999, 7:00 pm	Farmington, NM	Holiday Inn, 600 East Broadway, Animas Room.

SCHEDULE FOR EIS/EIR PUBLIC SCOPING MEETINGS—Continued

[NOTE: All meetings will last for 1 hour, or until the submission of public comments is concluded (whichever occurs later)]

Date and time	Community	Location
Wednesday, May 5, 1999, 5:00 pm	Kayenta, AZ	Kayenta Chapter House.
Thursday, May 6, 1999, 7:00 pm	Kingman, AZ	Kingman Area Office, Bureau of Land Management, Conference Room.
Monday, May 10, 1999, 7:00 pm	Anaheim, CA	Embassy Suites Hotel, 3100 East Frontera, (junc. state highways 91 & 57), Crescent Court Room.
Tuesday, May 11, 1999, 6:30 pm	Norco, CA (Corona)	Norco Board Council Chamber, 2820 Clark Street.
Wednesday, May 12, 1999, 6:30 pm	Long Beach, CA	Los Cerritos Elementary School, 515 West San Antonio Drive.
Thursday, May 13, 1999, 4:00 pm–7:00 pm.	Banning, CA	Council Chambers, 99 East Ramsey Street.
	Orange, CA	DoubleTree Inn, 100 The City Drive.

Environmental Mailing List

This notice is being sent to individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. It is also being sent to all individuals who own property crossed by the existing pipeline, individuals who own property adjacent to the existing pipeline (where the pipeline is in a utility right-of-way and construction/disturbance is proposed within 50 feet of the adjacent property), and identified potential right-of-way grantors. Overall, the notice will be delivered to more than 2,100 individual parties.

Everyone who responds to this notice or comments on the environmental document will be retained on our mailing list. If you don't want to send comments at this time but still want to keep informed and receive copies of the Draft and Final EIS/EIR, you must return the attached mailer (see appendix 5). Given the size of our initial mailing list and our desire to be responsible (both fiscally and with the use of resources), You Must Send Comments or Return the Attached Mailer for Your Name to Remain on the Mailing List.

Additional Questions?

Further information about the proposed project is available from Mr. Paul McKee of the FERC's Office of External Affairs at (202) 208-1088.

QST's application and other supplemental filings are also available for viewing on the FERC Internet website (www.ferc.fed.us). Click on the "RIMS" link, select "Docket No. CP99-163" from the RIMS menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208-2222. Similarly, the "CIPS" link on the FERC website provides access to the texts of formal documents issued by the FERC, such as orders, notices, and rulemakings. From the FERC website, click on the "CIPS" link, select the "Docket #" of interest

from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208-2474.

Information concerning the involvement of the CSLC in the EIS/EIR process may be obtained from Dan Gorfain, EIR Project Manager, at (916) 574-1889.

Information regarding the involvement of the U.S. Department of the Interior's Bureau of Land Management as a cooperating agency in the environmental analysis process may be obtained from Mr. Steven Johnson, California Desert District Office, at (909) 697-5233.

Daniel Gorfain,
Project Manager, CSLC.

David P. Boergers,
Secretary, FERC.

[FR Doc. 99-10682 Filed 4-28-99; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Notice of Applications Accepted for Filing And Soliciting Motions To Intervene and Protest**

April 23, 1999.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Type of Applications:* Two New Major Licenses and Three Subsequent Licenses.

b. *Project Nos.:* 2897-003, 2931-002, 2932-003, 2941-002, and 2942-005.

c. *Date filed:* January 22, 1999.

d. *Applicant:* S.D. Warren Company.
e. *Names of Projects:* Saccarappa Project, Gambo Project, Mallison Falls Project, Little Falls Project, and Dundee Project.

f. *Location:* On the Presumpscot River, near the towns of Windham, Gorham, and Westbrook, in Cumberland

County, Maine. These projects do not utilize any federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C §§ 791(a)-825(r).

h. *Applicant Contact:* Mr. Thomas Howard, S.D. Warren Company, 89 Cumberland Street, P.O. Box 5000, Westbrook, ME 04098-1597, 207-856-4286.

i. *FERC Contact:* Bob Easton, robert.easton@ferc.fed.us, 202-219-2782.

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Status of environmental analysis: These applications are not ready for environmental analysis at this time.

l. Description of the Projects:

Saccarappa: The project consists of the following existing facilities: (1) a 322-foot-long diversion dam consisting of two concrete overflow structures separated by an island; (2) two bypassed reaches measuring 475 and 390 feet long; (3) a 380-foot-long and 36-foot-wide intake canal; (4) a 49-foot-wide by 71-foot-long masonry powerhouse; (5) three turbine generator units, each with a rated capacity of 450 kilowatts (kW) for a total project installed capacity of 1,350 kW; (6) a 345-foot-long tailrace formed by a 33-foot-high guard wall; (7) a 1-mile-long 2.3 kilovolt (kV)

transmission line/generator lead; and (8) other appurtenances.

Gambo: The project consists of the following existing facilities: (1) a 250-foot-long, 24-foot-high concrete overflow section and 50-foot-long intake structure; (2) a 737-foot-long and 15-foot-deep concrete lined intake canal; (3) a 47-foot-wide by 78-foot-long reinforced concrete and brick powerhouse; (4) two turbine generator units, each with a rated capacity of 950 kW for a total project installed capacity of 1,900 kW; (5) a 300-foot-long bypassed reach; (6) an 8-mile-long 11 kV transmission line; and (7) other appurtenances.

Mallison Falls: The project consists of the following existing facilities: (1) a 358-foot-long and 14-foot-high reinforced concrete, masonry, and cut granite diversion dam; (2) a 70-foot-long headgate structure; (3) a 675-foot-long, 41-foot-wide, and 6-foot-deep bedrock lined intake canal; (4) a 33-foot-wide by 51-foot-long reinforced concrete and masonry powerhouse; (5) two turbine generator units, each with a rated capacity of 400 kW for a total project installed capacity of 800 kW; (6) a 675-foot-long bypassed reach; (7) an 11 kV transmission line tied into the Gambo Project transmission line; and (8) other appurtenances.

Little Falls: The project consists of the following existing facilities: (1) a 330-foot-long and 14-foot-high reinforced concrete and masonry dam incorporating a 70-foot-long intake structure; (2) a 25-foot-wide by 95-foot-long masonry powerhouse which is integral to the dam; (3) four turbine generator units, each with a rated capacity of 250 kW for a total project installed capacity of 1,000 kW; (4) a 300-foot-long bypassed reach; (5) an 11 kV transmission line tied into the Gambo Project transmission line; and (6) other appurtenances.

Dundee: The project consists of the following existing facilities: (1) a 1,492-foot-long dam, consisting of a 150-foot-long, 42-foot-high concrete spillway section flanked by two 50-foot-high earthen embankments, a 90-foot-long and 50-foot-high non-overflow section, and a 27-foot-long gate section; (2) a 44-foot-wide by 74-foot-long reinforced concrete powerhouse which is integral to the spillway section of the dam; (4) three turbine generator units, each with a rated capacity of 800 kW for a total project installed capacity of 2,400 kW; (5) a 1,075-foot-long bypassed reach; (6) a 1,075-foot-long, 30-foot-wide, and 11-foot-deep tailrace; (3) two 10-mile-long 11 kV transmission lines; and (7) other appurtenances.

m. 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, DC 20426, or by calling (202) 208-1371. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance). A copy is also available for inspection and reproduction at the address in item h. above.

Protests or Motions to Intervene— Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211 and .214. In determining the appropriate action to take, the Commission will consider all protests 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 protests or motions to intervene must be received on or before the specified deadline date for the particular application.

Filing and Service of Responsive Documents— The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's Regulations to: The Secretary and an additional copy must be sent to the Director, Division of Project Review, Office of Hydropower Licensing, at the above-mentioned address. A copy of any protest or motion to intervene must be served upon each

representative of the applicant specified in the particular application.

David P. Boergers,

Secretary.

[FR Doc. 99-10658 Filed 4-28-99; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6332-7]

Agency Information Collection Activities: Proposed Collection; Comment Request; Reporting Requirements Under EPA's Water Alliances for Voluntary Efficiency (WAVE) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Reporting Requirements Under EPA's Water Alliances for Voluntary Efficiency (WAVE) Program, EPA ICR Number 1654.02, OMB Control Number 2040-0164, expiring October 31, 1999. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 28, 1999.

ADDRESSES: Environmental Protection Agency, Office of Wastewater Management, WAVE ICR Docket, Municipal Assistance Branch (Mail Code 4204), 401 M Street, SW, Washington, DC 20460. Interested persons may obtain a copy of the ICR amendment and supporting analysis without charge by contacting the individual listed below.

FOR FURTHER INFORMATION CONTACT: Valerie Martin, Telephone: (202) 260-7259. Facsimile Number: (202) 260-1827. E-mail: martin.valerie@epa.gov.

SUPPLEMENTARY INFORMATION:

Comments

Comments shall be submitted to WAVE ICR Comment Clerk, Mail Code 4204, Environmental Protection Agency, Office of Wastewater Management, 401 M Street, SW, Washington, DC 20460. Commenters who want EPA to acknowledge receipt of their comments should enclose a self-addressed stamped

envelope. Comments may also be submitted electronically to *martin.valerie@epa.gov*.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and forms of encryption. Electronic comments must be identified by the use of words "WAVE ICR Comments." No confidential Business Information (CBI) should be submitted through e-mail. Comments and data will also be accepted on disks in Corel WordPerfect 8 format or ASCII file format. Electronic comments on this notice may be filed online at many Federal Depository Libraries. The record for this proposed ICR renewal has been established in the Office of Wastewater Management, Municipal Assistance Branch and includes supporting documentation as well as printed, paper versions of electronic comments. It does not include any information claimed as CBI. The record is available for inspection from 9 am to 4 pm, Monday through Friday, excluding legal holidays, at the Municipal Assistance Branch, Northeast Mall Room 2606-46, 401 M Street, SW, Washington, DC 20460. For access to the docket materials, please call (202) 260-5856 to schedule an appointment.

Affected Entities

Entities potentially affected by this action are commercial businesses, medical facilities, educational institutions, state and local governments, and multi-family housing units that voluntarily join EPA's WAVE Program. Major respondents are lodging establishments, office buildings, educational institutions, medical facilities, and state and local governments.

Title

Reporting Requirements Under EPA's Water Alliances for Voluntary Efficiency (WAVE) Program (OMB Control No. 2040-0164; EPA ICR No. 1654.02) expiring October 31, 1999.

Abstract

EPA initially collects facility information and thereafter annually collects water, energy, and cost savings information from participants in the WAVE program. WAVE Partners are commercial businesses or institutions that voluntarily agree to implement cost-effective water efficiency measures in their facilities. Initially the WAVE Program targeted the lodging industry, but is expanding to include office buildings, educational institutions and medical facilities. Another type of participant, "Supporters," will work with EPA to promote water efficiency.

Supporters are equipment manufacturers, water management companies, utilities, state and local governments, or the like.

The purpose of the WAVE Program is pollution prevention. As defined by EPA, pollution prevention means "source reduction" as defined under the Pollution Prevention Act, and other practices that reduce or eliminate the creation of pollutants through increased efficiency in the use of raw materials, energy, water, or other resources, or through protection of natural resources by conservation. By promoting water efficiency, WAVE prevents pollution in two basic ways. First, wastewater flows are reduced which can increase treatment efficiency at wastewater treatment plants resulting in reduced pollutant loads. Second, less water used means that less energy will be used to treat, transport, and heat drinking water and to transport and treat wastewater. To the extent that the reduced energy use so achieved is electrical energy, power plant emissions are reduced. Water efficiency also causes less water to be withdrawn and helps preserve streamflow to maintain a healthy aquatic environment; in addition, less pumping of groundwater lowers the chance that pollutants that may be in the groundwater will be drained into a water supply well.

EPA uses the information to maintain a profile of program membership and to monitor the success of the program, demonstrate that pollution prevention can be accomplished with a non-regulatory approach, and to promote the program to potential partners. Participation in the WAVE Program is voluntary; however, a participant joins the program by signing and submitting a Membership Agreement and an annual Results Report to EPA to receive and retain program benefits, such as software and publicity. No participant is required to submit confidential business information. EPA maintains and distributes a list of program participants, and presents aggregated data only in its program progress reports. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 49 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement

The annual public reporting and record keeping burden for this collection of information is estimated to average three hours and three minutes per Membership Agreement response, and five hours and 54 minutes per Results Report response. Approximately 870 facilities will be subject to this information collection for an estimated annual burden of 2,556 hours. The total estimated burden for this information collection activity, including the Agency, is 3,037 hours nationally; the estimated total annualized cost burden is \$187,282. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: April 23, 1999.

Michael B. Cook,

Director, Office of Wastewater Management.
[FR Doc. 99-10731 Filed 4-28-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6332-6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Modification of Secondary Treatment Requirements for Discharges Into Marine Waters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Modification of Secondary Treatment Requirements for Discharges into Marine Waters, EPA ICR Number 0138.06, OMB Control Number 2040-0088, expiring July 31, 1999. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone at (202) 260-2740, by email at farmer.sandy@epa.gov, or download a copy of the ICR off the Internet at <http://www.epa.gov/icr> and refer to EPA ICR No. 0138.06.

SUPPLEMENTARY INFORMATION:

Title: Modification of Secondary Treatment Requirements for Discharges into Marine Waters (EPA ICR Number 0138.06; OMB Control Number 2040-0088) expiring July 31, 1999. This is a request for extension of a currently approved collection.

Abstract: The Clean Water Act (CWA) 301(h) program involves collecting information from two sources: (1) The municipal wastewater treatment facility, commonly called a publicly owned treatment works (POTW); and (2) the State in which the POTW is located. Municipalities had the opportunity to apply for a waiver from secondary treatment requirements, but that opportunity closed in December 1982. A POTW seeking to obtain a 301(h) waiver, holding a current waiver, or reapplying for a waiver, provides application, monitoring, and toxic control program information. The State provides information on its determination whether the proposed conditions of the waiver ensure the protection of water quality, biological

habitats, and beneficial uses of receiving waters, and whether the discharge will result in additional treatment, pollution control, or any other requirement for any other point or nonpoint sources. The State also provides information to certify that the discharge will meet all applicable State laws and that the State accepts all permit conditions. EPA requires updated information on the discharge to: (1) determine whether the section 301(h) criteria are still being met and whether the section 301(h) waiver should be reissued; (2) determine whether the water quality, biological habitats, and beneficial uses of the receiving waters are protected; and (3) ensure that the permittee is effectively minimizing industrial and nonindustrial toxic pollutant and pesticide discharges into the treatment works. EPA needs information from the State to: (1) allow the State's views to be taken into account when EPA reviews the section 301(h) application and develops permit conditions; and (2) ensure that all State laws are met and that the State accepts all permit conditions. This information is the means by which the State can non-concur with a section 301(h) approval decision made by the EPA Regional office. Responses to the collection of information are required to obtain or retain a benefit. Regulations implementing CWA section 301(h) are found at 40 CFR part 125, subpart G. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information, was published on December 23, 1998 (63 FR 71112); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 568 hours per response for POTWs and 111 hours per response for States. The average annual reporting burden varies depending on the size of the respondent and the category of the information collection. There are 7 categories of information collection in this ICR renewal. The frequency of response varies from 1 time to once every 5 years, to case-by-case, as the individual permit specifies, depending on the category. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal

agency. This includes the time needed to review instructions, develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information, and transmit or otherwise disclose the information.

Respondents/Affected Entities: Municipalities with publicly owned treatment works (POTW) that currently have section 301(h) waivers from secondary treatment, who have applied for a renewal of a section 301(h) waiver, or have a pending section 301(h) waiver, and the States within which these municipalities are located.

Estimated Number of Respondents: 55.

Frequency of Response: Varies from 1 time to once every 5 years, to case-by-case, depending on the category of information collection.

Estimated Total Annual Hour Burden: 71,049 hours.

Estimated Total Annualized Cost Burden (capital/startup and O&M costs only): \$0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 0138.06 and OMB Control No. 2040-0088 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: April 22, 1999.

Joseph Retzer,

Director, Regulatory Information Division.
[FR Doc. 99-10732 Filed 4-28-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6332-9]

Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses; Public Review of a Notification of Intent To Certify Equipment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of EPA receipt of a notification of intent to certify equipment and initiation of 45-day public review and comment period.

SUMMARY: Engelhard Corporation (Engelhard) has submitted to EPA a notification of intent to certify urban bus retrofit/rebuild equipment pursuant to 40 CFR part 85, subpart O. EPA is making the notification (application) available for public review and comment for a 45-day period.

Engelhard intends that this equipment, referred to as the ETX-Plus rebuild kit, be certified to the 0.10 grams per brake-horsepower-hour (g/bhp-hr) particulate matter standard for 1988-1993 model year Detroit Diesel Corporation (DDC) 6V92TA engines equipped with Detroit Diesel Electronic Control (DDEC).

No life cycle cost information has been provided with the application. If certified to the 0.10 g/bhp-hr standard, then the candidate equipment would not "trigger" the 0.10 g/bhp-hr standard for the applicable engines. (The 0.10 g/bhp-hr PM standard is already in effect for these engines.) The application describes equipment that is based upon a 6V92TA DDEC II engine that is rebuilt to a standard 1991 to 1993 DDC specification of either 253 or 277 horsepower (hp). However, when the engine is rebuilt it will utilize an improved turbocharger and a CMX'-6 catalytic muffler. As described in the application, Engelhard would provide the improved turbocharger, catalytic muffler, specific blower drive gear, and electronic programming upgrade (only for 1988 through 1990 model year engines). To complete an engine upgrade, an operator would have to acquire on its own, other required engine rebuild parts, such as cylinder heads, cylinder kits, fuel injectors, blower, and camshafts.

Pursuant to section 85.1407(a)(7), today's **Federal Register** notice announces that the information is available for public review and comment, and initiates a 45-day period during which comments can be submitted. EPA will review the information submitted by Engelhard, as well as comments received during the

public review period, to determine whether the candidate Engelhard equipment should be certified. If certified, then the equipment can be used by urban bus operators to reduce the particulate matter (PM) of urban bus engines.

Comments should be provided in writing to Public Docket A-93-42, Category XXV, at the address below. An identical copy should be submitted to William Rutledge, also at the address below.

Category XXV of Public Docket A-93-42, entitled "Certification of Urban Bus Retrofit/Rebuild Equipment" contains Engelhard's notification of intent to certify and other materials specifically relevant to it. This docket is located at the address below.

DATES: Comments must be submitted on or before June 14, 1999.

ADDRESSES: Submit separate copies of comments to each of the two following addresses:

1. U.S. Environmental Protection Agency, Public Docket A-93-42 (Category XXV-A), Room M-1500, 401 M Street S.W., Washington, DC 20460.

2. William Rutledge, Engine Compliance Programs Group, Engine Programs and Compliance Division (6403J), U.S. Environmental Protection Agency, 401 "M" Street S.W., Washington, DC 20460.

The Engelhard application and other materials specifically relevant to it are contained in the public docket indicated above. Docket items may be inspected from 8:00 a.m. until 5:30 p.m., Monday through Friday. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: William Rutledge, Engine Programs and Compliance Division (6403J), U.S. Environmental Protection Agency, 401 M St. SW, Washington, D.C. 20460. Telephone: (202) 564-9297.

SUPPLEMENTARY INFORMATION:

I. Program Background

On April 21, 1993, EPA published final Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses (58 FR 21359). The retrofit/rebuild program is intended to reduce the ambient levels of PM in urban areas and is limited to 1993 and earlier model year (MY) urban buses operating in metropolitan areas with 1980 populations of 750,000 or more, whose engines are rebuilt or replaced after January 1, 1995. Operators of the affected buses are required to choose between two compliance options: Option 1 sets particulate matter emissions requirements for each urban

bus engine in an operator's fleet which is rebuilt or replaced; Option 2 is a fleet averaging program that sets out a specific annual target level for average PM emissions from urban buses in an operator's fleet.

A key aspect of the program is the certification of retrofit/rebuild equipment. To meet either of the two compliance options, operators of the affected buses must use equipment which has been certified by EPA. Emissions requirements under either of the two options depend on the availability of retrofit/rebuild equipment certified for each engine model. To be used for Option 1, equipment must be certified as meeting a 0.10 g/bhp-hr PM standard or as achieving a 25 percent reduction in PM. Equipment used for Option 2 must be certified as providing some level of PM reduction that would in turn be claimed by urban bus operators when calculating their average fleet PM levels attained under the program.

Under Option 1, additional information regarding cost must be submitted in the application for certification, in order for certification of that equipment to initiate (or trigger) program requirements for a particular engine model. In order for the equipment to serve as a trigger, the certifier must guarantee that the equipment will be offered to affected operators for \$7,940 or less at the 0.10 g/bhp-hr PM level, or for \$2,000 or less for the 25 percent or greater reduction in PM. Both of the above amounts are based on 1992 dollars and include life cycle costs incremental to the cost of a standard rebuild.

II. Application for Certification

In an application of intent to certify signed November 17, 1998, and clarified in a letter dated December 14, 1998, Engelhard Corporation applied for certification of the ETX-Plus rebuild kit under the urban bus program. The equipment is applicable to 1988 through 1993 model year Detroit Diesel Corporation 6V92TA diesel engines equipped with Detroit Diesel Electronic Control (DDEC). The application states that the candidate equipment achieves a PM level of 0.10 g/bhp-hr. No life cycle cost information is provided. The use of the equipment by transit operators to meet program requirements is discussed further below.

The CMXTM-6 catalytic converter in the candidate kit is improved compared to the CMX-5 converter of the kit that EPA certified earlier to the 0.10 g/bhp-hr standard for Detroit Diesel Corporation (DDC) 6V92TA model

engines with DDEC II (see 63 FR 50225; September 21, 1998).

The application states that the candidate rebuild kit is designed to update all electronically controlled DDC 6V92TA DDEC II engines to either a standard 253 or 277 Hp ETX configuration. The candidate kit incorporates an improved CMX-6 integrated catalytic converter muffler, a coated turbocharger, a specific blower drive gear, and an engine specified parts list. The specified parts of the list are not an integral part of the ETX Plus kit, but are standard components for a 6V92TA DDEC II 1991 through 1993 engine that are normally replaced during an engine rebuild. The CMX-6 is intended to replace the standard muffler previously installed in the engine exhaust system. The turbocharger is a standard 6V92 unit modified for improved response and airflow. Engines of model years 1988 through 1990 would receive an upgraded control program for the electronic control module. Engelhard states that the

candidate kit will require no additional maintenance compared to a standard engine.

Engelhard indicates that the improved turbocharger operates like a typical turbocharger, but with improved efficiency and airflow. The improved airflow improves combustion efficiency which reduces engine-out PM. The CMX-6 catalytic muffler incorporates Engelhard's oxidation catalyst technology to reduce PM emissions in the exhaust.

The CMX-6 used in this equipment package is different from the catalytic converter that is part of the kit previously certified by EPA to the 0.10 g/bhp-hr PM standard for the applicable engines (63 FR 50225; September 21, 1998). Therefore, the converter of the previously-certified kit cannot be used in place of the new converter in the candidate kit.

Engelhard presents emissions data from a certification test performed on an engine after being rebuilt with the ETX-Plus Rebuild Kit. Transient testing was

performed in accordance with the federal test procedure of 40 CFR Part 86, subparts N and I. The data of the application are summarized below in Table 1, and document PM emissions of 0.10 g/bhp-hr and hydrocarbon (HC), carbon monoxide (CO), oxides of nitrogen (NOx), and smoke emissions within the applicable standards. Based on this testing demonstration, it appears that all ETX Plus-equipped engines would meet the 0.10 g/bhp-hr PM standard because installation of the kit results in the replacement of all emissions related parts with a specific set of parts, the combination of which results in a documented PM level of 0.10 g/bhp-hr. The PM emissions level of an original engine, prior to installation of the Engelhard kit, may be irrelevant since all emissions-related parts are required to be replaced upon installation of the kit. EPA requests comments on whether or not all engines for which certification is intended will meet the 0.10 g/bhp-hr PM standard.

TABLE 1.—SUMMARY OF ENGELHARD TESTING

Gaseous and particulate test	g/bhp-hr				6V92TA DDEC II with ETX-plus kit
	HDDE standards				
	1988	1990	1991		
HC	1.3	1.3	1.3		0.02
CO	15.5	15.5	15.5		0.4
NO _x	10.7	6.0	5.0		5.0
PM	0.60	0.60	0.25		0.10
BSFC ¹					0.488
Hp (R/O) ²					277/278
Smoke test				Standards (percent)	Percent
ACCEL				20	3
LUG				15	1
PEAK				50	6

¹ Brake Specific Fuel Consumption (BSFC) is measured in units of lb/bhp-hr.

² Horsepower (Rated/Observed during testing).

Engelhard's application includes no life cycle cost information. Such information is required, pursuant to 40 CFR 85.1407, only to trigger the program standard of 0.10 g/bhp-hr for applicable engines. That 0.10 g/bhp-hr PM standard was triggered with the certification of the Engelhard ETX-2002 rebuild kit described in the **Federal Register** on September 21, 1998 (63 FR 50225).

In accordance with program requirements, Engelhard's application includes emissions defect and emissions performance warranties.

The candidate kit requires particular engine rebuild parts that are specified by Engelhard in order to upgrade

applicable engines to a 1991 to 1993 model year configuration of either 253 or 277 Hp. As proposed in the application, Engelhard would provide certain engine components (the improved turbocharger, a particular blower drive gear and the CMX-6 catalytic converter muffler). The remaining required parts (cylinder heads, cylinder kits, fuel injectors, camshafts, and blower) would be purchased elsewhere or supplied separately by the transit operator, as long as such parts were the Engelhard-specified OEM components. Engelhard proposes that the candidate kit include a specified parts list, but not provide these "standard" parts. Additionally,

EPA understands that Engelhard does not intend that the warranties provided by them would cover these parts, because these parts are normally replaced during a standard rebuild.

EPA expects to evaluate this supply method and whether it is appropriate pursuant to program requirements [such as 40 CFR 85.1403(a)(1)]. Also, EPA will evaluate whether this supply method would compromise the ability of the Engelhard kit to achieve 0.10 g/bhp-hr PM standard in the field. EPA requests comment on this supply method.

EPA also notes that the upgraded software programs for the electronic control module that controls the fuel injection timing, which is to be

provided with the candidate kit if necessary for 1988 through 1990 model year engines, are the original programs developed by DDC for 1991 through 1993 engines. As discussed in the **Federal Register** notice describing the certification of the Engelhard ETX 2002 rebuild kit (63 FR 50225; September 21, 1998), EPA expressed concern with programs designed to decrease fuel consumption during driving modes not substantially included in the federal test procedure, that have the effect of substantially increasing NOx during these modes. Prior to certification of the candidate kit, EPA expects these concerns to be addressed.

If EPA certifies the candidate application to the 0.10 g/bhp-hr PM standard, then urban bus operators who choose to comply with compliance Option 1 of this program may use this equipment, or other equipment certified to the 0.10 g/bhp-hr standard, when applicable engines are rebuilt or replaced. Further, operators who chose to comply under compliance Option 2 of this program may also use the Engelhard equipment. They would claim the PM certification level for the kit when calculating their fleet level attained.

The date of today's notice initiates a 45-day period during which EPA will accept written comments relevant to whether or not the equipment described in the Engelhard application should be certified. Interested parties are encouraged to review this application, and provide comments related to whether or not the equipment described in it should be certified pursuant to the urban bus retrofit/rebuild program. Comments should be provided in writing to the address listed under the Addresses section of this document.

EPA will review this application of intent to certify, along with comments received from the interested parties, and attempt to resolve or clarify issues as necessary. During the review process, EPA may add additional documents to the docket as a result of the review process. These documents will also be available for public review and comment.

Dated: April 22, 1999.

Robert Perciasepe,

Assistant Administrator for Air and Radiation.

[FR Doc. 99-10730 Filed 4-28-99; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 202-009548-052.

Title: United States Atlantic and Gulf Ports/Eastern Mediterranean and North African Freight Conference.

Parties: Farrell Lines, Inc., Waterman Steamship Corporation.

Synopsis: The proposed Amendment restates the Agreement, as well as, revising it to bring it into compliance with the requirements of the Ocean Shipping Reform Act and the requirements of the European Union.

Agreement No.: 202-011284-033.

Title: Equipment Interchange Discussion Agreement ("EIDA").

Parties: APL Co. Pte Ltd; American President Lines, Ltd.; A.P. Moller-Maersk Line; Hapag Lloyd Container Linie GmbH; Mitsui O.S.K. Lines Ltd.; Orient Overseas Container Line, Inc.; Orient Overseas Container Line (UK) Ltd.; P&O Nedlloyd B.V.; P&O Nedlloyd Limited; Nippon Yusen Kaisha Line; Sea-Land Service, Inc.

Synopsis: The proposed amendment would restate the Agreement and clarify the authority of the members to discuss and agree on various matters related to the interchange of equipment. It also authorizes two or more of the parties to meet with rail and motor carrier operators to discuss and agree upon matters pertaining to the use and interchange of equipment, it would permit the members to establish voluntary guidelines for service contracts, and makes other non-substantive changes to the Agreement.

Agreement No.: 224-201003-002.

Title: Los Angeles—Matson Terminals Terminal Agreement.

Parties: City of Los Angeles; Board of Harbor Commissioners Matson Terminals, Inc.

Synopsis: The proposed amendment extends the agreement through January 31, 2002.

Dated: April 26, 1999.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,
Secretary.

[FR Doc. 99-10757 Filed 4-28-99; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Pub. L. 89-777 (46 U.S.C. 87(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Celebrity Cruises Inc., 1050 Caribbean Way, Miami, FL 33132, Vessels: Century, Galaxy, Horizon, Mercury and Xenith

Clipper Cruise Line, Inc., 7711 Bonhomme Avenue, St. Louis, MO 63105-1965, Vessel: Nantucket Clipper

Premier Cruises, 901 S. America Way, Pier 7, Miami, FL 33132-2073, Vessels: Oceanbreeze, Oceanic, Rembrandt and Seabreeze I

Radisson Seven Seas Cruises, Inc., 600 Corporate Drive, Suite 410, Ft. Lauderdale, FL 33334, Vessel: Seven Seas Navigator

Royal Caribbean International, 1050 Caribbean Way, Miami, FL 33132, Vessels: Enchantment of the Seas, Grandeur of the Seas, Legend of the Seas, Majesty of the Seas, Monarch of the Seas, Nordic Empress, Rhapsody of the Seas, Sovereign of the Seas, Splendour of the Seas, Viking Serenade, Vision of the Seas and Voyager of the Seas

Silversea Cruises, Ltd. and Silver Wind Shipping Company S.A., 110 East Broward Blvd., Ft. Lauderdale, FL 33301, Vessel: Silver Wind

Dated: April 26, 1999.

Bryant L. VanBrakle,
Secretary.

[FR Doc. 99-10756 Filed 4-28-99; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL MARITIME COMMISSION**Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)**

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Pub. L. 89-777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Cunard Line Limited (d/b/a Seabourn Cruise Line), 6100 Blue Lagoon Drive, #400 Miami, FL 33126. Vessel: SEABOURN LEGEND, SEABOURN PRIDE and SEABOURN SPIRIT

Norwegian Cruise Line Limited (d/b/a Norwegian Cruise Line), 7665 Corporate Center Drive, Miami, FL 33126, Vessel: NORWEGIAN MAJESTY

Silversea Cruises, Ltd. and Silver Wind Shipping Company S.A., 110 East Broward Blvd., Ft. Lauderdale, FL 33301. Vessel: SILVER WIND

Dated: April 26, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99-10758 Filed 4-28-99; 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 May 14, 1999.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104

Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. *Charlotte L. Collins; D. Conner Collins; Benjamin A. Dismukes; Cornelia L. Savage; Montezuma, Georgia; Carla T. Toal; Robert D. Toal; Laurie Turner; Robert E. Turner; and Michelle B. Turner*, all of Edison, Georgia; to each collectively acquire additional voting shares of BOE Bancshares, Inc., Edison, Georgia, and thereby indirectly acquire Bank of Edison, Edison, Georgia.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. *Larry Dale Wernsing*, Raymond, Illinois; to retain voting shares of Raymond Bancorp, Inc., Raymond, Illinois, and thereby indirectly retain voting shares of The First National Bank of Raymond, Raymond, Illinois.

Board of Governors of the Federal Reserve System, April 26, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99-10779 Filed 4-28-99; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM**Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction**

This notice corrects a notice (FR Doc. 99-10133) published on page 20003 of the issue for Friday, April 23, 1999.

Under the Federal Reserve Bank of Kansas City heading, the entry for Amoret Bancshares, Butler, Missouri, is revised to read as follows:

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *Amoret Bancshares*, Butler, Missouri; to acquire 100 percent of the voting shares of C.J. Bancshares, Inc., Harrisonville, Missouri, and thereby indirectly acquire Citizens Bank of Missouri, Harrisonville, Missouri.

Comments on this application must be received by May 17, 1999.

Board of Governors of the Federal Reserve System, April 26, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99-10778 Filed 4-28-99; 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 May 24, 1999.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. *Ipswich Bancshares, Inc.*, Ipswich, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Ipswich Savings Bank, Ipswich, Massachusetts.

B. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. *City Holding Company*, Charleston, West Virginia; to merge with Frontier Bancorp, Redondo Beach, California, and thereby indirectly acquire Frontier State Bank, Redondo Beach, California.

Board of Governors of the Federal Reserve System, April 26, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99-10780 Filed 4-28-99; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Meeting

TIME AND DATE: 9:00 a.m. (EDT), May 10, 1999.

PLACE: 4th Floor, Conference Room, 1250 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. National Finance Center record keeping and New TSP System.
2. Congressional/agency/participant liaison.
3. Benefits administration.
4. Investments.
5. Participant communications.
6. Approval of the minutes of the April 12, 1999, Board member meeting.
7. Thrift Savings Plan activity report by the Executive Director.
8. Approval of the update of the FY 1999 budget and FY 2000 estimates.
9. Approval of revised minimum qualifications for S Fund manager selection.
10. Investment policy review.
11. Status of audit recommendations.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director Office of External Affairs, (202) 942-1640

John J. O'Meara

Secretary to the Board, Federal Retirement Thrift Investment Board.

[FR Doc. 99-10870 Filed 4-27-99; 3:31 pm]

BILLING CODE 6760-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99092]

Community Based Human Immunodeficiency Virus (HIV) Prevention Projects for African Americans; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement program to support community-based organizations (CBOs) to develop and implement effective community-based HIV prevention programs for African American populations. These CBOs should have evolved from and be located within the communities they serve. This program addresses the "Healthy People 2000" priority areas of Educational and Community Based Programs, HIV Infection, and Sexually Transmitted Diseases (STDs).

The goals of this program are to:

1. Provide financial and technical assistance to CBOs so they can provide HIV prevention services to African American populations for which gaps in services are demonstrated;
2. Support HIV prevention programs that are consistent with the HIV prevention priorities outlined in the jurisdiction's comprehensive HIV prevention plan or adequately justify addressing other priorities;
3. Promote collaboration and coordination of HIV prevention efforts among CBOs; HIV prevention community planning groups; and other local, State, Federal, and privately funded programs.

B. Eligible Applicants

Eligible applicants are CBOs that meet the following criteria (also see Proof of Eligibility section):

1. Have been granted tax-exempt status under section 501(c)(3), as evidenced by an Internal Revenue Service (IRS) determination letter.
2. Have a board or governing body composed of greater than 50 percent African Americans.
3. Be located and provide services for African Americans in any of the following 20 high AIDS prevalence metropolitan statistical areas (MSAs)¹ with more than 1000 estimated African Americans living with AIDS at the end of 1997:² (Please see Attachment 1 for a complete listing of counties included in each MSA)
 - a. Atlanta, GA; Baltimore, MD; Boston-Worcester-Lawrence-Lowell-Brockton, MA-NH; Chicago, IL; Dallas, TX; Detroit, MI; Fort Lauderdale, FL; Houston, TX; Jacksonville, FL; Los Angeles-Long Beach, CA; Miami, FL; Newark, NJ; New Haven-Bridgeport-Stamford-Danbury-Waterbury, CT; New Orleans, LA; New York City, NY; Oakland, CA; Philadelphia, PA-NJ; San Francisco, CA; Washington, DC-MD-VA-WV; and West Palm Beach-Boca Raton, FL.

OR

- b. Be located or provide services for African Americans in any of the following counties or independent city, not included in the list of MSAs above, that had the most syphilis cases in 1997. The counties are: Cumberland, NC; Cuyahoga, OH; Davidson, TN; Forsyth, NC; Franklin, OH; Fresno, CA; Guilford, NC; Hinds, MS; Jefferson, AL; Jefferson,

¹ OMB Bulletin 98-06 available at <http://www.census.gov/population/www/estimates/metrodef.html>.

² HIV/AIDS Surveillance Supplemental Reports: Characteristics of Persons Living with AIDS at the End of 1997. Volume 5, Number 1 available at http://www.cdc.gov/nchstp/hiv_aids/stats/hasrlink.htm.

KY; Maricopa, AZ; Marion, IN; Milwaukee, WI; Oklahoma, OK; Shelby, TN; and Tuscaloosa, AL. The independent city is St. Louis, MO.

4. African Americans must serve in greater than 50 percent of key positions, including management, supervisory, administrative, and service provision positions (for example, executive director, program director, fiscal director, outreach worker, prevention case manager, counselor, group facilitator, or trainer).

5. Documentation of an established record of services to the target population is required. An established record is defined as a minimum of two years serving the target population.

6. African American CBOs currently funded under program announcement 704 that meet criteria one through five above are eligible to apply for funding under this program announcement. However, awards to these currently funded CBOs will not exceed \$100,000 and no more than 10 such awards will be made.

7. Faith-based community organizations that meet criteria one through six above are eligible to apply. For the purpose of this program announcement, a faith-based community organization is an organization which has a religious, faith, or spiritual focus or constituency, and has access to local religious, faith, and spiritual leaders. Examples of eligible organizations include individual churches, mosques, or temples, or networks of same; or CBOs whose primary constituency is faith, spiritual, or religious communities, organizations, or leaders thereof.

8. Two or more CBOs may apply as a collaborative partnership. In a collaborative contractual partnership, one CBO must be the legal applicant and will function as the lead organization. The lead organization must meet criteria one through five specified above. Collaborating organizations must meet criteria 3.a. or 3.b. above.

Note: A CBO can only submit one application under this announcement; that is, it may apply as an individual organization or as part of a collaboration, but not both.

9. Local affiliates, chapters, or programs of national and regional organizations are eligible to apply. The local affiliate, chapter, or program applying must meet criteria one through eight above.

10. Governmental or municipal agencies, their affiliate organizations or agencies (e.g., health departments, school boards, public hospitals), and

private or public universities and colleges are not eligible for funding under this announcement.

Note: Pub. L. 104-65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan or any other form.

C. Availability of Funds

Approximately \$9,000,000 is available in FY 1999 to fund approximately 45 awards. It is expected that awards will begin on or about September 30, 1999 and will be made for a 12-month budget period within a project period of up to 4 years.

1. Approximately \$7,200,000 will be awarded to CBOs which are located and provide services for African Americans in the 20 high AIDS prevalence MSAs with more than 1000 estimated African Americans living with AIDS at the end of 1997 (see Section B.3.a., above). It is expected that the average award will be \$200,000, ranging from \$150,000 to \$300,000. Applications requesting more than \$300,000, including indirect costs, will not be considered.

2. Approximately \$1,800,000 will be awarded to CBOs located OR providing services for African Americans in the counties and independent city with the most syphilis cases in 1997 but not included in the top 20 MSAs (See Section B.3.b., above). It is expected that the average award will be \$200,000, ranging from \$150,000 to \$250,000. Applications for more than \$250,000 will not be considered.

3. Approximately \$900,000 of the funds in Sections C.1 and C.2 above (which total \$9,000,000), may be awarded to CBOs currently funded under Program Announcement 704 that (a) are located and provide services for African Americans in any of the 20 high AIDS prevalence 20 MSAs listed in Section B.3.a., above; or (b) are located OR provide services in the counties and one independent city listed in Section B.3.b., above. Awards for CBOs currently funded under Program Announcement 704 will not exceed \$100,000. Applications for more than \$100,000 will not be considered. In addition, the total individual awards including funds provided under Program Announcement 704 and this announcement will not exceed a combined total of \$300,000. Funds awarded to currently funded CBOs must be used to enhance or expand existing activities and not to supplant funds from other sources.

Funding estimates may change based on the availability of funds.

Continuation awards within an approved project period will be made on the basis of availability of funds and the applicant's satisfactory progress toward achieving objectives. Satisfactory progress toward achieving objectives will be determined by progress reports and site visits conducted by CDC representatives. Proof of continued eligibility is required with noncompeting continuation applications.

Note: Funds to support CBOs to provide HIV prevention services to African American communities are also available under Program Announcement 99091—Community Based HIV Prevention Services and Capacity Building Assistance to Organizations Serving Gay Men of Color at Risk for HIV Infection, and Program Announcement 99096—HIV Prevention Projects for African American Faith Based Organizations. Eligible organizations may apply for and receive funding under more than one of these announcements; however, the total combined funding provided to any organization under these three announcements will not exceed \$300,000.

Use of Funds

Funds provided under this announcement must support activities directly related to primary HIV prevention. However, intervention activities which involve preventing other STDs or substance abuse as a means of reducing or eliminating the risk of HIV transmission may also be supported. No funds will be provided for direct patient medical care (including substance abuse treatment, medical treatment, or medications) or research.

Applicants may contract with other organizations under these cooperative agreements; however, applicants must perform a substantial portion of the activities (including program management and operations and delivery of prevention services) for which funds are requested. Applications requesting funds to support only administrative and managerial functions will not be accepted.

Funding Priorities

In making awards, priority for funding will be given to:

Ensuring a distribution of CBO awards in terms of targeted risk behaviors, based on AIDS morbidity in African Americans.

Interested persons are invited to comment on the proposed funding priority. All comments received within 30 days after publication in the **Federal Register** will be considered before the final funding priority is established. If the funding priority changes because of comments received, a revised

announcement will be published in the **Federal Register**, and revised applications will be accepted before the final selections are made. Address comments to: Albertha Carey, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office 2920 Brandywine Road, Room 3000, Mailstop E-15, Atlanta, Georgia 30341-4146.

Funding Preference

In making awards, preference for funding will be given to:

Ensuring a geographic distribution of CBO awards, based on AIDS morbidity in African Americans.

D. Program Requirements

HIV prevention interventions are specific activities (or set of related activities) using a common method of delivering the prevention messages to reach persons at risk of becoming HIV-infected or, if already infected, of transmitting the virus to others. The goal of HIV prevention interventions is to bring about HIV risk reduction in a particular population.

In order to maximize the effective use of CDC funds, each applicant must conduct at least one of the following priority HIV prevention interventions: (1) HIV Counseling, Testing, and Referral Services; (2) Individual Level Interventions; (3) Group Level Interventions; (4) Community Level Interventions; and (5) Street and Community Outreach. A brief description of these priority interventions is provided in Attachment 2. Also, please reference the materials included in the tool kit for additional information about these interventions. The tool kit will be sent with the application packet.

Although activities may overlap from one type of intervention to another (e.g., individual or group level interventions may be a part of a community-level intervention), each applicant must indicate which one of the five interventions is the primary focus.

Because of the resources, special expertise, and organizational capacities needed for success, applicants should carefully consider the feasibility of undertaking more than two of the priority interventions listed. Recipients proposing to conduct more than two of these priority prevention interventions must demonstrate the capacity to implement them effectively.

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under number 1. (Recipient Activities) and CDC will be responsible for

activities under number 2. (CDC Activities) below.

1. Recipient Activities

a. Use epidemiologic data, needs assessments, and prioritization of groups and interventions to design program activities.

b. Develop program activities which are consistent with applicable State and local comprehensive HIV prevention plans or adequately justify addressing other priorities.

c. Provide—or assist high risk clients in gaining access to—HIV counseling, testing, and referral for other needed services.

d. Conduct health education and risk reduction interventions for persons at high risk of becoming infected or transmitting HIV to others.

e. Assist HIV-positive persons in gaining access to appropriate HIV treatment and other early medical care, substance abuse prevention services, STD screening and treatment, reproductive and perinatal health services, partner counseling and referral services, psychosocial support, mental health services, TB prevention and treatment, primary HIV prevention such as health education and risk reduction services, and other supportive services. High-risk clients who test negative should be referred to appropriate health education and risk reduction services and other appropriate prevention and treatment services.

f. Ensure adequate protection of client confidentiality.

g. Coordinate and collaborate with health departments, community planning groups, and other organizations and agencies involved in HIV prevention activities, especially those serving the target population.

h. Participate in the HIV prevention community planning process. Participation may include involvement in workshops; attending meetings; if nominated and selected, serving as a member of the group; reporting on program activities; or reviewing and commenting on plans.

i. Incorporate cultural competency and linguistic and developmental appropriateness into all program activities and prevention messages.

j. Coordinate program activities with relevant national, regional, State, and local HIV prevention programs to prevent duplication of efforts.

k. Monitor and evaluate major program and intervention activities and services supported with CDC HIV prevention funds under this cooperative agreement. This should include assessing client satisfaction periodically via quantitative (e.g., periodic surveys)

and qualitative methods (e.g., focus groups).

l. Compile “lessons learned” from the project and facilitate the dissemination of “lessons learned” and successful prevention interventions and program models to other organizations and CDC through peer-to-peer interactions, meetings, workshops, conferences, internet, communications with project officers, and other capacity-building and technology transfer mechanisms.

m. Work with CDC-funded capacity-building assistance programs to meet your and other organizations’ capacity-building needs.

n. Develop and implement a plan for obtaining additional resources from non-CDC sources to supplement the program conducted through this cooperative agreement and to enhance the likelihood of its continuation after the end of the project period.

o. Adhere to CDC policies for securing approval for CDC sponsorship of conferences.

p. Before using funds awarded through this cooperative agreement to develop HIV prevention materials, recipients must check with the CDC National Prevention Information Network (NPIN) to determine if suitable materials are already available. Also, materials developed by recipients must be made available for dissemination through the CDC NPIN.

CDC’s National Prevention Information Network (NPIN) maintains a collection of HIV, STD and TB resources for use by organizations and the public. Successful applicants may be contacted by NPIN to obtain information on program resources for use in referrals and resource directories. Also, grantees should send three copies of all educational materials and resources developed under this grant for inclusion in NPIN’s databases.

NPIN also makes available information and technical assistance services for use in program planning and evaluation. For further information on NPIN services and resources, contact NPIN at 1-800-458-5231 (TTY users: 1-800-243-7012). NPIN’s web site is www.cdcnpin.org; the fax number is 1-888-282-7681.

2. CDC Activities

a. Coordinate a national capacity building and technology transfer network.

b. Provide consultation and technical assistance in planning, implementing, and evaluating prevention activities. CDC may provide consultation and technical assistance both directly and indirectly through prevention partners such as health departments, national

and regional minority organizations (NRMOs), contractors, and other national organizations.

c. Provide up-to-date scientific information on risk factors for HIV infection, prevention measures, and program strategies for prevention of HIV infection.

d. Assist in the design and implementation of program evaluation activities, including provision of evaluation forms, if appropriate.

e. Assist recipients in collaborating with State and local health departments, community planning groups, and other federally supported HIV/AIDS recipients.

f. Facilitate the transfer of successful prevention interventions, program models, and “lessons learned” through convening meetings of grantees, workshops, conferences, newsletters, use of the internet, and communications with project officers. Also facilitate exchange of program information and technical assistance among community organizations, health departments, and national and regional organizations.

g. Monitor the recipient’s performance of program activities, protection of client confidentiality, and compliance with other requirements.

h. Conduct an overall evaluation of this cooperative agreement program.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Application Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 33 double-spaced pages (not including the budget or attachments).

Number each page clearly, and provide a complete Table of Contents to the application and its appendices. Please begin each separate section of the application on a new page. The original and each copy of the application set must be submitted unstapled and unbound. All material must be typewritten, single spaced, with un-reduced 12 point or 10 pitch font on 8½” by 11” paper, with at least 1” margins, headings and footers, and printed on one side only. Materials which should be part of the basic narrative will not be accepted if placed in the appendices.

In developing the application, you must follow the format and instructions below:

Format

1. Abstract

2. Assessment of Need and Justification for Proposed Activities
3. Long-term Goals
4. Organizational History and Capacity
5. Program Plan
6. Program Evaluation Plan
7. Communications and Dissemination Plan
8. Plan for Acquiring Additional Resources
9. Budget and Staffing Breakdown and Justification
10. Training and Technical Assistance Plan
11. Attachments

Instructions

1. Abstract

(Not to exceed 2 pages): Summarize which intervention category of the five priority HIV prevention interventions—(1) HIV Counseling, Testing, and Referral Services; (2) Individual Level Interventions; (3) Group Level Interventions; (4) Community Level Interventions; and (5) Street and Community Outreach—you intend to implement and your proposed intervention activities. Include the following:

- a. Brief summary of the need for the proposed activities;
- b. Long-term goals;
- c. Brief summary of proposed plan of operation, including the population(s) to be served, activities to be undertaken, and services to be provided; and
- d. Brief summary of plans for evaluating the activities of this project.

2. Assessment of Need and Justification for Proposed Activities

(Not to exceed 5 pages):

- a. Describe the population(s) for which your proposed intervention(s) will provide services.
- b. Describe the impact of the AIDS epidemic on the priority population and their community and any specific environmental, social, cultural, or linguistic characteristics of the priority populations which you have considered and addressed in developing prevention strategies, such as:
 - (1) HIV prevalence and incidence (if available), reported AIDS cases, and the proportion that engages in specific risk behaviors (sexual behaviors, substance use, etc.) in the target population;
 - (2) HIV/AIDS-related baseline knowledge, attitudes, beliefs, and behaviors;
 - (3) Patterns of substance use and rates of STDs and tuberculosis (TB); and
 - (4) Other relevant information.

(Specify)

c. Identify the need that will be addressed by your proposed intervention(s), and describe how you assessed the need. Include epidemiologic and other data that were used to identify the need. Include a description of existing HIV prevention

and risk-reduction efforts provided by other organizations to address the needs of the target population(s), and an analysis of the gap between the identified need and the resources currently available to address the need (i.e., How will the proposed intervention(s) address an important unmet HIV prevention need?).

d. Describe the specific behaviors and practices that the proposed intervention(s) is designed to promote and prevent (e.g., increases in correct and consistent condom use, knowledge of serological status, not sharing needles, and enrollment in drug treatment and other preventive programs).

e. Describe how your proposed intervention(s) complements the HIV prevention priority populations and interventions identified in the applicable State or local comprehensive HIV prevention plan(s). If the comprehensive HIV prevention plan does not prioritize the needs that you have identified, justify the need and the priority of your proposed intervention activities and summarize how the activities address prevention gaps and complement ongoing prevention efforts. State why the funds being applied for in this application are necessary to address the need. A list of the names and telephone numbers of State health department contacts from whom you may obtain a copy of the jurisdiction's comprehensive HIV prevention plan is provided with the application kit;

f. Explain any specific barriers to the implementation of your proposed intervention(s) and how you will overcome these barriers.

3. Long-Term Goals

(Not to exceed 2 pages): Describe the broad HIV prevention goals that your proposed intervention(s) aims to achieve by the end of the project period (four years).

4. Organizational History and Capacity

(Not to exceed 4 pages) Describe the following:

a. Organizational structure, including the role, responsibilities, and racial/ethnic composition of board of directors; committee structure of board of directors; organizational management, administrative and program components; constituent or affiliate organizations or networks; how the organizational structure will support the proposed intervention activities; and how the structure offers the capacity to reach targeted populations. Describe how the organizational structure includes, or has the ability to obtain meaningful input and representation

from, members of the target population(s) (for example, men who have sex with men, youth at risk, women at risk, transgender populations, HIV-positive individuals, substance abusers).

b. Past and current experience in developing and implementing effective HIV prevention strategies and activities, and in developing and implementing interventions similar to the one(s) proposed in this application.

c. The process in your organization for making major programmatic decisions.

d. Mechanisms used by your organization to monitor program implementation and quality assurance.

e. Experience in working or collaborating with governmental and non-governmental organizations, including State and local health departments, local and State non-governmental organizations, national agencies or organizations, community planning groups, and other groups that provide HIV prevention services.

f. Capacity to provide the proposed interventions in a manner that is culturally competent and linguistically and developmentally appropriate, and which responds effectively to the gender, environmental, and social characteristics of the target populations.

g. For any of the above areas in which you do not have direct experience or current capacity, describe how you will ensure that your organization will gain capacity (e.g., through staff development, collaboration with other organizations, or a contract).

5. Program Plan

(Not to exceed 10 pages): Use this section to describe the specific characteristics of your proposed intervention(s).

a. Involvement of the target population: Describe how the target population is, or will be, involved in planning, implementing, and evaluating activities and services throughout the project period.

b. Intervention Objectives: Develop process objectives that are specific, measurable, appropriate, realistic, and time-based. Process objectives focus on the projected amount, frequency, and duration of the intervention activities and the number and characteristics of the target population to be served. If applicable, describe how the objectives are related to the prevention priorities outlined in the jurisdiction's comprehensive HIV prevention plan. Describe potential barriers to or facilitators for reaching these objectives.

c. Plan of Operation:

(1) Describe the specific activities to be conducted or services to be provided to accomplish the objectives and where these activities or services will take place. Make certain that your proposal addresses all required activities. The following four HERR interventions will be funded: Individual level (including prevention case management (PCM)), group level, community level interventions, and street and community outreach. Each recipient must conduct at least one of these interventions. Applicants should not apply for more interventions than they can conduct effectively.

(2) Describe your mechanisms for soliciting clients into the program and obtaining informed consent.

(3) Describe your staffing plan and the responsibilities each staff position will have in conducting the proposed activities. Describe how the proposed program will be managed, including the location of the program within your organization.

(4) Describe the potential for volunteer involvement in your program. If volunteers will be involved, describe plans to recruit, train, place, and retain volunteers.

(5) Describe how you will market and promote your program in the community.

(6) Describe how you will prioritize the program activities to place emphasis on populations or communities that are at high risk for HIV infection.

d. Appropriateness of Interventions:

Describe mechanisms that will be used to ensure client satisfaction. Describe how you will ensure that the proposed interventions and services are culturally competent; sensitive to issues of sexual orientation; developmentally, educationally, and linguistically appropriate; and targeted to the needs of the target populations.

e. Scientific, Theoretical, Conceptual, or Program Experience Foundation for Proposed Activities: Provide a detailed description of the program experience or scientific, theoretical, or conceptual foundation on which the proposed activities are based and which support the potential effectiveness of these activities for addressing the stated needs.

f. Collaborations, Linkages, and Coordination:

(1) Describe any formal collaborations with State or local health departments, community planning groups, and other appropriate service groups or organizations that will be used in the development and implementation of your program. Describe the respective roles and responsibilities of each

collaborating entity in developing and implementing the program.

(2) Specify any and all organizations and agencies with which you will establish linkages and coordinate activities, and describe the activities that will be coordinated with each listed organization. These may include, as appropriate, the following:

(a) Community groups and organizations, including churches and religious groups;

(b) HIV/AIDS service organizations;

(c) Ryan White CARE Title I and Title II planning bodies;

(d) Schools, boards of education, and other State or local education agencies;

(e) State and local substance abuse agencies, community-based and other drug treatment or detoxification programs;

(f) Federally funded community projects, such as those funded by the Substance Abuse and Mental Health Services Administrations' (SAMSHA) Center for Substance Abuse Treatment (CSAT) and Center for Substance Abuse Prevention (CSAP), the Health and Human Services' Health Resource Services Administration (HRSA), Office of Minority Health (OMH), and other Federal entities;

(g) Providers of services to youth in high risk situations (e.g., youth in shelters);

(h) State or local departments of mental health;

(i) Juvenile and adult criminal justice, correctional, or parole systems and programs;

(j) Family planning and women's health agencies; and

(k) STD and TB clinics and programs.

(3) Describe how referrals to other service providers will be initiated.

(4) Provide a timeline that identifies major implementation steps and assigns approximate dates for the inception and completion of each.

6. Quality Assurance and Program Evaluation Plan

(Not to exceed 5 pages): The plan should describe when and how evaluation activities will be implemented. At a minimum, the plan should outline strategies for implementing process evaluation of interventions to determine if the process objectives are being achieved. Indicate which member(s) of the staff will be responsible for implementing the evaluation plan.

Your process evaluation plan should include the following:

a. A list of resources available to the organization to carry out process evaluation (e.g., provider staff, health department staff, data experts to design

a system for managing information about proposed interventions, evaluation consultants, NRMOS, etc).

b. A list of who will be involved in implementing the evaluation and identify their roles. Describe who will collect, report, enter, and analyze data.

c. A description of the data that will be collected. To assure valid data are collected, established instruments should be used when feasible. Established instruments include those that have been either science-based or previously administered in effective HIV prevention interventions. In addition, data sources should be verifiable through appropriate documentation (such as storing original data for the duration of the cooperative agreement). Examples of data that could be collected include:

(1) Detailed information on the specific intervention service(s).

(2) The number of persons who received the service(s) by (a) risk categories (MSM, IDU, etc.) and (b) demographics, such as age, race and ethnicity, gender, and if appropriate and available, sexual orientation.

(3) When and how often the intervention service was provided.

(4) Where the intervention service was provided (e.g., CTRPN site, STD clinic, street corner, housing project).

(5) Documents referral systems, including the number of persons referred; how you intend to determine the success of referral systems (e.g., the number actually receiving services by referral sites); and how well the system functions in identifying referral services.

(6) Describe client satisfaction with HIV prevention intervention services.

d. Discuss how data will be collected, managed, and monitored over time.

Address ways to collect, report, enter, and analyze data as well as how you would use data for program improvement. Describe how often data will be collected. Discuss how data security will be maintained and client confidentiality assured.

e. Discuss how you will assess the performance of staff to ensure that they are providing information and services accurately and effectively.

Because of the additional cost and need for scientific support beyond the scope of these cooperative agreements, you may not be able to conduct outcome evaluations (i.e., long-term effects of the program in terms of changes in behavior or health status, such as changes in HIV incidence after the intervention) with funds provided through this cooperative agreement. CDC will continue to support special projects to evaluate the behavioral and other outcomes of

interventions commonly used by CBOs and other organizations, and disseminate information and lessons learned from this research to CBOs, health departments, community planning groups, and other organizations and agencies involved in HIV prevention programs.

7. Communications and Dissemination Plan

(Not to exceed 2 pages): Describe how you will share successful approaches and "lessons learned" with other organizations.

8. Plan for Acquiring Additional Resources

(Not to exceed 1 page): Describe how you will develop and implement a plan for obtaining additional resources from other (non-CDC) sources to supplement the program conducted through this cooperative agreement and to increase the likelihood of its continuation after the end of the project period.

9. Budget/Staffing Breakdown and Justification

a. Detailed Budget: Provide a detailed, separate budget for each intervention proposed (i.e., CTR, individual level, group level, community level, or street and community outreach), with accompanying justification of all operating expenses that is consistent with the stated objectives and planned priority activities. CDC may not approve or fund all proposed activities. Be precise about the program purpose of each budget item and itemize calculations wherever appropriate.

For contracts, applicants should name the contractor, if known; describe the services to be performed which justifies the use of a contractor; provide a breakdown of and justification for the estimated costs of the contracts; the period of performance; the method of selection; and method of monitoring the contract.

b. Staffing Plan: Provide a job description for each position specifying job title; function, general duties, and activities; salary range or rate of pay; and the level of effort and percentage of time spent on activities funded through this cooperative agreement. If the identity of any key personnel who will fill a position is known, her/his name and resume should be attached. Experience and training related to the proposed project should be noted. If the identity of staff is not known, describe your recruitment plan. If volunteers are involved in the project provide job descriptions.

10. Training and Technical Assistance Plan

(Not to exceed 2 pages): Describe areas in which you anticipate needing technical assistance in designing, implementing, and evaluating your program and discuss how you will obtain needed technical assistance. Also, describe anticipated staff training needs related to the proposed program and how these needs will be met. Describe your plan for providing ongoing training to ensure that staff are knowledgeable about HIV and STD risks and prevention measures. This information will assist CDC to better address your needs and help you to identify technical assistance and training providers.

11. Attachments

a. Proof of Eligibility

Each applicant must provide documentation that they comply with all eligibility requirements specified under the "Eligible Applicants" section of this program announcement. Applicants should provide a separate section within this Attachments section that is entitled Proof of Eligibility to include the documents listed below. Failure to provide the required documentation will result in disqualification.

(1) IRS determination letter of your organization's 501(c)(3) tax-exempt status.

(2) A list of the members of your organization's governing body along with their positions on the board, their expertise in working with or providing services to the proposed target population, and their racial/ethnic backgrounds. (Submission of information regarding the HIV status or other confidential information regarding the board is optional, and must not be linked to a specific individual.)

(3) Documentation that your organization is located and provides services in one of the 20 eligible MSAs or eligible counties or independent city. This documentation could include letters of support, news articles, brochures or flyers, annual reports, memoranda of agreement, or client surveys.

(4) A Table of Organization of existing and proposed staff, including the board of directors, volunteer staff, and their racial/ethnic backgrounds.

(5) Documentation that your organization has an established record of providing services to the target population for at least two years, and a description of the specific services that have been provided.

(6) Affiliates of national organizations must include with the application an original, signed letter from the chief executive officer of the national organization assuring their understanding of the intent of this program announcement and the responsibilities of recipients.

(7) A separate sheet of paper stating if your organization is currently funded under CDC Program Announcement 704, Community Based HIV Prevention Projects.

b. Other Attachments

(1) A list of all collaborating or coordinating entities and memoranda of understanding or agreement as evidence of these established or agreed-upon collaborative or coordinating relationships. Memoranda of agreement should specifically describe the proposed collaborative activities. Evidence of continuing collaboration must be submitted each year to ensure that the collaborative relationships are still in place. Memoranda of agreement from health departments should include a statement that they have reviewed your application for these funds.

(2) A list of major community resources and health care providers to which referrals will be made;

(3) Protocols to guide and document training, activities, services, and referrals (e.g., applicants seeking funds for Street and Community Outreach Interventions must provide a description of the policies and procedures that will be followed to assure the safety of outreach staff).

(4) Samples of data collection tools that will be used in performing, monitoring, or evaluating program activities, if available.

(5) A description of funds received from any source to conduct HIV/AIDS programs and other similar programs targeting the population proposed in the program plan. This summary must include: (1) The name of the sponsoring organization/source of income, amount of funding, a description of how the funds have been used, and the budget period; (2) a summary of the objectives and activities of the funded program(s); and (3) an assurance that the funds being requested will not duplicate or supplant funds received from any other Federal or non-Federal source. CDC awarded funds can be used to expand or enhance services supported with other Federal or non-Federal funds. In addition, identify proposed personnel devoted to this project who are supported by other funding sources and the activities they are supporting.

(6) Independent audit statements from a certified public accountant for the previous 2 years.

(7) A copy of your organization's current negotiated Federal indirect cost rate agreement, if applicable.

Note: Materials submitted as attachments should be printed on one side of 8½ x 11 paper. Please do not attach bound materials such as booklets or pamphlets. Rather, submit copies of the materials printed on one side of 8½ x 11 paper. Bound materials may not be reviewed.

F. Submission and Deadline

Submit the original and two copies of PHS 5161 (OMB Number 0937-0189). Forms are in the application kit. On or before June 28, 1999, submit the application to: Albertha Carey, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Program Announcement (99092), Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Mailstop E-15, Atlanta, Georgia 30314-4146.

Applicants should simultaneously submit a copy of the application to their State HIV/AIDS Directors.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for orderly processing. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

Evaluation Criteria

1. Abstract (not scored)
2. Assessment of Need and Justification for the Proposed Activities (15 points)
 - a. The extent to which the applicant soundly and convincingly documents a substantial need for the proposed program and activities; and the degree to which the proposed activities are consistent with the Recipient Activities described in the Program Requirements Section. (5 points)

b. The degree to which the applicant describes the specific behaviors and practices that the interventions are designed to promote and prevent (i.e., increases in correct and consistent condom use, knowledge of serological status, not sharing needles, and enrollment in drug treatment and other preventive programs). (5 points)

c. The quality of the applicant's plan to ensure consistency with the State and local comprehensive HIV prevention plans and, if applicable, the adequacy with which the applicant demonstrates the rational for deviating from the jurisdiction's comprehensive HIV prevention plan. (5 points)

3. Long-term Goals (5 points) The quality of the applicant's stated goals and the extent to which they are consistent with the purpose of this cooperative agreement, as described in this program announcement.

4. Organizational History and Capacity. (15 points) The extent of the applicant's documented experience, capacity, and ability to address the identified needs and implement the proposed activities, including:

a. How the applicant's organizational structure and planned collaborations (including constituent or affiliated organizations or networks) will support the proposed program activities, and how the proposed program will have the capacity to reach targeted populations; (3 points)

b. Applicant's past and current experience in developing and implementing effective HIV prevention strategies and activities, and in developing and implementing programs similar to those proposed in this application; (3 points)

c. Applicant's experience and ability in collaborating with governmental and non-governmental organizations, including other national agencies or organizations, State and local health departments, community planning groups, and State and local non-governmental organizations that provide HIV prevention services; (3 points)

d. Applicant's capacity to obtain meaningful input and representation from members of the target population(s) and to provide culturally competent and appropriate services which respond effectively to the cultural, gender, environmental, social, and multilingual character of the target audiences, including documentation of any history of providing such services; (3 points) and

e. Plans to ensure capacity to implement proposed program where no direct experience or capacity currently exists within the applicant organization. (3 points)

5. Program Plan (45 total points)

a. Involvement of the target population (5 points) The degree to which the applicant describes the involvement of the target population in planning, implementing, and evaluating activities and services throughout the project period.

b. Intervention Objectives. (5 points) Degree to which the proposed process objectives are specific, measurable, appropriate, realistic, and time-based, related to the proposed activities, and consistent with the program's long-term goals; and the extent to which the applicant identifies possible barriers to or facilitators for reaching these objectives.

c. Plan of Operation (15 points) The quality of the applicant's plan for conducting program activities, and the potential effectiveness of the proposed activities in meeting objectives.

d. Appropriateness of Interventions: (5 points) The degree to which the applicant describes how the proposed priority interventions and services are culturally competent, sensitive to issues of sexual orientation, developmentally appropriate, linguistically-specific, and educationally appropriate.

e. Scientific, Theoretical, Conceptual, or Program Experience Foundation for Proposed Activities (5 points) The degree to which the applicant provides a detailed description of the scientific, theoretical, conceptual, or program experience foundation on which the proposed activities are based and which support the potential effectiveness of these activities for addressing the stated need.

f. Collaborations, Linkages, and Coordination (5 points) Appropriateness of collaboration and coordination with other organizations serving the same priority population(s). At minimum, the applicant provides a description of the collaboration or coordination and a signed memoranda of agreement for each agency with which collaborative activities are proposed, and other evidence of collaboration that describe previous, current, as well as future areas of collaboration.

g. Timeline: (5 points) The extent to which the applicant's proposed timeline is specific and realistic.

6. Quality Assurance and Program Evaluation Plan (10 points) The potential of the evaluation plan to describe when and how evaluation activities will be implemented by the applicant; the extent to which the evaluation plan is realistic and feasible, taking into account the applicant's unique needs, resources, capabilities, and priorities; and the extent to which a plan has been created that will guide

the collection of data for improving HIV prevention efforts and informing stakeholders of the progress made in HIV prevention.

7. Communication and Dissemination Plan (5 points) The degree to which the applicant describes how successful approaches and "lessons learned" will be documented and shared with other organizations.

8. Plan for Acquiring Additional Resources (5 points) The degree to which the applicant describes plans to develop and implement a plan for obtaining additional resources from other (non-CDC) sources to supplement the program conducted through this cooperative agreement and to increase the likelihood of its continuation after the end of the project period.

9. Budget and Staffing Breakdown and Justification (not scored)

a. Budget Appropriateness of the budget for the proposed project.

b. Personnel Appropriateness of the staffing pattern for the proposed project.

10. Training and Technical Assistance Plan (not scored)

The extent to which the applicant describes areas in which technical assistance is anticipated in designing, implementing, and evaluating the proposed program and how the applicant will obtain this technical assistance. The extent to which the applicant describes anticipated staff training needs related to the proposed program and how these needs will be met. The extent to which the applicant describes a plan for providing ongoing training to staff.

Before final award decisions are made, CDC will either make predecisional site visits to CBOs whose applications are highly ranked or review the items below with the local or State health department and applicant's board of directors.

a. The organizational and financial capability of the applicant to implement the proposed program.

b. The special programmatic conditions and technical assistance requirements of the applicant.

A business management and fiscal recipient capability assessment may be required of some applicants prior to the award of funds.

H. Other Requirements

1. Technical Reporting Requirements. Provide CDC with the original plus two copies of:

a. Progress reports quarterly, no more than 30 days after the end of each 3 month period;

b. Financial status report, no more than 90 days after the end of each budget period; and

c. Final financial report and performance report, no more than 90 days after the end of the project period.

2. Send all reports to: Ron Van Duyne, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention 2920 Brandywine Road, Room 3000, Mailstop E-15, Atlanta, GA 30341-4146.

3. The following additional requirements are applicable to this program. For a complete description of each, see Attachment 3 in the application kit.

AR-4 HIV/AIDS Confidentiality Provisions

AR-5 HIV Program Review Panel Requirements

AR-7 Executive Order 12372 Review

AR-8 Public Health System Reporting Requirements

AR-9 Paperwork Reduction Act Requirements

AR-10 Smoke-Free Workplace Requirements

AR-11 Healthy People 2000

AR-12 Lobbying Restrictions

AR-14 Accounting System Requirements

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a) and 317 of the Public Health Service Act, 42 U.S.C. 241(a) and 247b as amended. The Catalog of Federal Domestic Assistance Number is 93.939, HIV Prevention Activities—Nongovernmental Organization Based.

J. Where To Obtain Additional Information

To receive additional written information and to request an application and tool kit, call NPIN at 1-800-458-5231 (TTY users: 1-800-243-7012); visit their web site: www.cdcnpin.org/program; send requests by fax to 1-888-282-7681 or send requests by e-mail: application-cbo@cdcnpin.org. This information is also posted on Division of HIV/AIDS Prevention (DHAP) website at http://www.cdc.gov/nchstp/hiv_aids/funding/toolkit/.

CDC maintains a Listserv (HIV-PREV) related to this program announcement. By subscribing to the HIV-PREV Listserv, members can submit questions and will receive information via e-mail with the latest news regarding the program announcement. Frequently asked questions on the Listserv will be posted to the Web site. You can subscribe to the Listserv on-line or via e-mail by sending a message to: listserv@listserv.cdc.gov and writing the following in the body of the message: subscribe hiv-prev first name last name.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from:

Albertha Carey, Grants Management Specialist, Grants Management Branch, Procurement and Grants, Office Program Announcement [99092], Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341-4146, Telephone (770) 488-2735, E-mail ayc1@cdc.gov.

For program technical assistance, contact: Tomas Rodriguez, Community Assistance, Planning, and National Partnerships Branch, National Center for HIV, STD, and TB Prevention, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, M/S E-58, Atlanta, GA 30333, Telephone number (404) 639-5240, Email address: trr0@cdc.gov ("0" is the number, not the letter "o").

See also the CDC home page on the Internet: <http://www.cdc.gov>.

Dated: April 23, 1999.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99-10700 Filed 4-28-99; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N-1109]

Mercury Compounds in Drugs and Food; Request for Data and Information

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; followup request for data and information.

SUMMARY: The Food and Drug Administration (FDA) is announcing a followup to its call-for-data, which was published in the **Federal Register** of December 14, 1998 (63 FR 68775), to identify food and drug products that contain intentionally introduced mercury compounds, e.g., mercurous chloride, mercuric chloride, phenylmercuric acetate, thimerosal (hereinafter referred to as the December 1998 call-for-data notice). The agency is seeking both quantitative and qualitative information about the mercury compounds in these food and drug products. The agency is requesting this information as part of the implementation of the Food and Drug Administration Modernization Act of 1997 (FDAMA).

DATES: Submit data and information by June 1, 1999. Submit written general comments by June 1, 1999.

ADDRESSES: Submit written comments and information to the particular subject office as follows:

1. General comments on this call-for-data to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.
2. Information on human drug products to the Division of Over-the-Counter (OTC) Drug Products (HFD-560), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.
3. Information on human biological products to the Division of Vaccine and Related Products Applications (HFM-475), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852.
4. Information on veterinary drug products to the Division of Epidemiology and Surveillance (HFV-210), Center for Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.
5. Information on food products, including dietary supplements, to the Office of Special Nutritionals (HFS-456), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204.

FOR FURTHER INFORMATION CONTACT:

For human drug products: Gerald M. Rachanow, Center for Drug Evaluation and Research (HFD-560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-2222.

For human biological products: Robert A. Yetter, Center for Biologics Evaluation and Research (HFM-10), Food and Drug Administration, 1401 Rockville, MD 20852, 301-827-0373.

For veterinary drug products: William C. Keller, Center for Veterinary Medicine (HFV-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-6641.

For food and dietary supplement products: Sharon A. Ross, Center for Food Safety and Applied Nutrition (HFS-456), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-205-5343.

SUPPLEMENTARY INFORMATION:

I. Background

FDAMA (Pub. L. 105-115) was enacted on November 21, 1997. Section 413 of FDAMA, entitled "Food and Drug Administration Study of Mercury

Compounds in Drugs and Food," requires FDA to: (1) Compile a list of drugs and foods that contain intentionally introduced mercury compounds, and (2) provide a quantitative and qualitative analysis of the mercury compounds in this list. FDAMA requires the agency to compile the list and provide the analysis within 2 years after the date of its enactment. The statute does not differentiate whether the mercury compound is present in the products as an active or an inactive ingredient. Therefore, FDA is requesting data and information on any mercury compounds, present as active or as inactive ingredients, in any human or veterinary drug (prescription or OTC) product, any human biological products, or any food product, including dietary supplements.

II. Mercury Compounds in Human Drug Products

There are several different types of mercury compounds that have been used in human drug products. Inorganic mercury salts used include mercurous chloride (calomel) and mercuric chloride (bichloride of mercury). Organic aryl mercury compounds used include phenylmercuric acetate and phenylmercuric nitrate. Some of these mercury compounds (e.g., phenylmercuric acetate and phenylmercuric nitrate) have been used as both active and inactive ingredients. Some mercury-containing drug products have been marketed by prescription and others have been marketed OTC only.

FDA has already evaluated the safety and effectiveness of many of the OTC uses of mercury compounds as part of its OTC drug review. Many mercury compounds used as active ingredients in OTC drug products have been found to be not generally recognized as safe (GRAS) and effective and are classified as new drugs. These mercury ingredients are listed in § 310.545(a) (21 CFR 310.545(a)). FDA included a table of these ingredients in the December 1998 call-for-data notice (see Table 1, 63 FR 68775 at 68776).

FDA has also considered mercury compounds as inactive ingredients in OTC ophthalmic drug products. Section 349.50(c)(3) of the final monograph for OTC ophthalmic drug products (21 CFR 349.50(c)(3)) states:

For ophthalmic drug products containing mercury compounds used as a preservative. "This product contains (name and quantity of mercury-containing ingredient) as a preservative. Do not use this product if you are sensitive to" (select one of the following: "mercury" or "(insert name of mercury-containing ingredient) or any other ingredient containing mercury)."

The agency is aware that mercury compounds (e.g., phenylmercuric acetate and thimerosal) are used as a preservative in OTC nasal solution products, prescription ophthalmic drug products, and biological products including vaccines, immunoglobulins, antivenins, and skin test antigens. Phenylmercuric nitrate is also present in some oral homeopathic drug products and may be present in other homeopathic drug products. Therefore, homeopathic drug products are included in this call-for-data.

III. Mercury Compounds in Veterinary Drug Products

Currently, there are no approved veterinary drug products that contain a mercury compound as an active ingredient. There is some limited use, however, of mercury compounds in veterinary drug products. These products are all unapproved OTC products for use in nonfood species. For instance, older textbooks may contain an indication for red mercuric iodide petrolatum as a compounded counterirritant. An aqueous formulation of red mercuric iodide is commercially marketed with that indication. Mercurochrome is currently marketed for treating bacterial diseases of ornamental fish. The potential exists for some limited use of mercury compounds as inactive ingredients, such as preservatives, particularly in unapproved products.

IV. Mercury Compounds in Food Products

The agency has limited information on the intentional addition of mercury-containing compounds to food products. Under section 201(s) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(s)), an ingredient used in food or as food must be an approved food additive or it must be GRAS for its intended food use. Currently, FDA has not approved any mercury-containing compounds as food additives and does not consider any mercury-containing compounds to be GRAS.

Substances that are "dietary ingredients" as defined in section 201(ff) of the act are exempt from the food additive provisions of the act under section 201(s)(6). Under the act, dietary supplement ingredients subject to section 201(ff) do not require FDA's premarket scrutiny or approval. Additionally, ingredients subject to this section of the act do not need to be registered with FDA. Consequently, FDA has no listing of mercury-containing compounds that are used as dietary ingredients in dietary supplements.

The agency is aware that some categories of products marketed as dietary supplements in the United States may contain a source of added mercury. Products similar to those that are used as traditional medicines in other countries may sometimes be marketed as dietary supplements in the United States. For example, mercury-containing compounds are used in traditional Chinese medicines. The Chinese Herbal Materia Medica (Ref. 1) reports that cinnabar (mercuric sulfide; cinnabaris or zhu sha in Mandarin Chinese) and calomel (mercurous chloride; calomelas or qing fen in Mandarin Chinese) have been widely used as a sedative and detoxicant and to treat constipation and edema, respectively. The California Department of Health Services reported that 5 of 260 traditional Chinese medicines available in the retail marketplace, which they examined, listed cinnabar as an ingredient on the label (Ref. 2). In this study, 35 of 251 products that were screened for mercury content were found to contain significant quantities of mercury (Refs. 2 and 3). Additionally, the study showed that most of the products that contained significant quantities of mercury did not list mercury sources on the label. Therefore, it is not possible to determine whether the mercury in these products is intentionally added or is present as an unintended ingredient or contaminant. Other than this limited information, FDA is not aware of other uses of mercury in dietary supplements.

V. References

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

1. Bensky, D., A. Gamble, and T. Kaptchuk, *Chinese Herbal Medicine Materia Medica*, 8th Ed., Eastland Press, Inc., Seattle, pp. 573-574 and 638-639, 1992.
2. Ko, R. J., and A. Au, 1997-1998 *Compendium of Asian Patent Medicines*, California Department of Health Services, Food and Drug Branch, Sacramento, 1998.
3. Ko, R. J., "Adulterants in Asian Patent Medicines," *New England Journal of Medicine*, 339:847, 1998.

VI. Call-for-Data and Information

In order to prepare the list and provide the analysis required by section 413 of FDAMA, the agency is requesting all manufacturers of any food, including dietary supplement, and human or veterinary drug product (prescription or OTC), and human biological products containing any intentionally introduced mercury compounds, whether used as

an active or inactive ingredient, to provide FDA the following information for each product:

1. The commercial name of the product that contains the mercury compound;
2. The chemical name (USAN or established name, if one exists) of the mercury compound(s) present in the drug product; the Chemical Abstract Service (CAS) registry (Reg.) number (No.) and the CAS preferred chemical name of the mercury compound(s) present in the food or dietary supplement product;
3. The quantitative amount of the mercury compound present in the product. State as either quantity per dosage unit or per quantity of product (e.g., ounce or gram). State whether amount is calculated on a weight to weight (w/w) or weight to volume (w/v) basis, where applicable;
4. State the purpose of the mercury compound in the product. If an active ingredient, state the pharmacologic use(s) of the product. If an inactive ingredient, state the function (e.g., preservative).
5. Provide a copy of the product's labeling; and
6. Estimate the amount of the mercury compound used annually in manufacturing the product.

VII. Response to Date and Need for Additional Information

To date, FDA has received a limited number of responses to the December 1998 call-for-data notice. The information received indicates that mercury compounds are being used as a preservative at very low concentrations: (1) Phenylmercuric acetate in three nasal spray products, (2) phenylmercuric nitrate in one water for injection product and in one veterinary ophthalmic ointment, and (3) thimerosal in 10 nose drop/spray products, 5 eye products, 2 ear products, and 20 injectable products (e.g., toxoids, vaccines, and antivenins). The information also indicates that various mercury compounds are being used as active ingredients in over 200 oral homeopathic drug products.

The agency is aware that mercury compounds are present in many other drug products. The agency's Drug Listing System (DLS) identifies over 200 nasal spray/solution products and 5 eye products containing phenylmercuric acetate; over 20 rectal (ointment and suppository) products, 1 eye product, and 3 oral homeopathic products containing phenylmercuric nitrate; over 100 nasal spray/solution, eye, and topical products containing thimerosal; and several hundred oral homeopathic

drug products containing ammoniated mercury, mercurius chloride, mercuric chloride, mercuric sulfide red, mercuric sulfate, mercury, mercurius auratus, and mercurius solubilis. The information submitted to date indicates that other mercury compounds are also being used in oral homeopathic drug products, e.g., black mercuric sulfide, mercuric cyanide, mercurous iodide, mercuric iodide, mercury ammonium chloride, mercuric oxide, and Hahnemann's soluble mercury.

The agency is especially concerned about the amount of phenylmercuric nitrate that has been present in some rectal products and needs to be informed whether these products still contain this preservative or have been reformulated. The agency is aware that some of the information in its DLS system is outdated because some of the listed products may have been reformulated to delete the mercury preservative. In the absence of updated information, the agency will have to use the information available to it to compile the list of drugs that contain intentionally introduced mercury compounds and to do the quantitative and qualitative analysis of the mercury compounds in this list. Some products in the DLS may no longer be marketed, while manufacturers have not provided information to DLS on other products. Accordingly, the agency is again requesting all affected manufacturers to provide the information requested in section VI of this document. This information is needed for the agency to provide accurate information in response to FDAMA.

The agency has received inquiries about the applicability of this information request to biological products. This request encompasses all human biological products. To date, the agency has received five responses concerning biological products.

VIII. Followup Request for Data and Information

Affected manufacturers should, on or before June 1, 1999, submit the data and information requested in section VI of this document. Two copies of the data and information are to be submitted, except that individuals may submit one copy. Data and information should be addressed to the appropriate FDA centers (Drug Evaluation and Research, Biologics Evaluation and Research, Veterinary Medicine, or Food Safety and Applied Nutrition) (addresses above). All submitted data and information on the quantitative amount of the mercury compound present in the product (unless the information appears in product labeling) and the amount of the

mercury compound used annually in manufacturing the product will be handled as confidential by the agency under 21 CFR 20.61. General comments on this call-for-data should be addressed to the Dockets Management Branch (address above). General comments are to be identified with the docket number found in brackets in the heading of this document. Received general comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 21, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99-10697 Filed 4-28-99; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E-0614]

Determination of Regulatory Review Period for Purposes of Patent Extension; Amerge™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Amerge™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product,

medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Amerge™ (naratriptan hydrochloride). Amerge™ is indicated for the acute treatment of migraine attacks with or without aura in adults. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Amerge™ (U.S. Patent No. 4,997,841) from Glaxo Wellcome, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated September 28, 1998, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Amerge™ represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Amerge™ is 953 days. Of this time, 519 days occurred during the testing phase of the regulatory review period, 434 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug,*

and Cosmetic Act (the act) (21 U.S.C. 355) became effective: July 5, 1995. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on July 5, 1995.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act:* December 4, 1996. FDA has verified the applicant's claim that the new drug application (NDA) for Amerge™ (NDA 20-763) was initially submitted on December 4, 1996.

3. *The date the application was approved:* February 10, 1998. FDA has verified the applicant's claim that NDA 20-763 was approved on February 10, 1998.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 693 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 28, 1999, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 26, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 20, 1999.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 99-10698 Filed 4-28-99; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration****Radiological Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting**

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Radiological Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on May 17, 1999, 9 a.m. to 5:30 p.m.

Location: Corporate Bldg., conference rm. 020B, 9200 Corporate Blvd., Rockville, MD.

Contact Person: Robert J. Doyle, Center for Devices and Radiological Health (HFZ-470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301-594-1212, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 12526. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss bone strength assessment, with a focus on the use of gender-specific and race-specific data bases in assessing fracture risk and their applicability to bone densitometry and sonometry device labeling.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by May 6, 1999. Oral presentations from the public will be scheduled between approximately 9:45 a.m. and 10:15 a.m., and for an additional 30 minutes near the end of the committee deliberations. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before May 6, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and

an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On May 17, 1999, from 12:15 p.m. to 12:45 p.m., the meeting will be closed to the public to permit discussion and review of trade secret and/or confidential commercial information (5 U.S.C. 552b(c)(4)) relating to present and future agency issues.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 23, 1999.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 99-10695 Filed 4-28-99; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Health Care Financing Administration**

[Document Identifier: HCFA-R-0280]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collections referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this

information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR, Part 1320. This is necessary to prevent public harm. Last year, the volatile nature of the Medicare market created a critical need for plan-specific Medigap data. The unanticipated event of numerous health plans terminating their Medicare contract surprised everyone. The plan-specific Medigap information was, and continues to be, essential for beneficiaries who are in health plans that terminate their Medicare contract. Last year, when the volume of health plan terminations occurred, no one had national plan-specific Medigap data to provide to beneficiaries affected by the mass terminations. By providing this plan-specific Medigap data, beneficiaries will be able to make a more realistic comparison of their costs and benefits under each option available to them. This will prevent harm to the beneficiaries caught in a difficult situation with a relatively short period of time to make an informed decision. We cannot reasonably comply with the normal clearance procedures because we must have the necessary data collected and able to be published in July, when Medicare health plan terminations are announced.

HCFA is requesting OMB review and approval of this collection within 11 working days, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below within 10 working days. During this 180-day period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval.

Type of Information Request: New collection.

Title of Information Collection: Medigap Compare.

HCFA Form Number: HCFA-R-0280 (OMB approval #: 0938-NEW).

Use: HCFA will collect plan-specific Medigap data, including but not limited to premiums charged and additional benefits offered, from each insurer offering Medigap plans. The data collection will occur electronically. The data will be provided on www.medicare.gov to assist beneficiaries in obtaining accurate information on all their health care coverage options.

Frequency: Annually, and semi-annually if needed.

Affected Public: Business or other for-profit, Federal Government, State, Local,

or Tribal Government, Not-for-profit institutions.

Number of Respondents: 300.

Total Annual Responses: 450.

Total Annual Burden Hours: 175.

We have submitted a copy of this notice to OMB for its review of these information collections. A notice will be published in the **Federal Register** when approval is obtained.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, E-mail your request, including your address, phone number, and HCFA form number(s) referenced above, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786-1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below, within 10 working days:

Health Care Financing Administration,
Office of Information Services,
Security and Standards Group,
Division of HCFA Enterprise
Standards, Room N2-14-26, 7500
Security Boulevard, Baltimore, MD
21244-1850. Fax Number: (410) 786-
1415, Attn: Louis Blank HCFA-R-280
and,

Office of Information and Regulatory
Affairs, Office of Management and
Budget, Room 10235, New Executive
Office Building, Washington, DC
20503, Fax Number: (202) 395-6974
or (202) 395-5167, Attn: Allison
Herron Eydt, HCFA Desk Officer

Dated: April 21, 1999.

John P. Burke III,

*HCFA Reports Clearance Officer, HCFA,
Office of Information Services, Security and
Standards Group, Division of HCFA
Enterprise Standards.*

[FR Doc. 99-10740 Filed 4-28-99; 8:45 am]

BILLING CODE 4120-03-P

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**

National Institutes of Health

**National Cancer Institute; Notice of
Closed Meeting**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Novel Technologies for Noninvasive Detection, Diagnosis and Treatment of Cancer.

Date: May 17-18, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: C.M. Kerwin, PhD, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard/EPN-630, Rockville, MD 20892-7405, 301/496-7421.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 21, 1999.

Ann Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99-10692 Filed 4-28-99; 8:45 am]

BILLING CODE 4140-01-M

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**

National Institutes Of Health

**National Heart, Lung, and Blood
Institute; Notice of Closed Meeting**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific counselors, NHLBI.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL HEART, LUNG, AND BLOOD INSTITUTE, including consideration of personnel qualifications and performance, and the

competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NHLBI.

Date: June 3-4, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, 9000 Rockville Pike, Building 10, Room 7S235, Bethesda, MD 20892.

Contact Person: Edward D. Korn, PhD, Director, Intramural Research, National Heart, Lung, and Blood Institutes, National Institutes of Health, Building 10, Room 7N214, Bethesda, MD 20892, 301/496-2116. (Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 22, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99-10690 Filed 4-28-99; 8:45 am]

BILLING CODE 4140-01-M

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**

National Institutes of Health

**National Institute on Deafness and
Other Communication Disorders;
Notice of Closed Meeting**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Communication Disorders Review Committee.

Date: June 9-10, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Governor's Inn, 1615 Rhode Island Ave., NW, Washington, DC 20036.

Contact Person: Melissa Stick, PhD, MPH, Scientific Review Administrator, NIH/

NIDCD/DEA/SRB, 6120 Executive Blvd (EPS/400), Bethesda, MD 20892.

Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS) Dated: April 22, 1999.

Ann Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99-10689 Filed 4-28-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: May 4, 1999.

Time: 10:00 AM to 1:00 PM.

Agenda: To review and evaluate contract proposals.

Place: 6000 Executive Blvd., Suite 409, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Ronald Suddendorf, PhD, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892-7003, 301-443-2926.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: June 17-18, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Elsie D. Taylor, MS, Scientific Review Administrator, Extramural

Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892-7003, 301-443-9787.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel Alcohol Syndrome.

Date: June 17, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, Versailles III, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Elsie D. Taylor, MS, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892-7003, 301-443-9787.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: July 1, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Fess Parker's Doubletree Hotel, 633 East Cabrillo Blvd, Santa Barbara, CA 93103.

Contact Person: Elsie D. Taylor, MS, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892-7003, 301-443-9787.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93-272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: April 21, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99-10693 Filed 4-28-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Environmental Health Sciences Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign

language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contact proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Environmental Health Sciences Council, Agenda Available: <http://www.niehs.nih.gov/dert/c-agenda.htm>.

Date: May 13-14, 1999.

Open: May 13, 1999, 8:30 am to 5:45 pm.

Agenda: Discussion of program policies and issues.

Place: National Institutes of Health, Building 31, Conference Room 10, Bethesda, MD 20892.

Open: May 14, 1999, 9:00 am to 9:50 am.

Agenda: Continuation of program policy discussions.

Place: National Institutes of Health, Building 31, Conference Room 10, Bethesda, MD 20892.

Closed: May 14, 1999, 9:50 am to 1:30 pm.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Conference Room 10, Bethesda, MD 20892.

Contact Person: Anne P. Sassaman, PhD, Director, Division of Extramural Research and Training, Executive Secretary, National Institute of Environmental Health Sciences, NIH/PHS, P.O. Box 12233, Research Triangle Park, NC 27709, 919/541-7723.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: April 23, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99-10694 Filed 4-28-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1-BDCN-1 (06)S.

Date: April 26, 1999.

Time: 2:00 PM to 2:45 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Joe Marwah, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5188, MSC 7846, Bethesda, MD 20892, (301) 435-1253.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1-BDCN-1 (05)S.

Date: April 26, 1999.

Time: 12:00 PM to 1:45 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: David L. Simpson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5192, MSC 7846, Bethesda, MD 20892, (301) 435-1278.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1-BDCN-1 (05)S.

Date: April 26, 1999.

Time: 12:00 PM to 1:45 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Joe Marwah, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 5192, MSC 7846, Bethesda, MD 20892, (301) 435-1253.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG-1 VACC 05.

Date: April 29, 1999.

Time: 1:30 PM to 3:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mary Clare Walker, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435-1165.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 IFCN-8 (3) M.

Date: April 29, 1999.

Time: 1:30 PM to 3:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Samuel Rawlings, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 5160, MSC 7844, Bethesda, MD 20892, (301) 435-1243.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 30, 1999.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: David Monsees, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3199, MSC 7816, Bethesda, MD 20892, (301) 435-0684.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG-1 VACC-04.

Date: April 30, 1999.

Time: 3:30 PM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mary Clare Walker, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435-1165.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG-1 VACC (03).

Date: April 30, 1999.

Time: 4:00 PM to 6:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mary Clare Walker, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435-1165.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 3, 1999.

Time: 10:00 AM to 11:30 AM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: William C. Branche, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7808, Bethesda, MD 20892, (301) 435-1148.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 BDCN 2 (02).

Date: May 4-5, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Herman Teitelbaum, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5190, MSC 7846, Bethesda, MD 20892, (301) 435-1254.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 4, 1999.

Time: 10:30 AM to 11:30 AM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: William C. Branche, PHD, Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7808, Bethesda, MD 20892, (301) 435-1148.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 4, 1999.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anita Corman Weinblatt, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7778, Bethesda, MD 20892, (301) 435-1124.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 5, 1999.

Time: 1:00 PM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Marcia Litwack, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7804, Bethesda, MD 20892, (301) 435-1719.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 6, 1999.

Time: 1:00 PM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: David Monsees, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3199, MSC 7816, Bethesda, MD 20892, (301) 435-0684.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, IFCN 6 SBIR Meeting.

Date: May 6, 1999.

Time: 1:00 PM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: River Inn, 924 25th Street, NW, Washington, DC 20037.

Contact Person: Joseph Kimm, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178

MSC 7844, Bethesda, MD 20892, (301) 435-1249.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 6, 1999.

Time: 2:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. Mac Stiles, DDS, PHD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7816, Bethesda, MD 20892, 301-435-1785.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 7, 1999.

Time: 10:00 AM to 11:30 AM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: William C. Branche, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7808, Bethesda, MD 20892, (301) 435-1148.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 7, 1999.

Time: 10:00 AM to 11:30 AM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Joseph Kimm, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178 MSC 7844, Bethesda, MD 20892, (301) 435-1249.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 22, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99-10691 Filed 4-28-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Supplemental Grant To Continue Cooperative Agreements With 10 Predictor Variables Grantees and Their Research Coordinating Center

AGENCY: Center for Substance Abuse Prevention (CSAP), Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Supplement to support an additional year of intervention follow-up and data collection among the Predictor Variables by Developmental Stage grantees and their Research Coordinating Center.

SUMMARY: This notice is to inform the public that an estimated \$1.65 million will be available to support up to 11 supplemental awards to 10 existing Predictor Variables Study Sites and one existing Research Coordinating Center in FY 1999. The purpose of the award is to support enhancement of current programs and allow the collection and analyses of additional follow-up data for children currently included in these studies. CSAP will make the awards based on the recommendations of the initial review group and the CSAP National Advisory Council. Supplemental awards will be made in Fiscal Year 1999, by September 30, 1999. The studies funded under this supplement are projected to end September 30, 2000.

Eligibility is limited to existing SAMHSA/CSAP's Predictor Variables by Developmental Stage study sites, and their Research Coordinating Center. All currently active Predictor Variables grantees are eligible to apply for supplemental funds under this GFA. Given the short implementation time frame and limited funds available for this activity, as well as existing research protocols that limit the scope of new activities that could be introduced at this point in the study, the existing Predictor Variables projects are the only projects that can effectively implement the required booster sessions and follow-up data collection activities. These studies have already demonstrated that they can make a positive impact on children within selected developmental parameters. It is important to document that this impact on these same children can be maintained as they enter the next developmental stages.

The Research Coordinating Center has put considerable effort into developing

cross-site rapport and collecting process data from the individual sites; an effort that would be redundant and not cost-effective if attempted by another entity at this point in the project. Additionally, it is important to the continuity of the study that the Research Coordinating Center be able to continue its' current analyses and be able to conduct secondary analyses based on the totality of the data submitted throughout the life of the study.

Authority: These supplemental awards will be made under the authority of Section 501(d)(5) of the Public Health Service Act, as amended ((42 USC) 290aa). The Catalog of Federal Domestic Assistance (CFDA) number for this program is 93.230.

CONTACT: Soledad Sambrano, Ph.D., Division of Knowledge Development and Evaluation, Center for Substance Abuse Prevention, substance Abuse and Mental Health Services Administration, Rockwall II, suite 740, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-9110.

Dated: April 23, 1999.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 99-10699 Filed 4-28-99; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4443-N-05]

Notice of Proposed Information Collection: Comment Request; Public Housing Construction Report

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of

Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: June 28, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW, Room 4238, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708-3462, extension 4128, for copies of other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Public Housing Construction Report.

OMB Control Number: 2577-0037.

Description of the need for the information and proposed use: Public Housing Agencies (PHAs) are responsible for contract administration for low-income housing projects. The architect, or other person licensed under State law, prepares the report and submits it to the PHA from the date of contract execution to final inspection. The report provides information on contractors, contract amount, starting/completing dates, progress on site improvements and buildings, inspection forecast and acceptance for occupancy. HUD uses the information to track the progress of construction to ensure that contract and inspection dates comply with HUD procedures.

Agency Form Number: Form HU-5378.

Members of the affected public: State, Local or Tribal Government.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency or response, and hours of response: 158 (projects), 12 months average construction period × two reports a month = 24 for each project totaling 3,792 responses, 15 minutes per response, 568 hours total reporting burden, 152 hours total recordkeeping burden.

Status of the proposed information collection: Reinstatement, without change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 22, 1999.

Harold Lucus,

Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210-33-M

8. Narrative Report: (continued)

Instructions for Preparation of form HUD - 5378, Public Housing Construction Report

1. General. Form HUD - 5378 shall be prepared and mailed on the 1st and 16th day of each calendar month of the construction period. Each report shall be numbered in serial order, commencing with No. 1 and continuing through the final report. All spaces must be filled on each report, including the street address of the project and the telephone number of the project office.
2. Body of Report.
 - a. Item 1: Contract Data

Completion Percentages: Fill in accurately the scheduled and the actual completion percentages.

Prime Contractors: Arrange Prime Contracts in the order of award.

Division of Work: Enter the division of the work awarded to each.

Adjusted Contract Amount: For each contract, enter the contract amount as adjusted by all approved Change Orders.

Adjusted Value of Work in Place: Each Contractor's latest periodical estimate for partial payment shall be utilized.

Contract Starting Date: Enter the effective starting date established by Notice to Proceed for each of the Contractors listed.

Contract Completion Date: Enter the contract completion date established by Notice to Proceed for each of the Contractors listed.
 - b. Item 2: Average Effective Employment During Reporting Period: This is intended to show the approximate size of the productive labor force.
 - c. Item 3: Dwelling Building Progress: Enter the number of dwelling buildings under each appropriate heading.
 - d. Item 4: Site Improvements Progress: This covers all on-site non-dwelling construction. Enter an "X" under each appropriate heading. If "In Progress," show the percentage of completion.
 - e. Item 5: Supervisory and Inspection Force: This should show the current composition of these forces and by whom they are employed.

Employment: Indicate with an "X" by whom these forces are employed.

Duty: Enter the active duty assignments for the period. Do not use individual's names.

Time Classification: Enter the number of persons performing the duty under each time classification.
 - f. Item 6: Inspection Forecast: This forecast is to provide HUD with advance information for planning itineraries of Construction Representatives and should be revised in successive reports as necessary.
 - g. Item 7: Acceptance of Occupancy and Use: These items are self-explanatory.
 - h. Item 8. Narrative Report: The report should be the historical record of the construction of the project, written in conversational style, and should include the names and titles of all official visitors, including the Architects.
3. Signatures: The original and all copies must be signed and dated by the Contracting Officer, with the name typed below the signature.

Previous edition is obsolete

form HUD - 5378 (2/94)
ref Handbooks 7417.1 & 7450.1

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-010426

Applicant: National Aviary in Pittsburgh, Pittsburgh, PA

The applicant requests a permit to export captive-born eggs from red-crowned (*Grus japonensis*) and white-naped cranes (*Grus vipio*) to Khingansky Nature Reserve, Russia, for scientific research and for the enhancement of the survival of the species through captive breeding.

PRT-008122

Applicant: Wildlife Conservation Society, Bronx, NY

The applicant requests a permit to import two female captive-bred leopards (*Panthera pardus*) from the Basil Zoo in Switzerland for enhancement of the survival of the species.

PRT-010248

Applicant: University of Alabama, Birmingham, AL

The applicant requests a permit to import blood and other body fluid samples from chimpanzees (*Pan troglodytes schweinfurthii*) and bonobos (*Pan paniscus*) captive-held in the Democratic Republic of Congo for the purpose of scientific research and enhancement of the survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

PRT-010249

Applicant: Hubbs-Sea World Research Institute, San Diego, CA

Permit Type: Take for scientific research.

Name and Number of Animals: West Indian manatee (*Trichechus manatus*), 10.

Summary of Activity to be Authorized: The applicant requests a permit to conduct research on West Indian manatee behavior in the presence of fishing gear to determine method of entanglement and to devise appropriate mitigation.

Source of Marine Mammals: Manatees currently undergoing rehabilitation at Sea World facilities in Florida and California.

Period of Activity: Up to 5 years, if issued.

PRT-010434

Applicant: Roger Berube, Springville, ME

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

PRT-010433

Applicant: Raymond N. Berube, Scarborough, ME

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

PRT-010430

Applicant: Carl W. Reinsel, Kutztown, PA

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

PRT-010432

Applicant: Normand Berube, Saco, ME

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

PRT-010369

Applicant: Dan Meske, Bloomsburg, PA

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

PRT-010367

Applicant: Donald Meske, Berwick, PA

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

PRT-010493

Applicant: Derin Kartak, Bothell, WA

The applicant requests a permit to import a polar bear (*Ursus maritimus*)

sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

PRT-010260

Applicant: David Petrella, Mt. Pleasant, MI

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Southern Beaufort Sea polar bear population, Canada for personal use.

PRT-010261

Applicant: Aldrege Fabian, Steubenville, OH

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

PRT-010262

Applicant: Catherine Rondeau, Rochester Hills, MI

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Western Hudson Bay polar bear population, Canada for personal use.

PRT-010287

Applicant: Robert Rondeau, Jr., Rochester Hills, MI

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Western Hudson Bay polar bear population, Canada for personal use.

PRT-010653

Applicant: Edward Belkin, Syosset, NY

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Southern Beaufort Sea polar bear population, Canada for personal use.

PRT-010655

Applicant: Wales Wilcox, Springfield, MO

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Southern Beaufort Sea polar bear population, Canada for personal use.

PRT-010657

Applicant: Otto Cerni, Jr. New Boston, MI

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Southern Beaufort Sea polar bear population, Canada for personal use.

PRT-010660

Applicant: Dube Viateur, Biddeford, ME

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

PRT-010661

Applicant: Ronnie May, Bedford, TX

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

PRT-010662

Applicant: Leslie Barnhart, Houston TX

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Southern Beaufort Sea polar bear population, Canada for personal use.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358-2104 or fax 703/358-2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358-2104); FAX: (703/358-2281).

Dated: April 22, 1999.

MaryEllen Amtower,*Acting Chief, Branch of Permits, Office of Management Authority.*

[FR Doc. 99-10660 Filed 4-28-99; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR**Bureau of Indian Affairs****Indian Gaming****AGENCY:** Bureau of Indian Affairs, Interior.**ACTION:** Notice of amendments to approved Tribal-State Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988, Pub. L. 100-497, 25 U.S.C. § 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of

engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Amendments to the Menominee Indian Tribe of Wisconsin and the State of Wisconsin Gaming Compact, which were executed on March 2, 1999.

DATES: This action is effective April 29, 1999.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219-4066.

Dated: April 21, 1999.

Kevin Gover,*Assistant Secretary—Indian Affairs.*

[FR Doc. 99-10676 Filed 4-28-99; 8:45 am]

BILLING CODE 4310-02-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management****Closure of Public Land Between Sunset and Sunrise****AGENCY:** Bureau of Land Management—Interior.**ACTION:** Closure of public land between sunset and sunrise.

SUMMARY: Public land located in Owyhee County, known as the Jump Creek Recreation Site, is closed to public use between sunset and sunrise, year round.

The closed area is generally described as: West of State Highway 95, South of State Highway 55, adjacent to Jump Creek, Jump Creek Recreation Site, T. 2 N., R. 5 W., Section 27, SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$.

The described area is the site of growing crime, especially during evening hours. Reported incidents of illegal dumping, drug transactions, under-age parties involving drug and alcohol consumption, use of firearms, theft, and destruction of public property, have increased steadily over past years. The purpose of the closure is to provide for public safety and resource protection. The area will be signed to identify the closure. Law enforcement personnel will enforce the closure regularly.

Exceptions to this closure may be approved by the Authorized Officer. Exemptions may be approved for federal, state, and local government personnel on official duty, emergency service personnel including medical,

search and rescue, utility services, and other licensed or permitted individuals.

This closure order is effective 30 days after publication and public review unless otherwise rescinded. It will remain in effect until rescinded or modified by the authorized officer.

The authority for this closure is 43 CFR 8364.1, Closure and Restriction Orders. Failure to comply with this order will subject violators to the penalties provided in 43 CFR 8360.0-7, punishable by a fine not to exceed \$1,000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION AND APPLICATION FOR EXCLUSION APPROVAL CONTACT: Daryl L. Albiston, Owyhee Resource Area Manager, 3948 Development Ave., Boise, Idaho, 83705. Telephone (208) 384-3300.

Daryl L. Albiston,*Owyhee Area Manager.*

[FR Doc. 99-10749 Filed 4-28-99; 8:45 am]

BILLING CODE 4310-GG-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[UT-050-1610-00]

Notice**AGENCY:** Bureau of Land Management.

ACTION: Notice of intent to amend the Henry Mountain Management Framework Plan of the Richfield Field Office, Bureau of Land Management, Utah.

SUMMARY: This notice is intended to inform the public that the Bureau of Land Management intends to consider a proposed amendment to the Henry Mountain Management Framework Plan. This proposed amendment will consider the voluntary, partial relinquishment and retirement of grazing privileges associated with the Robbers Roost Grazing Allotment #0901.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management (in coordination with the permittee in the Robbers Roost Allotment and a land conservation group) is proposing to relinquish and permanently retire 4,077 Animal Unit Months (AUMs) within the allotment for the long term benefit of land and wildlife resources. Preliminary issues/impacts that have been identified to be addressed include the following: (1) Economic impacts as a result of the partial elimination of grazing; (2) impact to watershed values as a result of partial elimination of grazing; (3) impacts to wildlife and associated habitat resulting from the re-allocation of AUMs from

livestock to wildlife and burros; and (4) consistency with the Interim Management Policy (IMP) for lands under wilderness review. In order to implement the partial relinquishment of grazing privileges it will be necessary to construct two separate segments of fence in the Horseshoe Canyon (South) Wilderness Study Area (WSA). Public participation is being sought at this time to ensure that the proposed amendment and associated environmental analysis considers all reasonable issues, alternatives, problems, and concerns relative to the proposed action.

DATES: The comment period for this proposed amendment will commence with the publication of this notice. Comments must be submitted on or before May 28, 1999.

FOR FURTHER INFORMATION CONTACT: Gary L. Hall, Assistant Field Manager, Henry Mountains Field Station, Richfield Field Office, 150 East 900 North, Richfield, Utah 84701 telephone number 435-542-3461 or 435-896-1564.

Mike Pool,

Acting State Director, Utah.

[FR Doc. 99-10668 Filed 4-28-99; 8:45 am]

BILLING CODE 4310-DQ-P

DEPARTMENT OF THE INTERIOR

[OR-084-6332-00; GP-0063]

Off-Highway Vehicle Designations for the Cascades Resource Area, Salem District, OR

AGENCY: Bureau of Land Management, Interior, Salem District.

ACTION: This notice supplements the, "Availability of the Resource Management Plan and Record of Decision, Salem, Oregon" notice published in the July 20, 1995, edition of the **Federal Register** (60 FR 37464) and establishes the final Off-Highway Vehicle (OHV) designations on all public lands administered by the Bureau of Land Management (BLM) within the Cascades Resource Area, Salem District, Oregon. This notice supersedes all other previous notices related to OHV designations or closures pertaining to BLM-administered lands in the Cascades Resource Area. Authority for this action is contained in 43 CFR 8342.1.

SUPPLEMENTARY INFORMATION: The BLM-administered lands in the Cascades Resource Area lie within Clackamas, Multnomah, Marion, and Linn Counties in northwest Oregon. The Salem District Resource Management Plan (Salem District RMP, May 1995) allocated acres in each of the three major OHV

designations (Closed, Limited, or Open) and indicated that designations would be mapped in subsequent planning efforts. Areas and acres of land with unique and sensitive resource values were designated in the RMP as "Closed" to use of OHV's. Acreage where OHV's could be used with certain restrictions was listed as "Limited." The remaining area was listed as "Open." The OHV designations completed by BLM-administered lands in the Cascades Resource Area are based on an interdisciplinary team review. Other general information of OHV designation definitions may be found in 43 CFR 8340.0-5.

SUMMARY: Additional information and maps showing the OHV designations can be obtained from the Salem District Office. The OHV designations for the Cascades Resource Area have been completed and are as follows:

Closed

Approximately 11,010 acres are "Closed," to OHV use. These areas include: Carolyn's Crown ACEC/RNA, 261 acres; Larch Mountain Environmental Education Site, 183 acres; Middle Santiam ACEC/ONA, 108 acres; North Santiam ACEC, 31 acres; Sandy River Gorge ACEC/RNA, 400 acres; Soosap Meadows ACEC, 343 acres; Molalla Non-Motorized Shared-Use Trail System, 2,634 acres; White Rock Fen ACEC, 51 Acres; Wilhoit Springs ACEC, 170 acres; Willamette River ACEC, 76 acres; Williams Lake ACEC, 98 Acres; and Table Rock Wilderness, 6,350 acres. There are also 36 progeny test sites totaling 305 acres that are closed to OHV use.

Limited

Approximately 87,300 acres of BLM-administered lands in the Cascades Resource Area are designated as "Limited to Existing Roads and Designated Trails." The remaining 70,700 acres are designated as "Limited to Designated Roads." This includes Riparian Reserves that were listed as "Limited" in the Salem District RMP to help address concerns about erosion and water quality. OHV organizations and users will have the opportunity to propose the designation of existing trails and the development of new trails on BLM-administered lands designated as "Limited to Existing Roads and Designated Trails."

Open

No acres were designated as "Open" for BLM-administered lands in the Cascades Resource Area. When Riparian Reserves were mapped, they significantly fragmented BLM-

administered lands with a potential "Open" designation. Further fragmentation occurs with the ownership pattern of alternating sections of private and BLM-administered lands. An overall "Limited" designation more accurately reflects the current situation, rather than designating very small areas as "Open" in between Riparian Reserves designated as "Limited."

Penalties

Pursuant to the penalties contained in 43 CFR 8340.0-7, any person who violates or fails to comply with the designations set forth in this notice are subject to arrest, conviction, and punishment pursuant to appropriate laws and regulations. Such punishment may be a fine of not more than \$1,000 or imprisonment for not longer than 12 months, or both.

Exemptions

The following persons, operating in their official duties, are exempt from the provisions of the OHV designations: BLM employees; state, local, and federal law enforcement, fire protection, or emergency personnel; holders of BLM road use permits that included roads within a closed area; and purchasers of BLM timber within the closure area including their employees and subcontractors. Access by additional parties may be allowed, but must be approved in advance by the Authorized Officer.

EFFECTIVE DATES: This order is in effect June 1, 1999, and is permanent until canceled, amended or replaced.

FOR FURTHER INFORMATION CONTACT: Richard Prather, Cascades Area Manager, Bureau of Land Management, Salem District, 1717 Fabry Road SE, Salem, Oregon 97306, (503) 375-5683.

Dated: April 19, 1999.

Richard Prather,

Cascades Area Manager.

[FR Doc. 99-10745 Filed 4-28-99; 8:45 am]

BILLING CODE 4310-33-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Environmental Assessment Prepared for Proposed Western Gulf Sale 174 on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of the environmental assessment on proposed Western Gulf of Mexico Lease Sale 174.

SUMMARY: The Minerals Management Service (MMS) has prepared an environmental assessment (EA) for the proposed annual Lease Sale 174 for the Western Planning Area of the Gulf of Mexico Outer Continental Shelf.

In this EA, MMS has reexamined the potential environmental effects of the proposed action and alternatives based on any new information regarding potential impacts and issues that were not available at the time the Final Environmental Impact Statement (FEIS) for Lease Sales 171, 174, 177, and 180 was prepared.

In summary, no new significant impacts were identified for proposed Lease Sale 174 that were not already assessed in the FEIS for Lease Sales 171, 174, 177, and 180. As a result, MMS determined that a supplemental EIS is not required and prepared a Finding of No New Significant Impact.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section at number below. You may obtain single copies of the EA from the Minerals Management Service, Gulf of Mexico OCS Region, Attention: Public Information Office (MS 5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, LA 70123-2394 or by calling 1-800-200-GULF.

Dated: April 23, 1999.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.
[FR Doc. 99-10670 Filed 4-28-99; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-380 Enforcement Proceeding]

Certain Agricultural Tractors Under 50 Power Take-Off Horsepower; Notice of Schedule for the Submission of Petitions for Review and Comments on Remedy

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission will permit parties in the above-captioned enforcement proceeding to submit petitions for review of the initial determination to be issued by the administrative law judge on or before April 28, 1999. In addition, parties, interested government agencies, and other interested persons are invited to submit comments on the appropriate remedy.

FOR FURTHER INFORMATION CONTACT: Shara L. Aranoff, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3090.

SUPPLEMENTARY INFORMATION: On February 25, 1997, at the conclusion of the original investigation, the Commission issued, inter alia, cease and desist orders directed to respondents Gamut Trading Co., Inc. and Gamut Imports. The cease and desist orders prohibit Gamut Trading Co., Inc. and Gamut Imports, as well as their "principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors and assigns," from importing or selling for importation in to the United States, or selling, marketing, distributing, offering for sale, or otherwise transferring (except for exportation) in the United States agricultural tractors under 50 power take-off horsepower manufactured by Kubota Corporation of Japan that infringe the KUBOTA trademark.

On July 16, 1998, Kubota Corporation, Kubota Tractor Corporation, and Kubota Manufacturing of America Inc. (collectively "Kubota"), complainants in the original investigation, filed a complaint seeking institution of a formal enforcement proceeding against Gamut Trading Co., Inc., Gamut Imports, Ronald A. DePue (Chief Executive Officer and Chairman of the Board of Directors of Gamut Trading), and Darrell J. DuPuy (Chief Financial Officer, President, and member of the Board of Directors of Gamut Trading) (collectively "the Gamut respondents"), alleging that they are violating the cease and desist orders directed to them. Kubota supplemented its complaint on August 26, 1998. On September 28, 1998, the Commission issued an order instituting a formal enforcement proceeding and instructing the Secretary to transmit the enforcement proceeding complaint to the Gamut respondents and their counsel for a response. On October 19, 1998, the Gamut respondents filed a joint response to the enforcement complaint denying violation of any of the Commission's remedial orders and infringement of the KUBOTA trademark, and asserting that the Commission lacks jurisdiction to address the enforcement complaint.

On October 28, 1998, the Commission issued an order referring the formal enforcement proceeding to the presiding administrative law judge (ALJ) for discovery, a hearing, and issuance of an initial determination (ID) concerning

whether any of the Gamut respondents are in violation of the Commission's cease and desist orders. In the event that he found a violation, the order also directed the ALJ to issue a recommended determination (RD) on remedy. The ALJ is due to issue his ID and RD, if any, on or before April 28, 1999.

In order to allow the parties to express their views concerning whether the Commission should review the ID, the Commission is providing parties with the opportunity to file petitions for review of the ID and responses thereto. If the Commission finds a violation of one of more of its cease and desist orders, it will also consider the appropriate remedy (i.e., civil penalty). The Commission is therefore interested in receiving written submissions that address the appropriate remedy.

Written Submissions

Any party of record to this enforcement proceeding may file a petition for review of the ID and/or comments on the appropriate remedy with the Commission no later than fourteen (14) days after service of the ID. A reply to any such petition for review or comments may be filed within seven (7) days after service of the petition or comments. Any other interested person, including any interested government agency, may file comments on the appropriate remedy with the Commission no later than twenty-one (21) days after the date of issuance of the ID. No further submissions will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment is granted by the Commission will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and section 210.75 of the Commission's

Rules of Practice and Procedure (19 CFR 210.75).

Copies of the Commission's Order, public versions of the ID and RD, and all other nonconfidential documents filed in connection with this enforcement proceeding are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>).

Issued: April 26, 1999.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 99-10781 Filed 4-28-99; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Antitrust Division

[Civil No. 99-0715]

United States v. SBC Communications Inc. and Ameritech Corporation; Proposed Final Judgment and Competitive Impact Statement

Filed: March 23, 1999.

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16(b)-(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States v. SBC Communications Inc. and Ameritech Corporation*, Civil No. 99-0715 (D.D.C.). The proposed Final Judgment is subject to approval by the court after the expiration of the statutory 60-day public comment period and compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16(b)-(h).

On March 23, 1999, the United States filed a Complaint alleging that the proposed acquisition of Ameritech Corporation by SBC Communications Inc. would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleges that if this merger is consummated, competition in the markets for wireless mobile telephone services in seventeen areas in Illinois, Indiana and Missouri would be lessened substantially. The areas affected include

fourteen markets where SBC and Ameritech are the two providers of cellular mobile telephone services, including Chicago and St. Louis, and three markets where Ameritech is one of the providers of cellular mobile telephone services and Comcast Cellular Corporation, which SBC has entered into an agreement to acquire, owns the other cellular telephone system. The Complaint also alleges that competition would be lessened in the St. Louis area because, as a result of this merger, Ameritech would not provide local exchange and long distance telephone services bundled with its cellular mobile telephone services, as it had planned to do in St. Louis before agreeing to merge with SBC.

The proposed Final Judgment, filed at the same time as the Complaint, requires SBC and Ameritech to divest one of the two overlapping cellular telephone systems in each of the seventeen market areas. In the areas presently served by Comcast, and in the areas in Missouri, the Ameritech cellular systems must be divested, while in the other SBC and Ameritech may choose which of the two systems will be divested. The assets Ameritech planned to use to provide local exchange and long distance telephone services together with its cellular mobile telephone services in the St. Louis area must also be divested. The proposed Final Judgment requires that the assets of these cellular telephone systems be divested no later than 180 days following the earlier of: (1) all final regulatory approvals needed for SBC and Ameritech to consummate their merger; or (2) the consummation of the merger of SBC and Ameritech. Before the merger can be consummated, any assets required to be divested that have not been sold must be transferred to a trustee, who will complete the divestiture during whatever part of the 180-day period remains.

On April 7, 1999, SBC and Ameritech notified the Department of Justice, pursuant to the provisions of the proposed Final Judgment, that they have entered into an agreement to sell all of the assets of these cellular telephone systems required to be divested to a venture owned 93% by GTE and 7% by Georgetown Partners. This agreement is contingent on the consummation of the merger between SBC and Ameritech.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Donald J. Russell, Chief, Telecommunications Task Force, Antitrust Division, Department of

Justice, 1401 H St, NW, Suite 8000, Washington, DC 20530 (telephone: (202) 514-5621).

The Competitive Impact Statement, filed by the United States on April 16, 1999, describes the Complaint, the proposed Final Judgment, the alleged violations, and the remedies available to private litigants. Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection in Room 215 of the United States Department of Justice, Antitrust Division, 325 7th St, NW, Washington DC 20530 (telephone (202) 514-2841) and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations and Merger Enforcement, Antitrust Division.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, as follows:

(1) The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in this Court.

(2) The parties stipulate that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any 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 any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

(3) Defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

(4) This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted in the Court.

(5) In the event plaintiff withdraws its consent, as provided in paragraph (2) above, or in the event that the Court declines to enter the proposed Final

Judgment pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

(6) Defendants represent that the divestiture ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein.

Dated: March 23, 1999.

For Plaintiff United States of America.

Joel I. Klein,

Assistant Attorney General.

A. Douglas Melamed,

Principal Deputy Assistant Attorney General.

Constance K. Robinson,

Director of Operations and Merger Enforcement.

Donald J. Russell,

Chief, Telecommunications Task Force.

Laury Bobbish,

Assistant Chief, Telecommunications Task Force.

Carl Willner,

D.C. Bar No. 412841.

Michael Chaleff,

Attorneys, Telecommunications Task Force.

U.S. Department of Justice, Antitrust Division, 1401 H Street, NW, Suite 8000, Washington, DC 20530.

Date Signed: March 23, 1999.

For SBC Communications Inc.

Donald L. Flexner,

D.C. Bar No. 343269, Crowell & Moring LLP, 1001 Pennsylvania Avenue, NW, Washington, DC 20004-2595.

Date Signed: March 17, 1999.

For Ameritech Corporation.

Richard J. Favretto,

D.C. Bar No. 156588.

Mark W. Ryan,

D.C. Bar No. 359098, Mayer, Brown & Platt, 2000 Pennsylvania Avenue NW, Washington, DC 20006-1882.

Date Signed: March 17, 1999.

Stipulation Approved for Filing

Done this ____ day of ____, 1999

United States District Judge

Final Judgment

Whereas, plaintiff, United States of America, filed its Complaint on March 23, 1999:

And whereas, plaintiff and defendants, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication on any issue of fact or law;

And whereas, entry of this Final Judgment does not constitute any evidence against or an admission by any party with respect to any issue of law or fact;

And whereas, defendants have further consented to be bound by the provisions of the Final Judgment pending its approval by the Court;

And whereas, plaintiff the United States believes that entry of this Final Judgment is necessary to protect competition in markets for mobile wireless telecommunications services in Illinois, Indiana and Missouri;

And whereas, the essence of this Final Judgment is prompt and certain divestiture of certain cellular wireless systems that would otherwise be commonly owned and controlled, including their licenses and all relevant assets of the cellular systems, and the imposition of related injunctive relief to ensure that competition is not substantially lessened;

And whereas, plaintiff the United States requires that defendants make certain divestitures of such licenses and assets for the purpose of ensuring that competition is not substantially lessened in any relevant market for mobile wireless telecommunications services in Illinois, Indiana or Missouri;

And whereas, defendants have represented to plaintiff that the divestitures ordered herein can and will be made and that defendants will not raise any claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained herein below;

Therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby *Ordered, Adjudged and Decreed:*

I

Jurisdiction

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting to this Final Judgment. The Complaint states a claim upon which relief may be granted against the defendants under Section 7 of the Clayton Act, 15 U.S.C. 18, as amended.

II

Definitions

A. *Ameritech* means Ameritech Corporation, a corporation with its

headquarters in Chicago, Illinois, and includes its successors and assigns, its subsidiaries and affiliates, and its directors, officers, managers, agents and employees acting for or on behalf of any of the foregoing entities.

B. *Cellular System Assets* means, for each cellular system to be divested under this Final Judgment, all types of assets, tangible and intangible, used by defendants in the operation of each of the cellular systems to be divested (including the provision of long distance telecommunications services for wireless calls), and with respect to the divested cellular system in the St. Louis Area (defined to mean the St. Louis MO-IL Metropolitan Statistical Area and the Missouri 8, Missouri 12, Missouri 18, and Missouri 19 Rural Service Areas), shall also include those assets acquired, developed, used or intended for use in connection with the provision of local exchange telecommunications services and long distance telecommunications services by such system. "Cellular System Assets" shall be construed broadly to accomplish the complete divestitures of the entire business of one of the two cellular systems in each of the Overlapping Cellular Markets required by this Final Judgment and to ensure that the divested cellular systems remain viable, ongoing businesses. In the Overlapping Cellular Markets in the St. Louis Area, and in the Comcast Overlapping Cellular Markets (defined as the Joliet, IL, Aurora-Elgin, IL, and Kankakee, IL Metropolitan Statistical Areas), the Cellular System Assets to be divested shall be those currently owned and used by Ameritech. In the remaining Overlapping Cellular Markets, the Cellular System Assets to be divested shall be either those currently owned and used by Ameritech or those currently owned and used by SBC, but not both. These divestitures of the Cellular System Assets as defined in this Section II.B shall be accomplished by: (i) transferring to the purchaser the complete ownership and/or other rights to the assets (other than those assets used substantially in the operations of either defendant's overall cellular business that must be retained to continue the existing operations of the cellular properties defendants are not required to divest, and that either are not capable of being divided between the divested cellular systems and those that are not divested or are assets that the divesting defendant and the purchaser(s) agree shall not be divided); and (ii) granting to the purchaser an option to obtain a non-exclusive, transferable license from defendants for

a reasonable period at the election of the purchaser to use any of the divesting defendant's assets used in the operation of the cellular system being divested, so as to enable the purchaser to continue to operate the divested cellular systems without impairment, where those assets are not subject to complete transfer to the purchaser under (i). The assets acquired, developed, used or intended for use in connection with the provision of local exchange telecommunications services and long distance telecommunications services by the cellular system in the St. Louis Area are all subject to complete transfer of ownership and/or other rights under (i). Assets shall include, without limitation, all types of real and personal property, monies and financial instruments, equipment, inventory, office furniture, fixed assets and furnishings, supplies and materials, contracts, agreements, leases, commitments, spectrum licenses issued by the Federal Communications Commission ("FCC") and all other licenses, permits and authorizations, operational support systems, customer support and billing systems, interfaces with other service providers, business and customer records and information, customer lists, credit records, accounts, and historic and current business plans, as well as any patents, licenses, sub-licenses, trade secrets, know-how, drawings, blueprints, designs, technical and quality specifications and protocols, quality assurance and control procedures, manuals and other technical information defendants supply to their own employees, customers, suppliers, agents, or licensees, and trademarks, trade names and service marks (except for trademarks, trade names and service marks containing "SBC," "Southwestern Bell," "Ameritech," or "Cellular One") or other intellectual property, including all intellectual property rights under third party licenses that are capable of being transferred to a purchaser either in their entirety, for assets described above under (i), or through a license obtained through or from the divesting defendant, for assets described above under (ii). Defendants shall identify in a schedule submitted to plaintiff and filed with the Court, as expeditiously as possible following the filing of the Complaint in this case and in any event prior to any divestitures and before the approval by the Court of this Final Judgment, any intellectual property rights under third party licenses that are used by the cellular systems being divested but that defendants could not transfer to a purchaser entirely or by license without

third party consent, and the specific reasons why such consent is necessary and how such consent would be obtained for each asset.

C. Overlapping Cellular Markets means the following Metropolitan Statistical Areas and Rural Service Areas used to define cellular license areas by the FCC, in which Ameritech and SBC each held ownership interests in one of the cellular wireless licenses issued by the FCC as of the date of the filing of the Complaint in this action, or in which Comcast Cellular Corporation (which SBC has entered into an agreement to acquire as of January 19, 1999) and Ameritech each held ownership interests in one of the cellular wireless licenses issued by the FCC as of the date of the filing of the Complaint in this action:

Metropolitan Statistical Areas Served by SBC and Ameritech

Chicago, IL
St. Louis, MO-IL
Gary-Hammond-East Chicago, IN
Springfield, IL
Champaign-Urbana-Rantoul, IL
Bloomington-Normal, IL
Decatur, IL

Rural Service Areas Served by SBC and Ameritech

Illinois 2—Bureau
Illinois 5—Mason
Illinois 6—Montgomery
Missouri 8—Callaway
Missouri 12—Maries
Missouri 18—Perry
Missouri 19—Stoddard

Metropolitan Statistical Areas Served by Comcast and Ameritech

Joliet, IL
Aurora-Elgin, IL
Kankakee, IL (Comcast 10.07% interest)

D. SBC means SBC Communications Inc., a corporation with its headquarters in San Antonio, Texas, and includes its successors and assigns, its subsidiaries and affiliates, and its directors, officers, managers, agents and employees acting for or on behalf of any of the foregoing entities.

E. SBC/Ameritech Merger means the merger of SBC and Ameritech, as detailed in the Agreement and Plan of Merger entered into by SBC and Ameritech on May 10, 1998, for which defendants have filed a notification pursuant to the Hart-Scott-Rodino Antitrust Improvements Act on July 20, 1998.

III

Applicability and Effect

A. The provisions of this Final Judgment shall be applicable to each of

the defendants, its affiliates, subsidiaries, successors, and assigns, and its directors, officers, managers, agents, employees, attorneys, and shall also be applicable to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the sale or other disposition to an Interim Party, which shall be defined to mean any person other than a purchaser approved by the plaintiff pursuant to Section IV.C, of all or substantially all of their assets, or of a lesser business unit containing the Cellular System Assets required to be divested by this Final Judgment, that the Interim Party agrees to be bound by the provisions of this Final Judgment, and shall also require that any purchaser of the Cellular System Assets agree to be bound by Section X of this Final Judgment.

IV

Divestiture of Cellular Interests

A. Defendants Ameritech and SBC shall divest themselves, at or before the time of consummation of the SBC/Ameritech Merger, of the Cellular System Assets as defined above in each of the Overlapping Cellular Markets, including both any direct or indirect financial ownership interests and any direct or indirect role in management or participation in control, to a purchaser or purchasers acceptable to plaintiff in its sole discretion, or to a trustee designated pursuant to Section V of this Final Judgment. Divestiture of the Cellular System Assets in each of the Overlapping Cellular Markets to a purchaser or purchasers acceptable to plaintiff in its sole discretion, as required in Section IV.C of this Final Judgment, shall occur no later than one hundred eighty (180) calendar days after the earlier of the following events: (i) issuance of all final authorizations by the FCC and state regulatory commissions that are necessary preconditions to the consummation of the SBC/Ameritech Merger, or (ii) the consummation of the SBC/Ameritech Merger; provided, however, that if applications have been filed with the FCC within the one hundred eighty day period seeking approval to assign or transfer licenses to the purchaser(s) of the Cellular System Assets but approval of such applications has not been granted before the end of the one hundred eighty day period, the period shall be extended with respect to the divestiture of those Cellular System Assets for which final FCC approval has

not been granted until five (5) days after such approval is received.

B. Defendants agree to use their best efforts to accomplish the divestitures set forth in this Final Judgment (i) as expeditiously as possible, including obtaining all necessary regulatory approvals, and (ii) to a purchaser or purchasers at or before consummation of the SBC/Ameritech Merger. The divestitures carried out under the terms of this decree shall also be conducted in compliance with the applicable rules of the FCC, including 47 CFR 20.6 (spectrum aggregation) and 47 CFR 22.942 (cellular cross-ownership). Authorization by the FCC to conduct divestiture of a cellular system in a particular manner will not modify any of the requirements of this decree.

C. Unless plaintiff otherwise consents in writing, the divestitures pursuant to Section IV, or by trustee appointed pursuant to Section V of the Final Judgment, shall be accomplished by (1) divesting all of the Cellular System Assets in any individual Overlapping Cellular Market entirely to a single purchaser (but Cellular System Assets in different Overlapping Cellular Markets may be divested to different purchasers), and (2) selling or otherwise conveying the Cellular System Assets to the purchaser(s) in such a way as to satisfy plaintiff, in its sole discretion, that each cellular system can and will be used by the purchaser(s) as part of a viable, ongoing business engaged in the provision of cellular mobile telephone service. The divestitures pursuant to this Final Judgment shall be made to a purchaser(s) for whom it is demonstrated to plaintiff's sole satisfaction that (1) purchaser(s) has the capability and intent of competing effectively in the provision of cellular mobile telephone service using the Cellular System Assets, (2) the purchaser(s) has the managerial, operational and financial capability to compete effectively in the provision of cellular mobile telephone service using the Cellular System Assets, (3) with respect to the purchaser of the Cellular System Assets in the St. Louis Area, if such Cellular System Assets are divested to the purchaser by Ameritech rather than by the trustee, the purchaser has the capability of competing effectively in the provision of local exchange telecommunications services and long distance telecommunications services in the St. Louis Area, and (4) none of the terms of any agreement between the purchaser(s) and either of the defendants shall give defendants the ability unreasonably (i) to raise the purchaser(s) costs, (ii) to lower the purchaser(s)'s efficiency, (iii) to limit

any line of business which a purchaser(s) may choose to pursue using the Cellular System Assets (including, but not limited, to entry into local telecommunications services on a resale or facilities basis or long distance telecommunications services on a resale or facilities basis), or otherwise to interfere with the ability of the purchaser(s) to compete effectively.

D. If they have not already done so, defendants shall make known the availability of the Cellular System Assets in each of the Overlapping Cellular Markets by usual and customary means, sufficiently in advance of the time of consummation of the SBC/Ameritech Merger reasonably to enable the required divestitures to be carried out at or before the consummation of the SBC/Ameritech Merger. Defendants shall inform any person making an inquiry regarding a possible purchase of the Cellular System Assets that the sale is being made pursuant to the requirements of this Final Judgment, as well as the rules of the FCC, and shall provide such person with a copy of the Final Judgment.

E. Defendants shall offer to furnish to all prospective purchasers, subject to customary confidentiality assurances, access to personnel, the ability to inspect the Cellular System Assets, and all information and any financial, operational, or other documents customarily provided as part of a due diligence process, including all information relevant to the sale and to the areas of business in which the cellular system has been engaged or has considered entering, except documents subject to attorney-client or work product privileges, or third party intellectual property that defendants are precluded by contract from disclosing and that has been identified in a schedule pursuant to Section II.B. Defendants shall make such information available to the plaintiff at the same time that such information is made available to any other person.

F. Defendants shall not interfere with any negotiations by any purchaser to retain any employees who work or have worked since May 11, 1998 (other than solely on a temporary assignment basis from another part of Ameritech or SBC) with, or whose principal responsibility relates to, the divested Cellular System Assets.

G. To the extent that the cellular systems to be divested use intellectual property, as required to be identified by Section II.B, that cannot be transferred or assigned without the consent of the licensor or other third parties, defendants shall cooperate with the

purchaser(s) and trustee to seek to obtain those consents.

H. Defendants shall preserve all records of all efforts made to preserve and divest any or all of the Cellular System Assets required to be divested until the termination of this Final Judgment.

V

Appointment of Trustee

A. If, at or before the consummation of the SBC/Ameritech Merger, the defendants have not divested all of the Cellular System Assets required to be divested to a purchaser or purchasers that have been approved by plaintiff pursuant to Section IV.C, then, before defendants consummate the SBC/Ameritech Merger:

1. Defendants shall notify plaintiff in writing whether the remaining Cellular System Assets to be divested in the Overlapping Cellular Markets, other than those in the St. Louis Area (the St. Louis, MO-IL Metropolitan Statistical Area and the Missouri 8, Missouri 12, Missouri 18, and Missouri 19 Rural Service Areas), and the Comcast Overlapping Cellular Markets (the Joliet, IL, Aurora-Elgin, IL, and Kankakee, IL Metropolitan Statistical Areas), shall be those currently owned and used by Ameritech, or those currently owned and used by SBC (in the St. Louis Area and the Comcast Overlapping Cellular Markets, the divested Cellular System Assets must be those owned by Ameritech), and this written notification shall also be provided to the trustee promptly upon his or her appointment by the Court;

2. The Court shall, on application of plaintiff, appoint a trustee selected by the plaintiff, who will be responsible for (a) accomplishing a divestiture of all Cellular System Assets transferred to the trustee from defendants, in accordance with the terms of this Final Judgment, to a purchaser or purchaser(s) approved by the plaintiff under Section IV.C, and (b) exercising the responsibilities of the licensee and controlling and operating the transferred Cellular System Assets, to ensure that the cellular systems remains ongoing, economically viable competitors in the provision of cellular mobile wireless telecommunications services in the Overlapping Cellular Markets, until they are divested to a purchaser or purchasers, and the trustee shall agree to be bound by this Final Judgment;

3. Defendants shall submit a form of trust agreement ("Trust Agreement") to the plaintiff, which must be consistent with the terms of this Final Judgment and which must have received approval

by the plaintiff, who shall communicate to defendants within ten (10) business days approval or disapproval of that form; and

4. After obtaining any necessary approval from the FCC for the transfer of control of the licenses of the remaining cellular systems to the trustee, defendants shall irrevocably divest the remaining Cellular System Assets to the trustee, who will own such assets (or own the stock of the entity such assets, if divestiture is to be effected by the creation of such an entity for sale to purchaser(s) and control such assets, subject to the terms of the approved Trust Agreement.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the cellular system(s) to be divested, which shall be done within the time periods set forth in this Final Judgment. Those assets shall be the Cellular System Assets for the Ameritech cellular operations in the St. Louis Area (the St. Louis MO-IL Metropolitan Statistical Area and the Missouri 8, Missouri 12, Missouri 18, and Missouri 19 Rural Service Areas) and the Comcast Overlapping Cellular Markets (the Joliet, IL, Aurora-Elgin, IL, and Kankakee, IL Metropolitan Statistical Areas) and the Cellular System Assets as designated by defendants prior to the consummation of the SBC/Ameritech Merger as set forth in Section V.A.1 for the remaining Overlapping Cellular Markets. The trustee shall have the power and authority to accomplish the divestiture at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment. Subject to Section V.C of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of defendants any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestiture and in the management of the Cellular System Assets transferred to the trustee, and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the divestiture at the earliest possible time to a purchaser acceptable to the plaintiff in its sole discretion, and shall have such other powers as this Court shall deem appropriate. The defendants shall not object to a sale by the trustee on any grounds other than the trustee's malfeasance. Any such objections by the defendants must be conveyed in writing to plaintiff and the trustee within ten (10) days after the trustee has provided

the notice required under Section VI of this Final Judgment.

C. The trustee shall serve at the cost and expense of the defendants, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the cellular system(s) sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to defendants and the trust shall then be terminated. The compensation of such trustee and of professionals and agents retained by the trustee shall be reasonable in light of the value of the divested cellular system(s) and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

D. The defendants shall use their best efforts to assist the trustee in accomplishing the required divestiture, including their best efforts to effect all necessary regulatory approvals. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the cellular system(s) to be divested, and the defendants shall develop financial or other information relevant to the business to be divested customarily provided in a due diligence process as the trustee may reasonably request, subject to customary confidentiality assurances. As required and limited by Sections IV.E and F of this Final Judgment, the defendants shall permit prospective purchaser(s) of the cellular system(s) to have reasonable access to personnel and to make such inspection of the Cellular System Assets to be sold and any and all financial, operational, or other documents and other information as may be relevant to the divestiture required by this Final Judgment.

E. After being appointed and until the divestiture of the Cellular System Assets is complete, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment; provided, however, that, to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring,

entered into negotiations to acquire, or was contacted or made an inquiry about acquiring the Cellular System Assets to be sold, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest the Cellular System Assets.

F. If the trustee has not accomplished the divestiture of all of the Cellular System Assets within the time specified for completion of divestiture to a purchaser or purchaser(s) under Section IV.A of this Final Judgment, the trustee thereupon shall file promptly with this Court a report setting forth: (1) the trustee's efforts to accomplish the required divestiture; (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished; and (3) the trustee's recommendations; provided, however, that, to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafter such orders as it deems appropriate in order to carry out the purpose of the trust, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period agreed to by the plaintiff.

G. After defendants transfer the Cellular System Assets to the trustee, and until those Cellular System Assets have been divested to a purchaser or purchaser(s) approved by plaintiff pursuant to Section IV.C, the trustee shall have sole and complete authority to manage and operate the Cellular System Assets and to exercise the responsibilities of the licensee, and shall not be subject to any control or direction by defendants. Defendants shall not retain any economic interest in the Cellular System Assets transferred to the trustee, apart from the right to receive the proceeds of the sale or other disposition of the Cellular System Assets. The trustee shall operate the cellular system(s) as a separate and independent business entity from SBC or Ameritech, with sole control over operations, marketing and sales. SBC and Ameritech shall not communicate with, or attempt to influence the business decisions of, the trustee concerning the operation and management of the cellular systems, and shall not communicate with the trustee concerning the divestiture of the Cellular System Asset or take any action to influence, interfere with, or impede

the trustee's accomplishment of the divestitures required by this Final Judgment, except that defendants may communicate with the trustee to the extent necessary for defendants to comply with this Final Judgment and to provide the trustee, if requested to do so, with whatever resources or cooperation may be required to complete the divestitures of the Cellular System Assets and to carry out the requirements of this Final Judgment. In no event shall defendants provide to, or receive from, the trustee or the cellular systems under the trustee's control any non-public or competitively sensitive marketing, sales, or pricing information relating to their respective cellular mobile wireless telecommunications service businesses.

VI

Notification

A. Within two (2) business days following execution of a binding agreement to effect, in whole or in part, any proposed divestiture required by this Final Judgment, whichever defendant is divesting the cellular system, or the trustee if the trustee is divesting the cellular system, shall notify plaintiff of the proposed divestiture. If the trustee is responsible for the divestiture, the trustee shall similarly notify the defendants. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who theretofore offered to, or expressed an interest in or a desire to, acquire any ownership interest in the Cellular System Assets that are the subject of the binding agreement, together with full details of same.

B. Within fifteen (15) calendar days of receipt by plaintiff of such notice, plaintiff may request from defendants, the proposed purchaser(s), any other third party, or the trustee (if applicable), additional information concerning the proposed divestiture and the proposed purchaser(s) or any other potential purchasers. Defendants and the trustee shall furnish any such additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days after receipt of the notice, or within twenty (20) calendar days after plaintiff has been provided the additional information requested from defendants, the proposed purchaser(s), any third party, or the trustee, whichever is later, plaintiff shall provide written notice to defendants and the trustee, if there is one, stating

whether or not plaintiff objects to the proposed divestiture. If plaintiff provides written notice to defendants and the trustee, if there is one, that it does not object, then the divestiture may be consummated subject only to defendants' limited right to object to the sale under Section V.B of this Final Judgment. Absent written notice that plaintiff does not object to the proposed purchaser(s) or in the event of an objection by plaintiff, a divestiture shall not be consummated. Upon objection by a defendant under the proviso of Section V.B. a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII

Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter and every thirty (30) calendar days thereafter until the divestitures have been completed, defendants shall deliver to plaintiff an affidavit as to the fact and manner of defendants' compliance with this Final Judgment. With respect to the period preceding the consummation of the SBC/Ameritech Merger, each such affidavit shall (i) include, *inter alia*, the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any or all of the Cellular System Assets required to be divested, (ii) describe in detail each contact with any such person during that period, and (iii) include a summary of the efforts that defendants have made to solicit a purchaser(s) for the Cellular System Assets to be divested in the Overlapping Cellular Markets pursuant to this Final Judgment and to provide required information to prospective purchasers.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to plaintiff an affidavit which describes in reasonable detail all actions defendants have taken and all steps defendants have implemented on an ongoing basis to preserve the Cellular System Assets to be divested pursuant to this Final Judgment. Defendants shall deliver to plaintiff another affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavits filed pursuant to Section VII.B of this Final Judgment within fifteen (15) calendar days after the change is implemented.

VIII

Financing

Defendants shall not finance all or any part of any purchase by an acquirer made pursuant to Sections IV or V of this Final Judgment.

IX

Hold Separate Order

A. Until accomplishment of the divestitures of the Cellular System Assets to purchaser(s) approved by plaintiff pursuant to Section IV.C, each defendant shall take all steps necessary to ensure that each of the cellular systems that it owns or operates in the Overlapping Cellular Markets shall continue to be operated as a separate, independent, ongoing, economically viable and active competitor to the other cellular system and mobile wireless telecommunications providers operating in the same license area; and that except as necessary to comply with this Final Judgment, the operation of said cellular systems (including the performance of decision-making functions relating to marketing and pricing) will be kept separate and apart from, and not influenced by, the operation of the other cellular system, and the books, records, and competitively sensitive sales, marketing, and pricing information associated with said cellular systems will be kept separate and apart from the books, records, and competitively sensitive sales, marketing, and pricing information associated with the other cellular system.

B. Until the Cellular System Assets in each Overlapping Cellular Market have been divested to purchaser(s) approved by the plaintiff, or transferred to a trustee pursuant to Section V of this Final Judgment, defendants shall in accordance with past practices, with respect to the Cellular System Assets in the Overlapping Cellular Markets (including the assets of both cellular systems in any Overlapping Cellular Market where the cellular system that will be divested has not yet been decided):

1. Use all reasonable efforts to maintain and increase sales of cellular mobile telephone services, and maintain and increase promotional, advertising, sales, and marketing support for the cellular mobile telephone services sold by the cellular systems;

2. Take all steps necessary to ensure that the Cellular System Assets are fully maintained in operable condition and shall maintain and adhere to normal maintenance schedules;

3. Provide and maintain sufficient lines of sources of credit and working

capital to maintain the Cellular System Assets as viable ongoing businesses;

4. Be prohibited from, except as part of a divestiture approved by plaintiff, removing or selling any of the Cellular System Assets, other than sales in the ordinary course of business;

5. Be prohibited from terminating, transferring, or reassigning any employees who work with the Cellular System Assets, except (a) in the ordinary course of business, (b) for transfer bids initiated by employees pursuant to defendants' regular, established job posting policies, or (c) as necessary to promote accomplishment of defendants' obligations under this Final Judgment; and

6. Take no action that would impede in any way or jeopardize the sale of the Cellular System Assets.

C. Following consummation of the SBC/Ameritech Merger, defendants shall take no action that would impede in any way or jeopardize the sale of the Cellular System Assets.

D. Defendants shall, during the period before all Cellular System Assets have been divested to a purchaser(s) or transferred to the trustee pursuant to Section V of this Final Judgment, each appoint a person or persons to oversee the Cellular System Assets owned by that defendant, who will be responsible for defendants' compliance with the requirements of Sections VII and IX of this Final Judgment. Such person(s) shall not be an officer, director, manager, employee, or agent of the other defendant.

X

Compliance Inspection

For the purposes of determining or securing compliance of defendants with this Final Judgment, and subject to any legally recognized privilege, from time to time.

A. Duly authorized representatives of the United States Department of Justice, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the relevant defendant made to its principal office, shall be permitted without restraint or interference from defendants.

1. to have access during office hours of defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants, who may have counsel present, relating to any matters contained in this Final Judgment; and

2. to interview, either informally or on the record, and to take sworn testimony

from the officers, directors, employees, or agents of defendants, who may have counsel present, relating to any matters contained in this Final Judgment.

B. Upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, made to defendants at their principal offices, defendants shall submit written reports, under oath if requested, relating to any of the matters contained in this Final Judgment.

C. No information or documents obtained by the means provided in this section X or sections VI and VII shall be divulged by the plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, or to the FCC (pursuant to a customary protective order or a waiver of confidentiality by defendants), 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 defendants to plaintiff, defendants represent and identify in writing the material in any such information or documents as to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and 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 ten (10) calendar days' notice shall be given by plaintiff to defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which defendants are not a party.

XI

Retention of Jurisdiction

Jurisdiction is retained by this Court for the purposes of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XII

Further Provisions and Termination

A. The entry of this judgment is in the public interest.

B. Unless this Court grants an extension, this Final Judgment shall

expire on the tenth anniversary of the date of its entry.

United States District Judge.

Competitive Impact Statement

The United States, pursuant to section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h) ("APPA"), 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

The United States filed a civil antitrust Complaint on March 23, 1999, alleging that the proposed acquisition of Ameritech Corporation ("Ameritech") by SBC Communications, Inc. ("SBC") would violate Section 7 of the Clayton Act, 15 U.S.C. 18 by lessening competition in the markets for wireless mobile telephone services in seventeen cellular license areas in Illinois, Indiana and Missouri. In these seventeen areas, which are identified in the Complaint as the "Overlapping Markets", Ameritech is one of two providers of cellular mobile telephone services. The other provider of cellular mobile telephone services in the Overlapping Markets is either SBC or Comcast Cellular Corporation ("Comcast"), which SBC has entered into an agreement to acquire.

Shortly before the Complaint in this matter was filed, the Department and the defendants reached agreement on the terms of a proposed Final Judgment, which requires SBC and Ameritech to divest one of the cellular telephone systems in each of the Overlapping Markets.¹ In nine of the Overlapping Markets in Illinois and Indiana, the defendants can choose which cellular system to divest, but in the five Overlapping Markets in Missouri in the St. Louis area, as well as the three Overlapping Markets in Illinois where Comcast and Ameritech both own cellular systems, the Ameritech cellular systems must be the ones divested. The proposed Final Judgment also contains provisions, explained below, designed to minimize any risk of competitive harm that otherwise might arise pending completion of the divestiture. The proposed Final Judgment embodying the settlement, and a Stipulation by plaintiff and defendants consenting to

¹ The proposed Final Judgment describes the seventeen license areas containing overlapping cellular systems as the "Overlapping Cellular Markets." That term has the same meaning as the "Overlapping Markets" referred to in the Complaint, and the two terms are used interchangeably herein.

its entry, were filed simultaneously with the Complaint.

The United States and the defendants have stipulated that the proposed Final Judgment may be entered after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 ("APPA"). Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof. The United States and the defendants have also stipulated that the defendants will comply with the terms of the proposed Final Judgment from the date of signing of the Stipulation, pending entry of the Final Judgment by the Court, permitting the required divestitures to be carried out and the acquisition to be consummated prior to completion of the APPA procedures. Should the Court decline to enter the Final Judgment, the defendants have also committed to continue to abide by its requirements until the expiration of time for any appeals of such ruling.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

SBC and Ameritech are two of the remaining five Regional Bell Operating Companies ("RBOCs") created in 1984 by the consent decree settling the United States' antitrust case against American Telephone & Telegraph Co. SBC and Ameritech each provide local exchange telephone services indistinct regions, and also provide wireless mobile telephone services, including cellular mobile telephone services, both within and outside of their local exchange service regions.

SBC, with headquarters in San Antonio, Texas, is the second largest RBOC in the United States, with approximately 43 million total local access lines. In 1998, SBC had revenues in excess of \$28 billion. SBC provides local telephone services to retail customers in Arkansas, California, Connecticut, Kansas, Missouri, Nevada, Oklahoma, and Texas as well as cellular mobile telephone services or other wireless mobile telephone services in those states. SBC also provides cellular mobile telephone services or other wireless mobile telephone services in some areas outside its local exchange service region, including the District of Columbia and areas within the states of Illinois, Indiana, Maryland, Massachusetts, Rhode Island, New York, Virginia, and West Virginia. SBC,

through its Cellular One cellular systems out of region and its in-region Southwestern Bell, Pacific Bell, Nevada Bell and SNET cellular or other wireless mobile systems, is the nation's third largest wireless mobile telephone service provider, serving areas with a total population of about 82 million, and it has about 6.5 million subscribers nationwide.

Ameritech, with headquarters in Chicago, Illinois, is the fourth largest RBOC in the United States, with approximately 24 million total local access lines. In 1998, Ameritech had revenues in excess of \$17 billion. Ameritech provides local telephone service to retail customers in Illinois, Indiana, Michigan, Ohio, and Wisconsin, and also provides cellular mobile telephone service in these states, as well as in some states outside its local exchange service region including Missouri and Hawaii. Ameritech is a major wireless mobile telephone service providers, serving areas with a total population of about 30 million, and it has about 3.2 million subscribers nationwide.

On May 10, 1998, SBC and Ameritech entered into a purchase agreement, the Agreement and Plan of Merger, whereby SBC would acquire Ameritech in exchange for SBC stock valued at approximately \$58 billion dollars at the time of the agreement. Defendants filed a notification of this transaction pursuant to the Hart-Scott-Rodino Antitrust Improvements Act, 15 U.S.C. 18a, on July 20, 1998.

SBC has also entered into an agreement as of January 19, 1999, to acquire Comcast Cellular Corporation for \$1.67 billion, which would give SBC all of Comcast's cellular telephone systems. Notification of this transaction also was filed pursuant to the Hart-Scott-Rodino Antitrust Improvements Act. By acquiring Comcast's cellular telephone systems, SBC would become a provider of cellular mobile telephone services in additional areas in Delaware, Illinois, Indiana, New Jersey and Pennsylvania. The acquisition of the Comcast cellular systems would add about 800,000 subscribers to SBC's total of wireless subscribers nationwide.

If both transactions were consummated, the combined total of SBC's and Ameritech's cellular and other wireless mobile telephone service subscribers would be 10.5 million, including the number of subscribers SBC would receive from its acquisition of Comcast.

B. Wireless Mobile Telephone Services

Wireless mobile telephone services permit users to make and receive

telephone calls, using radio transmissions, while traveling by car or by other means. The mobility afforded by this service is a valuable feature to consumers, and cellular and other wireless mobile telephone services are commonly priced at a substantial premium above landline services. In order to provide this capability, wireless carriers must deploy an extensive network of switches and radio transmitters and receivers, and interconnect this network with the networks of local and long distance landline carriers, and with the networks of other wireless carriers. In 1998, revenues from the sale of wireless mobile telephone services totaled approximately \$30 billion in the United States.

Initially, wireless mobile telephone services were provided principally by two cellular systems in each license area, as was the case in the Overlapping Markets. Cellular licenses were awarded by the Federal Communications Commission ("FCC") beginning in the early 1980s, within any given Metropolitan Statistical Area ("MSA") or Rural Service Area ("RSA").² Providers of Specialized Mobile Radio ("SMR") services typically were also authorized to operate with some additional spectrum in these areas, including the Overlapping Markets.

In 1995 the FCC allocated (and subsequently issued licenses for) additional spectrum for the provisions of PCS, a category of services which includes wireless mobile telephone services comparable to those offered by cellular carriers. In 1996 one SMR spectrum licensee began to use its SMR spectrum to offer wireless mobile telephone services, comparable to that offered by cellular providers and bundled with dispatch services, in a number of areas including some of the Overlapping Markets. The areas for which PCS providers are licensed differ from the cellular MSAs and RSAs but overlap with them.³ However, in many areas, including the Overlapping Markets, not all of the PCS license holders have started to offer services or

² 25 MHz of spectrum was allocated to each cellular system in an MSA or RSA. MSAs are the 306 urbanized areas in the United States defined by the federal government, used by the FCC to define the license areas for urban cellular systems. RSAs are the 428 areas defined by the FCC used to define the license areas for rural cellular systems outside of MSAs.

³ There can be as many as three PCS providers, with 30 MHz of spectrum each, authorized to serve areas considerably larger than a single MSA or RSA. In addition, there can be as many as three PCS providers, with 10 MHz of spectrum each, licensed to provide service in smaller areas that overlap more closely with a given MSA or RSA.

have even begun to construct the facilities necessary to begin offering service. The PCS providers have tended to enter first in the largest cities, entering in smaller markets only later and not to as great an extent. Moreover, even in those areas where one or more PCS providers have constructed their networks and have started to offer service or some SMR spectrum is also used for wireless mobile telephone services, including the Overlapping Markets, the incumbent cellular providers, such as SBC and Ameritech, still typically control the great majority of the market.

C. Anticompetitive Consequences of the Proposed Acquisition

SBC and Ameritech are the sole providers of cellular mobile telephone services, and the two primary providers of all wireless mobile telephone services, in fourteen cellular license areas in the states of Illinois, Indiana, and Missouri. These fourteen areas are referred to in the Complaint as the "SBC/Ameritech Overlapping Markets." SBC and Ameritech are direct competitors in the markets for wireless mobile telephone services in the SBC/Ameritech Overlapping Markets.

In three cellular license areas in the state of Illinois, the cellular systems owned entirely or in part by Ameritech and Comcast are the sole providers of cellular mobile telephone services, and the two primary providers of all wireless mobile telephone services. These three areas, which are in addition to the fourteen cellular license areas where Ameritech and SBC own overlapping cellular systems, are referred to in the Complaint as the "Comcast/Ameritech Overlapping Markets." Comcast and Ameritech are direct competitors in the markets for wireless mobile telephone services in the Comcast/Ameritech Overlapping Markets. SBC already manages the Comcast cellular systems in the Comcast/Ameritech Overlapping Markets. When the Comcast acquisition is consummated, SBC and Ameritech will own, entirely or in part, the overlapping cellular systems in these additional three cellular license areas in the state of Illinois.

In the Overlapping Markets, the population potentially addressable by cellular mobile telephone systems totals about 11 million, including over 10.8 million in the SBC/Ameritech Overlapping Markets and nearly 200,000 in the Comcast/Ameritech Overlapping Markets. The Overlapping Markets are listed below:

SBC/Ameritech Overlapping Markets

MSAs

Chicago, IL
St. Louis, MO-IL
Gary-Hammond-East Chicago, IN
Springfield, IL
Champaign-Urbana-Rantoul, IL
Bloomington-Normal, IL
Decatur, IL

RSAs

Illinois 2—Bureau
Illinois 5—Mason
Illinois 6—Montgomery
Missouri 8—Callaway
Missouri 12—Maries
Missouri 18—Perry
Missouri 19—Stoddard

Comcast/Ameritech Overlapping Markets

MSAs

Joliet, IL
Aurora-Elgin, IL
Kankakee, IL (Comcast has a 10.07% interest in this cellular system)

If SBC's plan to acquire Ameritech were consummated, only one provider of cellular mobile telephone services would remain available to consumers in the Overlapping Markets. SBC would own both cellular systems in the SBC/Ameritech Overlapping Markets. In addition, because SBC already manages the Comcast cellular systems in Illinois, SBC would operate both of the cellular systems in the Comcast/Ameritech Overlapping Markets if SBC were to acquire Ameritech. If both the Comcast and Ameritech acquisitions were consummated, SBC would own, entirely or in part, both of the cellular systems in the Comcast/Ameritech Overlapping Markets.

Therefore, SBC's acquisition of Ameritech would cause the level of concentration among firms providing wireless mobile telephone services in the Overlapping Markets to increase significantly. Already a high level of concentration in the provision of wireless mobile telephone services exists in the Overlapping Markets. In the SBC/Ameritech Overlapping Markets, the individual market shares of SBC and Ameritech, measured on the basis of the numbers of subscribers or wireless lines served, range from 30% to over 50%. The combined market share of SBC and Ameritech in the provision of wireless mobile telephone services is in the range of 80 to 90%, taking into account other operational wireless mobile competitors.⁴ As measured by

⁴The United States has used subscriber data here to estimate market shares because those data are more readily available. In some contexts, however,

the Herfindahl-Hirschman Index (HHI), which is commonly employed by the Department of Justice in merger analyses and is explained in more detail in Appendix A to the Complaint, concentration in these markets is already in the range of 3200 to 4100, well above the 1800 threshold at which the Department normally considers a market to be concentrated. After the merger, the HHI in these markets will greatly increase and will range from 6400 to 8100. In the Comcast/Ameritech Overlapping Markets, the combined market share of Comcast and Ameritech similarly is much larger than that of all other wireless mobile competitors, and the merger would similarly lead to large increases in concentration.

Competition between SBC and Ameritech, and between Comcast and Ameritech, as the two largest providers of wireless mobile telephone services in the Overlapping Markets, has resulted in lower prices and higher quality of service in these markets than would otherwise have existed absent such competition. If SBC and Ameritech were to merge, the competition between SBC and Ameritech and between Comcast and Ameritech in wireless mobile telephone services in these markets would be eliminated, and competition overall for wireless mobile telecommunications services would be substantially lessened in the Overlapping Markets by SBC's acquisition of Ameritech. As a result of the loss in competition between SBC and Ameritech, and between Comcast and Ameritech, there would be an increased likelihood both of unilateral actions by the combined firm in these markets to increase prices, diminish the quality or quantity of service provided, or refrain from making investments in network improvements, and of coordinated interaction among the limited number of remaining competitors that could lead to similar anticompetitive results.

Competition would also be adversely affected in another, related way by the consummation of SBC's acquisition of Ameritech. In the SBC/Ameritech Overlapping Markets in the St. Louis area, including the St. Louis MSA and the four RSAs in Missouri, Ameritech planned, prior to its announcement of its agreement to be acquired by SBC, to

other measures of market share may provide a more precise indication of market concentration or a firm's competitive significance. The use of subscriber data here is reasonable, given that measuring market share in other ways would not affect the Department's conclusions. The market shares of SBC and Ameritech would also be very high if measured on a variety of dimensions other than subscribers or lines served, such as revenues or volumes of traffic handled.

provide local exchange and long distance telephone services in SBC's local telephone service area. Ameritech would have competed with SBC primarily by selling bundled packages of such local exchange and long distance telephone services, together with its cellular mobile telephone service, to existing Ameritech residential cellular customers. There is no alternative source of such a bundled product in the St. Louis area at present. Ameritech expected that its plan would enhance its ability to retain existing cellular customers. Ameritech had made extensive preparations for entry, over the course of more than a year, and was ready to begin providing local exchange and long distance telephone services to its cellular mobile telephone customers at the time it agreed to be acquired by SBC. Shortly thereafter, because it was being acquired by SBC, Ameritech decided not to implement its local exchange and long distance entry plans in the St. Louis area. The consummation of SBC's acquisition of Ameritech thus would preclude such competition by Ameritech.

It is unlikely that entry within the next two years into wireless mobile telephone services in the Overlapping Markets would be sufficient to mitigate the competitive harm resulting from this acquisition, if it were to be consummated.

For these reasons, the United States concluded that the merger as proposed may substantially lessen competition, in violation of Section 7 of the Clayton Act, in the provision of wireless mobile telephone services in the Overlapping Markets.

III. Explanation of the Proposed Final Judgment

A. The Divestiture Requirement

The proposed Final Judgment will preserve competition in the sale of mobile wireless services in the Overlapping Markets by requiring the defendants to divest one of their two cellular telephone systems in each of the Overlapping Markets. This divestiture will eliminate the change in market structure caused by the merger.

The divestiture requirements of the proposed Final Judgment, as stated in Sections IV.A and II.B, direct Ameritech to divest its cellular telephone systems in St. Louis and other markets in Missouri, as well as its cellular telephone systems in the three markets in Illinois where it overlaps with Comcast. In the remaining markets in Illinois and Indiana where SBC's and Ameritech's cellular telephone systems overlap, SBC and Ameritech may

choose which of the two systems in each market must be divested. Section IV.C permits the different cellular systems in separate Overlapping Cellular Markets to be divested to different purchasers, but requires that, for any individual cellular system, the Cellular System Assets be divested entirely to a single purchaser, unless the United States otherwise consents in writing.

In the Comcast/Ameritech Overlapping Markets, because Comcast is not a party to the consent decree, the necessary divestitures to avoid loss of competition between the overlapping cellular systems could be effected only through Ameritech. Comcast was not considered a necessary party to this action because SBC's acquisition of Comcast, standing alone, is not a competitive problem. A violation of Section 7 of the Clayton Act only arises in the three Comcast/SBC Overlapping Markets when the Comcast acquisition is considered together with SBC's merger with Ameritech.

The reason for requiring the divestiture of the five Ameritech cellular systems in the St. Louis area is different, arising from Ameritech's plans prior to the merger to compete with SBC in providing local exchange and long distance telephone services together with its cellular mobile telephone services in St. Louis. Ameritech had made extensive preparations to provide local exchange and long distance services in SBC's local telephone service area, over the course of the year preceding the announcement of the merger, and was ready to launch its bundled offering of these services together with cellular telephone service at the time the merger was announced. In contrast, the SBC cellular systems in the St. Louis area, being owned by the incumbent local telephone service provider, had made no preparations to offer local exchange telephone service competition in any of the relevant markets in Missouri.

The loss of competition in cellular mobile telephone services between the Ameritech and SBC cellular systems in Missouri, standing alone, required one of the two cellular systems to be divested, as in the other Overlapping Markets. However, a buyer of the Ameritech cellular systems would be much more favorably positioned to enter rapidly into local exchange and long distance telephone services in St. Louis and provide a bundled product together with its cellular services than would a buyer of the SBC cellular systems in the St. Louis area. Therefore, in order to remedy this aspect of the competitive harm arising from the

merger, the United States concluded that the divestiture of the Ameritech cellular systems in the St. Louis area, together with "those assets acquired, developed, used or intended for use in connection with the provision of local exchange telecommunications services and long distance telecommunications services by such system[s]," would be necessary, as required by Section II.B of the proposed Final Judgment.

The proposed Final Judgment's divestiture provisions are intended to accomplish the "complete divestiture of the entire business of one of the two cellular systems in each of the Overlapping Cellular Markets," as Section II.B states. Section II.B also specifies in detail the types of assets to be divested, which collectively are described throughout the consent decree as "Cellular System Assets," and addresses some special circumstances concerning the divestiture of those assets. In all of the Overlapping Markets, Cellular System Assets means all types of assets, tangible and intangible, used by defendants in the operation of each of the cellular systems to be divested, including the provision of long distance telecommunications service for wireless calls. For the five Ameritech cellular systems to be divested in the St. Louis area, additional types of assets related to Ameritech's plans for providing local exchange and long distance telecommunications services are also included, as described above. Section II.B enumerates in detail, without limitation, particular types of assets covered by the divestiture requirement.

For the most part, the divesting defendant is required to transfer to the purchaser the complete ownership and/or other rights to the Cellular System Assets. However, the merged firm will retain a number of other cellular systems in areas that do not overlap, and prior to the merger each defendant may have had certain assets that were used substantially in the operations of its overall cellular business and that must be retained to some extent to continue the exiting operations of the cellular properties not being divested. Section II.B permits special divestiture arrangements for such assets either if they are not capable of being divided between the divested and retained cellular systems, or if the divesting defendant and the purchaser agree not to divide them. For these assets, the divestiture requirement is satisfied if the divesting defendant grants to the purchaser, at the election of the purchaser, an option to obtain a non-exclusive, transferable license for a reasonable period to use the assets in

the operation of the cellular system being divested, so as to enable the purchaser to continue to operate the divested cellular systems without impairment. None of the Cellular System Assets associated with Ameritech's plans to provide local exchange and long distance telecommunications service in the St. Louis are covered by this licensing requirement, because all of those assets are required to be transferred completely to the purchaser.

The definition of Cellular system Assets in section II.B contains the special provisions relating to intellectual property. One addresses intellectual property rights that defendants may have under third-party licenses that could not be transferred to a purchaser entirely or by license without the consent of the third-party licensor. If any such assets are used by the cellular systems being divested, defendants must identify them in a schedule submitted to plaintiff and filed with the Court as expeditiously as possible following the filing of the Complaint, in any event, prior to any divestiture and before the Court approves the proposed Final Judgment. Defendants must explain the necessary consents and how a consent would be obtained for each asset. This proviso is not intended to afford defendants any opportunity to withhold intellectual property rights over which they have any control, which could impair the ability of a purchaser to use the divested cellular system to compete effectively. It relates only to intellectual property assets that defendants have no power to transfer themselves, and defendants must do all that is possible to transfer the entire business of the divested cellular systems. To make this clear, section IV.G obligates defendants to cooperate with any purchaser as well as a trustee, if any, to seek to obtain the necessary third-party consents, if any assets require such consents before they may be transferred to a purchaser.

The second proviso relates to certain specific trademarks, trade names and service marks. Section II.B, defining the Cellular System Assets to be divested, generally requires the divestiture of trademarks, trade names and service marks, with the four specified exceptions of ones containing "SBC", "Southwestern Bell", "Ameritech", or "Cellular One," which are the names under which the defendants' retained cellular systems, or their corporate parents, do business. Such trademarks, trade names and service marks, like other assets, are either to be divested in their entirety or in the case of such marks and names that must be retained

to continue the existing operations of defendants' remaining cellular properties, and that are not capable of being divided or that the divesting defendant and purchaser agree not to divide, are to be made available to the purchaser through a non-exclusive, transferable license. Section II.B therefore creates an obligation on the part of SBC and Ameritech to license the "Clearpath" trade name, currently used in connection with Ameritech's digital cellular services, to a purchaser of Cellular System Assets currently owned by Ameritech. The Department has been advised by Ameritech, and recognizes on that basis, that (1) Ameritech's use of the trade name "Clearpath" is subject to a letter agreement between Ameritech and Unisys Corporation, (2) any use by a purchaser of Ameritech Cellular System Assets would be pursuant to a license agreement which the purchaser would need to enter into with SBC and/or Ameritech; and (3) such a license agreement would need to contain terms and conditions that would protect SBC and Ameritech from claims by Unisys related to the use of that trade name.

Section IV contains other provisions to facilitate divestiture, including notification of the availability of the Cellular System Assets for purchase in Section IV.D, access to information about the Cellular System Assets in Section IV.E, and preservation of records in Section IV.H. In addition, to ensure that a purchaser will be able to operate the divested cellular systems without impairment, section IV.F prohibits defendants from interfering with a purchaser's negotiations to retain any employees who work or have worked since the date of the announcement of the merger with the Cellular System Assets, or whose principal responsibility relates to the Cellular System Assets.⁵

B. Timing of Divestiture

In antitrust cases involving mergers in which the United States seeks a divestiture remedy, it requires completion of the divestiture within the shortest time period reasonable under the circumstances. The proposed Final Judgment in this case requires, in section IV.A, that the divestitures of the Cellular System Assets in the seventeen Overlapping Cellular Markets to a purchaser or purchasers approved by the United States must be completed within 180 days of the time that SBC

⁵ There is a limited exception for employees working with the Cellular System Assets solely on a temporary basis from another part of SBC or Ameritech.

and Ameritech consummate their merger, or the time that they receive the final regulatory approvals from the FCC and state regulatory commissions that are necessary preconditions to consummation of the merger, whichever is earlier. These alternative starting dates were chosen because, at the time SBC and Ameritech entered into the Stipulation and agreed to the proposed Final Judgment, the FCC and two state regulatory commissions, the Illinois Commerce Commission and the Ohio Public Utilities Commission, were still reviewing SBC's acquisition of Ameritech. The approval of these three regulatory bodies is necessary for the acquisition to be consummated.⁶ If SBC's acquisition of Ameritech were not consummated because any of those regulatory bodies denied the necessary approval, defendants would not be required to divest their cellular systems in the Overlapping Markets.

Even though approval by these three regulatory bodies is a necessary precondition for the merger to be consummated, after an initial favorable decision by any of those regulatory bodies, a brief period of time would exist for reconsideration before the decision would become final. Defendants could agree to consummate their merger based on the initial decisions, before the period for reconsideration has run. Therefore, the time for divestiture has been linked to the first event that would allow the acquisition to take place, either the last of the three necessary final regulatory approvals or a decision by the defendants to consummate the merger without any or all of these final regulatory approvals.

Defendants are also required by Section IV.B to use their best efforts to accomplish the divestitures of the Cellular System Assets in the Overlapping Cellular Markets to a purchaser or purchasers at or before the consummation of the merger of SBC and Ameritech, and to do so as expeditiously as possible, including obtaining all required regulatory approvals.

In addition, the proposed Final Judgment requires in Section IV.B that defendants comply with all of the applicable rules of the FCC in carrying out the divestitures. These rules include 47 CFR 20.6 (spectrum aggregation) and 47 CFR 22.942 (cellular cross-

⁶ The merger is also being reviewed by other state telecommunications regulators, e.g., in Indiana, but the United States understands that prior approval by other state regulators is not necessary for the merger to proceed.

ownership).⁷ These FCC requirements may add to, but cannot subtract from or impair, the requirements of this proposed Final Judgment, since Section IV.B specifies that authorization by the FCC to conduct divestiture of a cellular system in a particular manner will not modify any of the requirements of the decree. The provisions of the proposed Final Judgment have been designed to avoid any conflict with the FCC's rules. In particular, the inclusion of the trusteeship requirements discussed below ensures that impermissible control of both cellular systems by the merged company should not arise even if defendants were to consummate their merger during the 180-day period authorized for divestiture, at a time when some of the cellular systems have not yet been sold to any purchaser approved by the Department of Justice. Since the FCC's approval is required for the transfer of the cellular system licenses to a purchaser, Section IV. A provides one exception to the 180-day divestiture period. If applications for transfer of a cellular license have been filed by the FCC within the 180 day period, but the FCC has not granted approval before the end of that time, the period for divestiture of the specific Cellular System Assets covered by the license that cannot yet be transferred shall be extended until five days after FCC's approval is received. This extension is to be applied only to the individual cellular system affected by the delay in approval of the license transfer and does not entitle defendants to delay the divestiture of any other Cellular System Assets for which license transfer approval has been granted.

C. Use of a Trustee Subsequent to Consummation of the Acquisition

The proposed Final Judgment provides in Section IV.A that, at or before the time that SBC and Ameritech consummate their merger, they must divest the Cellular System Assets in each of the Overlapping Cellular Markets, either to purchasers acceptable to plaintiff in its sole discretion, or to a trustee designated pursuant to Section V

of the Final Judgment. As part of this divestiture, SBC and Ameritech must relinquish any direct or indirect financial ownership interests and any direct or indirect role in management or participation in control. Thus, if SBC and Ameritech want to consummate their merger before they have completed the divestitures of Cellular System Assets to approved purchasers, by the time of consummation, they must have transferred any remaining Cellular System Assets to a trustee chosen by the Department of Justice. Pursuant to Section V of the proposed Final Judgment, the trustee will own and control the systems until they are sold to a final purchaser, subject to safeguards to prevent SBC and Ameritech from influencing their operation.

This trust arrangement is an option available to defendants, to enable them to consummate their merger once all regulatory approvals have been received, even if the 180-day period for divestitures has not yet run and some Cellular System Assets that must be divested have not yet been purchased. It is not the preferred option, however, as indicated by the requirement in Section IV.B that defendants use their best efforts to accomplish the divestitures before consummation of the merger. The overall period of 180 days to complete the divestitures continues to apply, whether the divestitures are made by SBC and Ameritech or by the trustee. In other words, the transfer of any Cellular System Assets to the trustee does not extend the time to complete the divestitures. The trustee simply has whatever part of the 180-day period remains from the time SBC and Ameritech transfer the cellular systems. If, for any reason, the trustee has not completed all of the required divestitures to purchasers within this period, the trustee is required, under Section V.F, to report to the Court on the efforts made and the reasons why divestiture has not been accomplished, but the trust period may be extended by the Court only if plaintiff agrees to the period involved.

Section V details the requirements for the establishment of the trust, the selection and compensation of the trustee, the responsibilities of the trustee in connection with divestiture and operation of the Cellular System Assets, and the termination of the trust. If defendants have not divested all of their Cellular System Assets in the Overlapping Cellular Markets to approved purchasers by the time of consummation of the merger, Section V.A requires that before consummating the merger: (1) defendants must have

notified the United States which Cellular System Assets in each Overlapping Market will be divested; (2) the Court must have appointed a trustee, which shall be selected by the United States; (3) defendants must have submitted a form of Trust Agreement consistent with the terms of the Final Judgment, and the form agreement must have received approval by the United States; and (4) after receiving FCC approval for the license transfers, defendants must irrevocably divest the unsold Cellular System Assets to the trustee. As a practical matter, the process of establishing a trust arrangement for any Cellular System Assets will take some time, so if defendants plan to make use of this option, they will need to begin preparations for it soon after the 180 days has begun to run.

The trustee will have the obligation and the sole responsibility, under Section V.B, for the divestiture of any transferred Cellular System Assets. The trustee has the authority to accomplish divestitures at the earliest possible time and "at the best price then obtainable upon a reasonable effort by the trustee." The defendants are not entitled to object to divestiture based on the adequacy of the price the trustee obtains or any other ground, unless the trustee's conduct amounts to malfeasance. The terms of the trustee's compensation, under Section V.C, will provide incentives based on the price and terms of the divestiture and the speed with which it is accomplished. As provided by Sections V.B and V.C., defendants will pay the compensation and expenses of the trustee, and of any investment bankers, attorneys or other agents that the trustee finds reasonably necessary in his judgment to assist in the divestiture and the management of the Cellular System Assets.

The trusteeship mechanism has been used by the FCC, in a variety of contexts, to provide a short period of time in which to complete a sale of a spectrum licensee that must be divested, while permitting the broader merger or acquisition that necessitates the divestiture to go forward. In this context, the critical feature of the trusteeship arrangement is that the trustee will not only have responsibility for sale of the Cellular System Assets, but will also be the authorized holder of the cellular system license, with full responsibility for the operations, marketing and sales of the cellular system to be divested, and will not be subject to any control or direction by defendants. The defendants will no longer have any role in the ownership, operation or management of the Cellular

⁷ The FCC's spectrum aggregation rules, in 47 CFR 20.6, do not permit a licensee to have an attributable interest in more than 45 MHz of spectrum licensed for cellular, PCS or SMR with significant overlap in any geographic area. The FCC will attribute an interest if it is controlling, or if in most cases it is 20% or more of the equity, outstanding stock or voting stock of the licensee. The FCC's cellular cross-ownership rules, in 47 CFR 22.942, also prohibit a licensee or any person controlling a licensee from having a direct or indirect ownership interest of more than 5% in both cellular systems in an overlapping cellular geographic service area, unless such interests pose "no substantial threat to competition."

System Assets to be divested following consummation of their merger, as provided by Section V.G, other than the right to receive the proceeds of the sale, and certain obligations to provide cooperation to the trustee in order to complete the divestiture, as indicated in Section V.D. Defendants are precluded under Section V.G from communicating with the trustee, or seeking to influence the trustee, concerning the divestiture or the operation and management of the cellular systems transferred, apart from the limited communications necessary to carry out the Final Judgment and to provide the trustee with the necessary resources and cooperation to complete the divestitures. Defendants and the trustee are subject to an absolute prohibition on exchanging any non-public or competitively sensitive marketing, sales or pricing information relating to either of the cellular system businesses in the Overlapping Markets. These safeguards will protect against any competitive harm that could arise from coordinated behavior or information sharing between the two cellular systems after the merger, during the limited period while sale of the Cellular System Assets is not yet complete. They ensure that the trusteeship arrangement is consistent with the FCC's rules.

D. Criteria for the United States' Approval of Purchasers

Under the proposed Final Judgment, the United States has an important role in the approval of purchasers for each of the divested cellular systems, to ensure that the purchasers chosen by the defendants or the trustee are adequate from a competitive viewpoint. The United States' approval or rejection of a purchaser is at its sole discretion, as Section IV.A specifies, but the consent decree also embodies certain criteria that the United States will apply in making the approval decision.

Specifically, Section IV.C of the proposed Final Judgment requires that the divestitures of Cellular System Assets be made to a purchaser or purchasers for whom it is demonstrated to plaintiff's sole satisfaction that: (1) the purchaser(s) has the capability and intent of competing effectively in the provision of cellular mobile telephone service using the Cellular System Assets; (2) the purchaser(s) has the managerial, operational and financial capability to compete effectively in the provision of cellular mobile telephone service using the Cellular System Assets; (3) with respect to the purchaser of the Cellular System Assets in the St. Louis Area, if such Cellular System Assets are divested to the purchaser by

Ameritech rather than by the trustee, the purchaser has the capability of competing effectively in the provision of local exchange telecommunications services and long distance telecommunications services in the St. Louis Area, and (4) none of the terms of any agreement between the purchaser(s) and either of the defendants shall give defendants the ability unreasonably (i) to raise the purchaser(s)'s costs, (ii) to lower the purchaser(s)'s efficiency, (iii) to limit any line of business which a purchaser(s) may choose to pursue using the Cellular System Assets (including, but not limited, to entry into local telecommunications services on a resale or facilities basis or long distance telecommunications services on a resale or facilities basis), or otherwise to interfere with the ability of the purchaser(s) to compete effectively.

All of these criteria must be satisfied whether the divestiture is accomplished by defendants or the trustee, with the exception of (3), which applies only to divestitures made by defendants and not if the trustee assumes control over the Cellular System Assets in the St. Louis Area. In the case of any divestiture, by defendants or the trustee, it is important to ensure that the ongoing cellular businesses go to purchasers with the capability and intent of operating them as effective competitors in the lines of business they already serve, and that there are no conditions restricting competition in the terms of the sale. The United States, however, viewed the issue of potential competition in local exchange and long distance telecommunications services in the St. Louis Area somewhat differently. Defendants have incentives to divest Ameritech's Missouri cellular properties in a way that could minimize the risk of their use for such competition to SBC, while a trustee charged with seeking the best price obtainable would not have similar incentives. Also, the United States has sought only to ensure that the purchaser of Ameritech's St. Louis-area cellular systems would have the capability to compete effectively in these additional lines of business; it has not insisted on proof of intent to compete. Such claims of intent are inherently less subject to verification when dealing with a new line of business, and, unlike the situation with an ongoing profitable business, a purchaser could reasonably decide to enter local exchange and long distance telecommunications services in St. Louis in a somewhat different way than Ameritech had planned to do, or not to pursue those lines of business,

depending on their economic attractiveness.

In exercising its sole discretion to approve a purchaser under Section IV.C, the United States will take into account the following considerations. In evaluating the capability of a purchaser to provide cellular mobile telephone service under (1) or (2), or local exchange telecommunications services and long distance telecommunications services under (3), the United States will consider the capabilities not only of the immediate purchaser of Cellular System Assets, but also of any parent, subsidiary, corporate affiliate or partner of the immediate purchaser, to the extent that the United States is satisfied that such capabilities of related entities would actually be available to the immediate purchaser to provide the services. Moreover, in evaluating a purchaser's capability to provide services under (1), (2), or (3), the United States will consider all of the assets and capabilities of the purchaser (including their affiliated entities where it is appropriate to take these into account, as discussed above) that are actually available at present to provide the relevant services, including, without limitation, financial assets, the assets being acquired from SBC and/or Ameritech, and the experience of members of the purchaser's management team. The capability to compete effectively in providing both local exchange service and long distance service under (3) can be on either a resale or facilities basis. The United States would look most favorably, in assessing capability, on those purchasers (including their affiliated entities where these are appropriate to take into account, as discussed above) that have significant experience in providing cellular mobile telephone service for purposes of (1) and (2), and on those purchasers that have significant experience in providing local exchange and long distance services for purposes of (3). Conversely, a purchaser without such experience would need to make a more compelling demonstration to satisfy the United States. The United States' evaluation of a purchaser with limited or no experience in providing the relevant services would take into account the nature and extent of efforts made by the defendants (or trustee, if applicable) to find purchasers with more substantial experience. A conclusion by the United States that a purchaser satisfies (1) and (2) is relevant to whether (3) is also satisfied, but not determinative, since (3) represents an additional requirement that must be met by a purchaser of the St. Louis Area

Cellular System Assets. No single factor or group of factors is determinative in the United States' exercise of its sole discretion in evaluation of a purchaser, and none of these considerations necessarily predetermines the outcome of the United States' review of any particular purchaser.

E. Other Provisions of the Decree

Section III specifies the persons to whom the Final Judgment is applicable, and provides for the Final Judgment to be applicable to certain Interim Parties to whom defendants might transfer the Cellular System Assets, other than purchasers approved by the United States.

Section VI obliges defendants, or the trustee if applicable, to notify the United States of any planned divestiture of Cellular System Assets within two business days of executing a binding agreement with a purchaser. It enables the United States to obtain information to evaluate the chosen purchaser as well as other prospective purchasers who expressed interest and establishes procedure for the United States to notify defendants and the trustee whether it objects to a divestiture. The United States' notification of its lack of objection is necessary for a divestiture to proceed. This section also provides for an objection by defendants to a sale by the trustee under the limited situation of alleged malfeasance, but in that case it is possible for the Court to approve a sale over defendants' objection.

Section VII establishes affidavit requirements for defendants to report to the United States on their compliance with the proposed Final Judgment, their activities in seeking to divest the Cellular System Assets prior to consummating their merger, and their actions to preserve the Cellular System Assets to be divested. Under V.E, the trustee also has monthly reporting obligations concerning the efforts made to divest the Cellular System Assets.

Section VIII prohibits defendants from financing all or any part of a purchase made by an acquirer of the Cellular System Assets, whether the divestiture is carried out by defendants or by the trustee.

Section IX, the Hold Separate Order, contains important requirements concerning the operation of the cellular systems before divestiture is complete, and the preservation of the Cellular System Assets as a viable, ongoing business. The obligations of Section IX.A fall on both defendants and both cellular systems in any Overlapping Market, obliging them to ensure that such cellular systems continue to be

operated as separate, independent, ongoing, economically viable and active competitors to the other cellular system and all other wireless mobile telecommunications providers in the same area. Section IX.A requires separation of the operations of the two cellular systems and their books, records and competitively sensitive information. The requirements of Section IX.A both serve to ensure that defendants maintain their two cellular systems in the Overlapping Markets as fully separate competitors prior to consummating their merger, notwithstanding their expectations that the merger will take place, and reinforce the provisions of Section V.G concerning the separation of defendants and the trustee after the merger is consummated but while there are still Cellular System Assets awaiting sale.

Because SBC already operates the three Comcast systems in the Comcast/Ameritech Overlapping Markets, and the hold separate requirements of Section IX.A of the Final Judgment apply to "each of the cellular systems" that either defendant "owns or operates" in the Overlapping Markets, SBC is obliged to ensure that the three Comcast systems are operated in a way that complies with Section IX.A, pending divestiture of the Ameritech systems in these areas to purchasers approved by the Department of Justice.

Section IX.B, in contrast, applies only to the Cellular System Assets to be divested and to the period before consummation of the merger, while defendants still control those assets. It requires the defendant whose assets will be divested (or both, if it has not yet been decided which system will be divested in a particular market) to take certain specified steps to preserve the assets in accordance with past practices. These steps include maintaining and increasing sales, maintaining the assets in operable condition, providing sufficient credit and working capital, not removing the assets, not terminating, transferring or reassigning employees who work with the assets (with certain limited exceptions), and not taking any actions to impede or jeopardize the sale of the assets. Section IX.C similarly obliges defendants not to take any actions that would impede or jeopardize the sale of the assets after the merger has been consummated but while Cellular System Assets remain in the control of a trustee. Finally, Section IX.D obliges each defendant, during the period while they still control Cellular System Assets, to appoint persons not affiliated with the other defendant to oversee the Cellular System Assets to be

divested and to be responsible for compliance with the Final Judgment.

In order to ensure compliance with the Final Judgment, Section X gives the United States various rights, including inspection of defendants' records, the ability to conduct interviews and take sworn testimony of defendants' officers, directors, employees and agents, and to require defendants to submit written reports. These rights are subject to legally recognized privileges, and information the United States obtains using these powers is protected by specified confidentiality obligations, which do permit sharing of information with the FCC under a customary protective order issued by that agency or a waiver of confidentiality. Under Section III.B, purchasers of the Cellular System Assets must also agree to give the United States similar access to information.

The Court retains jurisdiction under Section XI, and Section XII provides that the proposed Final Judgment will expire on the tenth anniversary of the date of its entry, unless extended by the Court. Although the required divestitures will be accomplished in a considerably shorter time, defendants are also precluded from reacquiring the divested properties within the term of the decree.

F. Divestiture-Related Developments Since the Complaint Was Filed

On April 5, 1999, Ameritech announced that it has agreed to sell 20 of its cellular telephone systems to a venture owned 97% by GTE and 7% by Georgetown Partners, for \$3.27 billion. The systems being sold, according to Ameritech, cover a population of 11.4 million, and have nearly 1.5 million subscribers.⁸ This agreement, of which the United States was notified on April 7, 1999, pursuant to Section VI.A of the proposed Final Judgment, is contingent on the closing of the merger between SBC and Ameritech. It is intended to eliminate all of the cellular overlaps alleged in the complaint and to satisfy all of the divestiture requirements of the proposed Final Judgment.⁹ Ameritech

⁸ GTE's announcement of the sale estimated that the cellular systems being transferred were slightly larger, covering a population of 12.9 million and having 1.7 million subscribers.

⁹ In addition to the 17 cellular telephone systems in Overlapping Markets that are specified in the proposed Final Judgment, Ameritech and the purchasers agreed to include in the sale three other cellular telephone systems, in parts of the Indiana 1, Illinois 4, and Illinois 7 RSAs, which have been operated in close association with the other properties being sold. The inclusion of these additional properties in the agreement also has the effect of eliminating a limited overlap between Ameritech and SBC in part of the area of the Illinois 4 RSA.

will continue to provide services to its cellular customers until the closing of the merger. Up to 1,700 Ameritech employees of the cellular systems will be transferred to GTE as a result of the sale.

The United States will evaluate this proposal for sale of the cellular systems, pursuant to Section IV and VI of the proposed Final Judgment. Under the schedule specified by Section VI, the United States' evaluation of the acceptability of this proposal is likely to be completed before the 60-day period for comments pursuant to the APPA has expired.

IV. Remedies Available to Potential 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 that the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. 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 private lawsuit that may be brought against defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The plaintiff and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate and respond to the comments. All comments will be given due consideration by the United States, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the responses of the United States will be filed with the

Court and published in the **Federal Register**.

Written comments should be submitted to: Donald J. Russell, Chief, Telecommunications Task Force, Antitrust Division, United States Department of Justice, 1401 H Street, N.W., Suite 8000, Washington, D.C. 20530.

The proposed Final Judgment provides, in Section XI, that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate to carry out or construe the Final Judgment, to modify any of its provisions, to enforce compliance, and to punish any violations of its provisions.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, seeking an injunction to block consummation of the merger and a full trial on the merits. The United States is satisfied, however, that the divestiture of cellular system assets and other relief contained in the proposed Final Judgment will preserve competition in the provision of wireless mobile telephone services in the Overlapping Markets. This settlement will also avoid the substantial costs and uncertainty of a full trial on the merits on the violations alleged in the complaint. Therefore, the United States believes that there is no reason under the antitrust laws to proceed with further litigation if the divestitures of the cellular system assets are carried out in the manner required by the proposed Final Judgment.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty (60) day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." In making that determination, the court may consider—

(1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to

be derived from a determination of the issues at trial.

15 U.S.C. 16(e) (emphasis added). As the United States Court of Appeals for the D.C. Circuit recently held, this statute permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. See *United States v. Microsoft*, 56 F.3d 1448, 1461-62 (D.C. Cir. 1995).

In conducting this inquiry, "[t]he Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process."¹⁰ Rather,

[a]bsent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under circumstances.

United States v. Mid-America Dairymen, Inc., 1977-1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States v. BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States v. Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), cert. denied, 454 U.S. 1083 (1981)); see also *Microsoft*, 56 F.3d at 1460-62. Precedent requires that

the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is

¹⁰ 119 Cong. Rec. 24598 (1973). See *United States v. Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). A "public interest" determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. See H.R. Rep. 93-1463, 93d Cong. 2d Sess. 8-9 (1974), reprinted in U.S.C.A.N. 6535, 6538.

the one that will best serve society, but whether the settlement is "within the reaches of the public interest." More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.¹¹

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.'" *United States v. American Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982), *aff'd sub nom., Maryland v. United States*, 460 U.S. 1001 (1983) (quoting *Gillett Co.*, 406 F. Supp. at 716); *United States v. Alcon Aluminum, Ltd.* 605 F. Supp. 619, 622 (W.D. Ky. 1985).

Moreover, the court's role under the Tunney Act is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize the court to "construct [its] own hypothetical case and then evaluate the decree against that case." *Microsoft*, 56 F.3d at 1459. Since "[t]he court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place," it follows that the court "is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters that the United States might have but did not pursue. *Id.*

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment. Consequently, the United States has not attached any such materials to the proposed Final Judgment.

¹¹ *Bechtel*, 648 F.2d at 666 (emphasis added); see *BNS*, 858 F.2d at 463; *United States v. National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (D.C. Cal. 1978); *Gillette*, 406 F. Supp. at 716. See also *Microsoft*, 56 F.3d at 1561 (whether "the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest'").

Respectfully submitted.
 Joel I. Klein,
Assistant Attorney General.
 A. Douglas Melamed,
Principal Deputy Assistant Attorney General.
 Constance K. Robinson,
Director of Operations and Merger Enforcement.
 Donald J. Russell,
Chief, Telecommunications Task Force.
 Laury E. Bobbish,
Assistant Chief, Telecommunications Task Force.
 Carl Willner,
D.C. Bar #412841.
 Michael D. Chaleff,
 Juanita Harris,
 John M. Lynch,
D.C. Bar #418313.
 Anne M. Purcell,
Trial Attorneys, Department of Justice, Antitrust Division, Telecommunications Task Force, 1401 H Street, NW, Suite 8000, Washington, DC 20530, (202) 514-5813.
 Dated: April 16, 1999.

Certificate of Service

I hereby certify that copies of the foregoing Competitive Impact Statement in the matter of *United States versus SBC Communications Inc. and Ameritech Corp.*, Civ. No. 99-0715, were served on April 16, 1999 by hand and/or first-class U.S. mail, postage prepaid, upon each of the parties listed below:

Donald L. Flexner, Esq., Crowell & Moring LLP, 1001 Pennsylvania Avenue, NW, Washington, DC 20004-2595, Counsel for SBC Communications Inc.
 Richard Favretto, Mayer, Brown, & Platt, 1909 K Street, NW, Washington, DC 20006-1101, Counsel for Ameritech Corporation.

Carl Willner,
Counsel for Plaintiff.
 [FR Doc. 99-10678 Filed 4-28-99; 8:45 am]
 BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 21, 1999, Mallinckrodt Chemical, Inc., Mallinckrodt & Second Streets, St.

Louis, Missouri 63147, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Amphetamine (1100)	II
Methylphenidate (1724)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Etorphine Hydrochloride (9059)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Morphine (9300)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium powdered (9639)	II
Opium granulated (9640)	II
Levo-alphaacetylmethadol (9648)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firm plans to manufacture the controlled substances for distribution as bulk products to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 28, 1999.

Dated: April 16, 1999.
John H. King,
Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.
 [FR Doc. 99-10763 Filed 4-28-99; 8:45 am]
 BILLING CODE 4410-09-M

DEPARTMENT OF LABOR**Employment and Training Administration**

[TA-W-35,414]

Baker Oil Tools, Baker Hughes Inc. Headquartered in Houston, TX; Notice of Negative Determination Regarding Application for Reconsideration

Including workers in the following states:

TA-W-35,414A Arkansas
 TA-W-35,414B California
 TA-W-35,414C Illinois
 TA-W-35,414D Kansas
 TA-W-35,414E Louisiana
 TA-W-35,414F Mississippi
 TA-W-35,414G Missouri
 TA-W-35,414H New Mexico
 TA-W-35,414I North Dakota
 TA-W-35,414J Oklahoma
 TA-W-35,414K Pennsylvania
 TA-W-35,414L Tennessee
 TA-W-35,414M Wyoming

By application dated April 9, 1999, Labor Counsel (hereafter referenced as the petitioner) for the subject firm requested administrative reconsideration of the Department's negative determination regarding worker eligibility to apply for Trade Adjustment Assistance (TAA). The denial notice applicable to workers of the subject firm headquartered in Houston, Texas, including workers in multiple States, signed on March 8, 1999, will soon be published in the **Federal Register**.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

- (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;
- (2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or
- (3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Findings of the initial investigation showed that workers of the subject firm were primarily engaged in the production of oilfield tools and equipment. Workers were denied eligibility to apply for TAA based on the finding that criteria (2) and (3) of the group eligibility requirements of Section 223 of the Trade Act of 1974, as amended, were not met.

The petitioner asserts that sales and employment at Baker Oil Tools decreased in the relevant time periods.

Data submitted to the Department by Baker Oil Tools show increases in sales and employment from 1997 to 1998. Even if criterion (2) was met, further investigation would serve no purpose because criterion (3) has not been met. Aggregate U.S. imports of oil and gas field machinery are negligible.

The petitioner also asserts that specific consideration was not given to field marketing employees, particularly technical specialists and fishing tool supervisors providing services at the rig site. The petition was filed by a company official on behalf of workers of the subject firm manufacturing oilfield tools and service equipment at various U.S. locations. The investigation concluded that the predominant portion of the workforce at Baker Oil Tools were engaged in employment related to the production of oilfield tools and equipment.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, D.C. this 13th day of April 1999.

Grant D. Beale,*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 99-10719 Filed 4-28-99; 8:45 am]

BILLING CODE 4510-30-M

Signed in Washington, D.C. this 12th day of April 1999.

Grant D. Beale,*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 99-10710 Filed 4-28-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR**Employment and Training Administration**

[TA-W-35,152]

Buster Brown Apparel, Inc., Chilhowie, VA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on January 19, 1999, applicable to workers of Buster Brown Apparel Inc. located in Chilhowie, Virginia. The notice was published in the **Federal Register** on February 25, 1999 (64 FR 9354).

At the request of a State representative, the Department reviewed the certification for workers of the subject firm. The certification limited the coverage to workers engaged in employment related to the embroidering of children's apparel. New information provided by a company official reveal that subsequent layoffs have occurred for those workers engaged in sewing children's apparel.

The intent of the Department's certification is to cover all workers of Buster Brown Apparel, Inc., Chilhowie, Virginia, who were adversely affected by increased imports of children's apparel. Accordingly, the Department is amending the certification to expand coverage to all workers of the subject firm.

The amended notice applicable to TA-W-35,152 is hereby issued as follows:

All workers of Buster Brown Apparel, Inc., Chilhowie, Virginia, who became totally or partially separated from employment on or after October 19, 1997 through January 19, 2001, are eligible to apply for worker adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 12th day of April 1999.

Grant D. Beale,*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 99-10718 Filed 4-28-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR**Employment and Training Administration**

[TA-W-35,586]

Buckeye, Inc. Midland, TX; Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Correction

This notice corrects the notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance applicable to workers of Buckeye, Inc., Midland, Texas, which was published in the **Federal Register** on April 6, 1999 (64 FR 16752) in FR Document 99-8383.

This revises the subject firm TA-W number on page 16752 to read TA-W-35,586 instead of TA-W-35,486.

DEPARTMENT OF LABOR

Employment and Training
Administration

[TA-W-35,483]

Computalog U.S.A., Inc. Forth Worth, Texas; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Acting Director of the Office of Trade Adjustment Assistance for workers at Computalog U.S.A., Inc., Forth Worth, Texas. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-35,4583; Computalog U.S.A., Inc. Fort Worth, Texas (April 16, 1999)

Signed at Washington, DC this 20th day of April, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-10717 Filed 4-28-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training
Administration

[TA-W-35,571]

Double EE Service, Inc., Williston, ND; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Acting Director of the Office of Trade Adjustment Assistance for workers at Double EE Service, Inc., Williston, North Dakota. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-35,571; Double EE Service, Inc., Williston, North Dakota (April 20, 1999)

Signed at Washington, D.C. this 20th day of April, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-10716 Filed 4-28-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training
Administration

[TA-W-34,820]

General Electric Company, Power Systems Plant, Fitchburg, MA; Notice of Revised Determination on Reconsideration

On November 18, 1998, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on December 4, 1998 (63 FR 67142).

The Department initially denied TAA to workers of General Electric Company, Power Systems Plant, Fitchburg, Massachusetts, producing steam turbines because the "contributed importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met.

On reconsideration, the Department surveyed for additional bids lost by the subject facility. The survey revealed that the subject firm lost significant bids to foreign sources and that the steam turbines being build under those lost bids were manufactured offshore and imported into the U.S.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with steam turbines contributed importantly to the declines in sales or production and to the total or partial separation of workers of General Electric Company, Power Systems Plant, Fitchburg, Massachusetts. In accordance with the provisions of the Act, I make the following certification:

All workers of General Electric Company, Power Systems Plant, Fitchburg, Massachusetts who became totally or partially separated from employment on or after July 22, 1997 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 16th day of April 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-10722 Filed 4-28-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training
Administration

[TA-W-32,712]

Johnson & Johnson Medical, Incorporated, a/k/a Ethicon, Inc., Including Temporary Workers of Kelly Services, Incorporated, El Paso, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on October 10, 1996, applicable to workers of Johnson & Johnson Medical, Inc., located in El Paso, Texas. The notice was published in the **Federal Register** on October 29, 1996 (61 FR 55821). The certification was amended on January 10, 1997, to include temporary workers of Kelly Services, Incorporated, engaged in employment related to the production of surgical gowns, drapes and sheets at Johnson & Johnson Medical's El Paso plant. The notice was published in the **Federal Register** on January 31, 1997 (62 FR 4799).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by a company official and the State agency reveal that as of January 1, 1998, Johnson and Johnson Medical Inc., and Ethicon, Inc. merged. Some of the workers at the El Paso plant have had their wages reported to the Unemployment Insurance (UI) tax account for Ethicon, Inc.

The intent of the Department's certification is to cover all workers of Johnson & Johnson Medical, Incorporated, El Paso, Texas who were adversely affected by increased imports. Accordingly, the Department is amending the certification to include workers of Ethicon, Inc.

The amended notice applicable to TA-W-32,712 is hereby issued as follows:

All workers of Johnson & Johnson Medical, Incorporated, also known as Ethicon, Inc., El Paso, Texas, including temporary workers of Kelly Services, Incorporated engaged in employment related to the production of surgical gowns, drapes and sheets for Johnson & Johnson Medical, Incorporated, El Paso, Texas, who became totally or partially separated from employment on or after August 29, 1995 through October 10, 1998, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 7th day of April 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-10721 Filed 4-28-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,617]

Longview Fiber Company, Leavenworth Wood Products, Leavenworth, WA, Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 8, 1999 in response to a worker petition which was filed on behalf of workers at Longview Fiber Company, Leavenworth Wood Products, Leavenworth, Washington.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C. this 7th day of April 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-10705 Filed 4-28-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations

will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 10, 1999.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 10, 1999.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 29th day of March 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 03/29/1999]

TA-W	Subject firm (petitioners)	Location	Date of petition	Product(s)
35,916	Mitel, Inc (Comp)	Ogdensburg, NY	03/08/1999	Telephone Systems.
35,917	Compaq—Network Products (Wkrs)	Irving, TX	02/11/1999	Computer Components
35,918	Rexford Paper Co (UPIU)	Greebay, WI	03/10/1999	Pressure Sensitive Tape.
35,919	Dales Sportwear (Wkrs)	Hartford, AL	03/18/1999	Men's shirts.
35,920	Soniform (Comp)	El Cason, CA	03/08/1999	Jackets for Scubadiving.
35,921	Prentiss Manufacturing Co (Comp)	Tupelo, MS	03/11/1999	Men's Shirts
35,922	Odessa Packer Service (Wkrs)	Odessa, TX	03/02/1999	Sales, Service Repair Down Hole Equip.
35,923	BF Goodrich Aerospace (Wkrs)	Sheridan, AR	03/01/1999	Inlet Cowls and Exit Nozzles.
35,924	Deloit—Harnischfeger	Beloit, WI	03/11/1999	Paper Making Machines.
35,925	Ansell Protective Product (Comp)	Tarboro, NC	03/12/1999	Liners—Work Gloves.
35,926	Packwood Lumber (WCIW)	Randle, WA	03/09/1999	Softwood Dimension Lumber.
35,927	Nemanco, Inc. (Wkrs)	Oak Grove, LA	03/01/1999	Men's Jeans.
35,928	Murata Electronics (Wkrs)	State College, PA	03/01/1999	Ceramic Chip Capacitors.
35,929	United Foundries, Inc. (Wkrs)	Youngstown, OH	03/10/1999	Cast Iron and Steel Rolls.
35,930	Mueller Industries (Wkrs)	Wynne, AR	03/01/1999	Copper Tubing.
35,931	Power Resources, Inc. (Wkrs)	Douglas, WY	03/11/1999	Uranium.
35,932	Lenox Crystal, Inc. (Wkrs)	Mt. Pleasant, PA	03/01/1999	Crystal Stemware.
35,933	Boise Cascade Corp. (Wkrs)	Boise, ID	03/01/1999	White Paper, Bleached Pulp.
35,934	Torrington Company (The) (Comp)	Elberton, GA	03/11/1999	Camshafts.
35,935	Suckle Corp. (IUE)	Scranton, PA	03/17/1999	Metal Fabricator.
35,936	Senior Flexonics—QSI (Wkrs)	Allison Park, PA	03/08/1999	Automotive Tubing Products.
35,937	Lee Sportswear, Inc. (Comp)	Plantersville, MS	03/18/1999	Medical Uniforms.
35,938	Day Timers, Inc. (Comp)	East Texas, PA	03/17/1999	Business Planners/Calendars.
35,939	Dame Manufacturing (Comp)	Greenville, KY	03/16/1999	Levi Strauss Denim Jackets.
35,940	Sanchez Oil and Gas (Comp)	Laredo, TX	03/19/1999	Oil and Gas.
35,941	Master Slack Corp. (Wkrs)	Bolivar, TN	03/16/1999	Men's and Boys' Trousers.
35,942	Rainier West Sportswear (Wkrs)	Centralia, WA	03/09/1999	Sportswear.
35,943	Greif Bros. Corp (Comp)	Baltimore, MD	03/15/1999	Steel Drums.
35,944	Wabash Technologies (Comp)	Huntington, IN	03/12/1999	Engine Timing Sensors.
35,945	World Class Processing (USWA)	Ambridge, PA	03/10/1999	Steel Coils.
35,946	Plaid Clothing Co (UNITE)	Knoxville, TN	03/16/1999	Men's Tailored Suits.
35,947	Flair Fold Corp (Wkrs)	Hiawatha, KS	03/08/1999	Solid Wood Interior Shutters.

APPENDIX—Continued
[Petitions Instituted on 03/29/1999]

TA-W	Subject firm (petitioners)	Location	Date of petition	Product(s)
35,948	F. Schumacher & Co. (Wkrs)	Richburg, SC	03/10/1999	Draperies, Pillows, Comforters.
35,949	Bonnell Manufacturing (UNITE)	Mount Laurel, NJ	03/08/1999	Carbon Steel Products.
35,950	Komatsu Silicon America (Comp)	Hillsboro, OR	03/12/1999	Silicon Wafers.
35,951	Plymouth Stitching, Inc. (Comp)	Ashland, NH	03/15/1999	Ladies' Sportswear.
35,952	Atlas Cylinders—Parker (Wkrs)	Eugene, OR	03/16/1999	Hydraulic, Pneumatic cylinders.
35,953	Siemens Fossil Power (Comp)	West Allis, WI	03/16/1999	Gas Turbines.
35,954	SNS (Wkrs)	Odessa, TX	03/17/1999	Wrist Pins.
35,955	Mowad Apparel, Inc. (Comp)	El Paso, TX	03/15/1999	Apparel—Sewing.
35,956	Pennsylvania Steel Tech (USWA)	Steelton, PA	03/06/1999	Carbon Steel Products.
35,957	Stroh Brewery Co. (Comp)	Detroit, MI	03/15/1999	Beer.
35,958	Jencraft Corp. (Wkrs)	McAllen, TX	03/16/1999	Window Blinds.
35,959	Bonney Forge Corp. (Wkrs)	Allentown, PA	03/15/1999	Pipe Fittings.
35,960	Columbia Sportswear Co. (Comp)	Portland, OR	03/17/1999	Inspection of Imported Garments.
35,961	Dupont—Cooper River (Wkrs)	Charleston, SC	03/11/1999	Dacron Yarn.

[FR Doc. 99-10711 Filed 4-28-99; 8:45 am]
BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,275]

Motorola, Tempe, AZ; Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Correction

This notice corrects the notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance applicable to workers of Motorola, Tempe, Arizona, which was published in the **Federal Register** on April 6, 1999 (64 FR 16752) in FR Document 99-8383.

This revises the subject firm TA-W number on page 16752 to read TA-W-35,275 instead of TA-W-275.

Signed in Washington, D.C.

Grant D. Beale,

Acting Director, Office of Adjustment Assistance.

[FR Doc. 99-10709 Filed 4-28-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,630]

Motorola Inc. Semiconductor Products Sector, Semiconductor Components Group, Phoenix, AZ; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 8, 1999, in response to a worker petition which was

filed by the company on behalf of its workers at MOTOROLA INC., Semiconductor Products Sector, Semiconductor Components Group, located in Phoenix, Arizona.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 12th day of April, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc 99-10707 Filed 4-28-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,172]

National Oilwell, McAlester, OK; Notice of Revised Determination on Reconsideration

On March 18, 1999, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on April 6, 1999 (64 FR 16757). The Department initially denied TAA to workers of National Oilwell, McAlester, Oklahoma, because the "contributed importantly" group eligibility requirement of section 223(3) of the Trade Act of 1974, as amended, was not met.

On reconsideration, the Department obtained additional information from the company concerning imports of liners such as those manufactured at the subject facility. The company provide information which referred a reduction

of liner production at the subject facility while the facility increased its reliance on imports of liners.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with liners contributed importantly to the declines in sales or production and to the total or partial separation of workers of National Oilwell, McAlester, Oklahoma. In accordance with the provisions of the Act, I make the following certification:

All workers of National Oilwell, McAlester, Oklahoma engaged in the production of liners who became totally or partially separated from employment on or after October 22, 1997 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974;

Signed in Washington, DC, this 19th day of April 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-10720 Filed 4-28-99 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,498]

Notice of Termination of Investigation

Patterson Drilling Company, Snyder, Texas and operating in the following States:

- TA-W-35,498A, Texas
- TA-W-35,498B, Louisiana
- TA-W-35,498C, New Mexico
- TA-W-35,498D, Mississippi

Pursuant to Section 221 of the Trade Act of 1974, an investigation was

initiated on January 4, 1999 in response to a worker petition which was filed on behalf of workers and former workers at Patterson Drilling Company, located in Snyder, Texas (TA-W-35,498); and operating in the following States (1) Texas (TA-W-35,498A); (2) Louisiana (TA-W-35,498B); (3) New Mexico (TA-W-35,498C); and (4) Mississippi (TA-W-35,498D).

The petitioning group of workers are covered under an existing Trade Adjustment Assistance certification (TA-W-35,699 and TA-W-35,699A-D). Consequently, further investigation in this matter would serve no purpose and the investigation has been terminated.

Signed at Washington, D.C. this 13th day of April 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-10708 Filed 4-28-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

Schlumberger Technology Corporation, et al.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 26, 1999, applicable to all workers of Schlumberger Oilfield Services, a/k/a Dowell Schlumberger and a/k/a Anadrill Schlumberger, headquartered in Sugarland, Texas. The notice was published in the **Federal Register** on February 25, 1999 (64 FR 9354).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New findings show that Schlumberger Technology Corporation is the parent corporation of Schlumberger Oilfield Services, also known as numerous firm entities cited above and operating at various locations in the above cited states. The workers provide oilfield and gas drilling and exploration services, as well as related support and warehouse duties.

The intent of the Department's certification is to include all workers of Schlumberger Technology Corporation, Schlumberger Oilfield Services, a/k/a/ Dowell Schlumberger, a/k/a/ Anadrill Schlumberger, A/k/a/ Geco-Prakla,

a/k/a IPM, a/k/a Product Centers, a/k/a GeoQuest, a/k/a Sedco-Forex, a/k/a Wireline and a/k/a Shared Services adversely affected by imports. Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA-W-35, 463, TA-W-35, 060, TA-W-35, 144 and TA-W-35, 145 is hereby issued as follows:

All workers of Schlumberger Technology Corporation, Schlumberger Oilfield Services, a/k/a/ Dowell Schlumberger, a/k/a/ Anadrill Schlumberger, a/k/a Geco-Prakla, a/k/a IPM, a/k/a Product Centers, a/k/a GeoQuest, a/k/a Sedco-Forex, a/k/a Wireline, and a/k/a Shared Services, headquartered in Sugarland, Texas (TA-W-35,463) and operating at various locations in the following States cited below:

TEXAS TA-W-35,463A

WYOMING TA-W-35,463B

CALIFORNIA TA-W-35463C

ALASKA TA-W-35, 463D

COLORADO TA-35-463E

ARKANSAS TA-W-35,463F

ALABAMA TA-W-35,463G

NORTH DAKOTA TA-W-35,463H

WEST VIRGINIA TA-W-35,463I

ILLINOIS TA-W-35,463J

KANSAS TA-W-35,463K

MICHIGAN TA-W-35,463L

MISSISSIPPI TA-W-35,463M

UTAH TA-W-35,463N

VIRGINIA TA-W-35,463O

NEW JERSEY TA-W-35,463P

PENNSYLVANIA TA-W-35,463Q

who became totally or partially separated from employment on or after December 21, 1997 through January 26, 2001; all workers located in Rosewell, New Mexico (TA-W-35,060) and operating at various locations in the State of New Mexico (TA-W-35,060A) who became totally or partially separated from employment on or after September 15, 1997 through January 26, 2001; all workers located in Youngsville, Louisiana (TA-W-35,144) and operating at various locations in the State of Louisiana (TA-W-35,144A) who became totally or partially separated from employment on or after October 13, 1997 through January 26, 2001; and all workers located in Ducan, Oklahoma (TA-W-35,145) and operating at various locations in the State of Oklahoma (TA-W-35,145A) who became totally or partially separated from employment on or after October 1, 1997 through January 26, 2001, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of April, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-10723 Filed 4-28-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,697]

Wood Group Pressure Control, Williston, ND; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 22, 1999, in response to a petition filed on the same date on behalf of workers at Wood Group Pressure Control, Williston, North Dakota.

The company official submitting the petition has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 12th day of April, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-10706 Filed 4-28-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

NAFTA-02977; Ansell Edmont D.B.A. Ansell Protective Products, Haynesville, Louisiana; Notice of Termination of Investigation

Pursuant to title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called (NAFTA-TAA), and in accordance with section 250(a), Subchapter D, Chapter 2, title II, of the Trade Act of 1974, as amended (19 USC 2273), an investigation was initiated on March 1, 1999 in response to a petition filed on behalf of workers at Ansell Edmont, d.b.a. Ansell Protective Products, Haynesville, Louisiana.

Currently, there is a petition investigation (NAFTA-2948) in progress for the workers at the subject plant. Consequently, further investigation in this case would serve no purpose and the investigation has been terminated.

Signed at Washington, DC, this 13th day of April 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-10714 Filed 4-28-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

NAFTA-03060; Ithaca Industries, Incorporated, Cairo, GA; Notice of Termination of Investigation

Pursuant to title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called (NAFTA-TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on April 12, 1999 in response to a petition filed on behalf of workers at Ithaca Industries, Incorporated, Cairo, Georgia.

The petitioning group of workers are eligible for NAFTA/Transitional Adjustment Assistance benefits under an existing certification that is still active (NAFTA-2851A). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 15th day of April, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-10715 Filed 4-28-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA-2909]

Motorola Inc., Semiconductor Products Sector, Semiconductor Components Group, Phoenix, AZ; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 5, 1999, in response to a worker petition which was filed by the company on behalf of its workers at MOTOROLA INC., Semiconductor Products Sector, Semiconductor Components Group, located in Phoenix, Arizona.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 12th day of April, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 10713 Filed 4-28-99; 8:45 am]

BILLING CODE 4510-30-M

of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA-TAA petition has been received, the Acting Director of the Office of Trade Adjustment Assistance (OTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes action pursuant to paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment on or after December 8, 1993 (date of enactment of Pub. L. 103-182) are eligible to apply for NAFTA-TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Acting Director of OTAA at the U.S. Department of Labor (DOL) in Washington, DC provided such request if filed in writing with the Acting Director of OTAA not later than May 10, 1999.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Acting Director of OTAA at the address shown below not later than May 10, 1999.

Petitions filed with the Governors are available for inspection at the Office of the Acting Director, OTAA, ETA, DOL, Room C-4318, 200 Constitution Avenue, NW, Washington, DC 20210.

Signed at Washington, DC, this 9th day of April, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply For NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (P.L. 103-182), hereinafter called (NAFTA-TAA), have been filed with State Governors under Section 250(b)(1)

APPENDIX

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Siebe Appliance COntrols (Co.)	Winterset, IA	03/09/1999	NAFTA-2,990	Electronic range controls.
Exide Electronics (Co.)	Leland, NC	02/25/1999	NAFTA-2,991	Electronic system back-up.
World Class Processing (USWA)	Ambridge, PA	03/15/1999	NAFTA-2,992	Hot rolled steel coils.
Wells Lamont (Co.)	McGehee, AR	03/09/1999	NAFTA-2,993	Leather work gloves.
USA Venturcraft (Wkrs)	Abilene, TX	03/16/1999	NAFTA-2,994	Fiberglass trailers.
Mountain Alloys (Wkrs)	Grants Pass, OR	03/15/1999	NAFTA-2,995	Speciality metal, oil well pump.
Active Products—Active Marion (UAW).	Marion, IN	01/13/1999	NAFTA-2,996	Metal stampings.
Mine Service and Supply (PJO)	Battle Mountain, NV	03/15/1999	NAFTA-2,997	Barile—mining.
Siemens Fossil Power (UAW)	West Allis, WI	03/17/1999	NAFTA-2,998	Gas turbine component.
Senior Flexonics (Wkrs)	Allison Park, PA	03/17/1999	NAFTA-2,999	Flexible steel tubing.
Phoenix Production (Co.)	Cody, WY	03/15/1999	NAFTA-3,000	Crude oil.
Charles Komar and Sons (Co.)	McAlester, OK	03/17/1999	NAFTA-3,001	Women's sleepwear.
Rainier West Sportswear (Wkrs)	Centralia, WA	03/17/1999	NAFTA-3,002	Sportswear.

APPENDIX—Continued

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Packwood Lumber Sales (Wkrs)	Packwood, WA	03/17/1999	NAFTA-3,003	Lumber.
MacWhyte Wire Rope (JAW)	Kenosha, WI	02/18/1999	NAFTA-3,004	Wire rope.
Florida Canyon Mining—Pegasus Gold (PJO).	Spokane, WA	03/18/1999	NAFTA-3,005	Gold bullion.
High Desert Mineral Resources (PJO).	Elko, NV	03/18/1999	NAFTA-3,0306	Gold mine.
Impact Equipment (PJO)	Sparks, NV	03/18/1999	NAFTA-3,007	Heavy equipment.
Cashman Equipment (PJO)	Elko, NV	03/18/1999	NAFTA-3,008	Heavy equipment.
Canyon Construction (PJO)	Elko, NV	03/18/1999	NAFTA-3,009	Construction of facilities.
Romarco Minerals (PJO)	Reno, NV	03/18/1999	NAFTA-3,010	Gold.
Stroh Brewing (IBS)	LaCrosse, WI	03/19/1999	NAFTA-3,011	Brewery production.
Controlled Recovery (Co.)	Hobbs, NM	03/19/1999	NAFTA-3,012	Crude oil.
Controlled Environments (Co.)	Penbina, ND	03/19/1999	NAFTA-3,013	Parts—environmental growth chambers.
Master Slack (Wkrs)	Boliver, TN	03/18/1999	NAFTA-3,014	Men's and Boy's trousers.
Quest Petroleum (CBO)	Reno, NV	03/14/1999	NAFTA-3,015	Crude oil and natural gas.
Day Timers (Co.)	East Texas, PA	03/22/1999	NAFTA-3,016	Paper based calendar products.
Bonney Forge (Wkrs)	Allentown, PA	03/22/1999	NAFTA-3,017	Raw unmachined pipe fittings.
Heinz Frozen Food—H.J. Heinz (Wkrs).	Poratello, ID	03/15/1999	NAFTA-3,018	Frozen food entrees.
Parsons Industries (Wkrs)	Ashland, OR	03/22/1999	NAFTA-3,019	Edge-glued panels.
Harnischfeger Industries—Beloit Corp (IAMAW).	Beloit, WI	03/17/1999	NAFTA-3,020	Pump and paper.
Smith Food and Vending (Wkrs)	Joplin, MO	03/19/1999	NAFTA-3,021	Food services.
Dowell Schlumberger (Wkrs)	Mt. Carmel, IL	03/17/1999	NAFTA-3,022	Oil.
Peninsula Group (Co.)	Tumwater, WA	03/22/1999	NAFTA-3,023	Hotel management services.
Sanchez Oil and Gas (Co.)	Laredo, TX	03/23/1999	NAFTA-3,024	Oil and natural gas.
Standard Motor Products (Co.)	Dallas, TX	03/12/1999	NAFTA-3,025	Ignition wire sets.
Mowad Apparel (Co.)	El Paso, TX	03/22/1999	NAFTA-3,026	Cut and sew garments.
M. Wile—Whiteville Apparel (UNITE)	Whiteville, NC	03/23/1999	NAFTA-3,027	Men's tailored suitend sport coats.
Cascade Corporation (IW)	Vancouver, WA	03/22/1999	NAFTA-3,028	Welded heel forks.
3M—Electrical Products (Co.)	Thorofare, NJ	03/23/1999	NAFTA-3,029	Electrical crimp terminals, cable ties.
Key Energy Services—Rocky Mountain (Co).	Casper, WY	03/22/1999	NAFTA-3,030	Oil and natural gas.
International Steel Wool (Co.)	Springfield, OH	03/11/1999	NAFTA-3,031	Chopped steel wool fibers.
Dame Manufacturing (Co.)	Greenville, KY	03/23/1999	NAFTA-3,032	Denim jackets.
Morrow Snowboards (Wkrs)	Salem, OR	03/25/1999	NAFTA-3,033	Snowboards, boots, binding.
Mishy Sportwear (Co.)	Opa Locka, FL	03/24/1999	NAFTA-3,034	Women apparel.
A and M Manufacturing (Wkrs)	Cosby, MO	03/26/1999	NAFTA-3,035	Machined parts (cherry pickers).
Stroh Brewery Company (The) (Wkrs).	Detroit, MI	03/16/1999	NAFTA-3,036	Beer.
Jencraft Corporation (Wkrs)	McAllen, TX	03/26/1999	NAFTA-3,037	Distribution.
Triple D Services (Co.)	Gastonia, NC	03/24/1999	NAFTA-3,038	Womens clothing.
Intertape Polymer Group—Rexford Paper (UPIP).	Mikwaukee, WI	03/24/1999	NAFTA-3,039	Pressure sensitive and gummed tape.
Homestake Mining (Co.)	Sparks, NV	03/24/1999	NAFTA-3,040	Gold.
Atlas Cylinders—Parker Hannafin (Wkrs).	Eugene, OR	03/25/1999	NAFTA-3,041	Industrial commercial hydraulic.
CMS Oila and Gas (Co.)	Traverse City, MI	03/22/1999	NAFTA-3,042	Natural gas and liquid natural gas.
Dekko Automotive Technologies (Co.).	Osceola and Murray, IA	03/18/1999	NAFTA-3,043	Wiring harnesses for vehicles.
Vanity Fair Intimates, Inc (Comp)	Milton, FL	03/26/1999	NAFTA-3,044	Ladies' Intimate Apparel.
EST (Wkrs)	Pittsfield, MO	03/29/1999	NAFTA-3,045	Duct Detector Smoke Alarms.
Mid Oregon Industries (Comp)	Bend, OR	03/29/1999	NAFTA-3,046	Wood Working Machinery.
Fleming Potter (GUIU)	Peoria, IL	03/29/1999	NAFTA-3,047	Labels.
D.B. Riley Storker (BMU)	Erie, PA	04/02/1999	NAFTA-3,048	Metal products.
Murata Electronics (Wkrs)	State College, PA	04/01/1999	NAFTA-3,049	Microwave.
Mead (PACE)	St. Joseph, MO	04/06/1999	NAFTA-3,050	Notebook cases.
Ansewn Shoe (Co.)	Bangor, NE	04/01/1999	NAFTA-3,051	Footwear.
Augusta Sportswear (Co.)	Metter, GA	04/01/1999	NAFTA-3,052	Women's tops.
O Cedar Brands (Co.)	South Lancaster, MA	03/30/1999	NAFTA-3,053	Corn brooms, wet mops.
Avery Dennison (Co.)	Rancho Cucamonga, CA ...	03/30/1999	NAFTA-3,054	Coated paper and film.
World Color (Wkrs)	Dresden, TN	03/31/1999	NAFTA-3,055	Paperback books.
Quicksilver Contracting (Co.)	Bend, OR	03/31/1999	NAFTA-3,056	Wood chips, saw logs.
Hirsh Company (IABSO)	Skokie, IL	03/31/1999	NAFTA-3,057	Metal and wood shelving.
Winona Knitting Mills (Wkrs)	LaCrescent, MN	03/31/1999	NAFTA-3,058	Sweaters.
International Paper (Co.)	Corinth, NY	03/31/1999	NAFTA-3,059	Publication paper.
Ithaca Industries (Co.)	Cario, GA	03/31/1999	NAFTA-3,060	Underwear.
Mark Steel Softe (Wkrs)	Spring City, UT	03/25/1999	NAFTA-3,061	Jewelry.
Safariland (Wkrs)	Ontario, CA	03/29/1999	NAFTA-3,062	Leather holstons, belts and gear.

APPENDIX—Continued

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Logistix (Wkrs)	Hillsboro, OR	03/30/1999	NAFTA-3,063	Media duplication and electronic printing.
Uniroyal Chemical (Co.)	Painesville, OH	03/26/1999	NAFTA-3,064	Nitrile rubber.
E.I. du Pont de Nemours (Wkrs)	Rochester, NY	03/30/1999	NAFTA-3, 065	Medical x-ray processing chemistries.
Precision Circuits (IAM)	Eatontown, NJ	03/25/1999	NAFTA-3, 066	Printed circuits boards.
Plaid Clothing (UNITE)	Knoxville, TN	03/30/1999	NAFTA-3, 067	Mens tailored suits.
Paris Fashions (Wkrs)	Paris, TN	04/01/1999	NAFTA-3, 068	Men's and women's clothing.
Crescent—U.S. Mat (Co.)	Rapdi City, SD	03/31/1999	NAFTA-3, 069	Picture frmaes.
Oneita Industries (Co.)	Andrew, SC	04/05/1999	NAFTA-3, 070	T-shirts.
Blitz Weinbard Brewery (Co.)	Portland, OR	04/05/1999	NAFTA-3, 071	Beer and ale.
Bengle Manufacturing (Co.)	Stuart, VA	04/05/1999	NAFTA-3, 072	Fleece garments and t-shirts.
Gray Bec Lime (BMU)	Bellefeste, PA	04/06/1999	NAFTA-3, 073	Lime.
Stand Lumsden Farm (Co.)	Bloomfield, MO	04/06/1999	NAFTA-3, 074	Corn and cotton.
BASF (Wkrs)	Detroit, MI	03/29/1999	NAFTA-3, 075	Paint, resins and colorants.

[FR Doc. 99-10712 Filed 4-28-99; 8:45 am]
BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1994 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This problem helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the "National Compensation Survey." A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the addressed section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before June 28, 1999.

The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- Enhance the quality, utility, and clarity of the information to be collected; and

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue N.E., Washington, DC 20212. Ms. Kurz can be reached on 202-606-7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

The National Compensation Survey (NCS) is an ongoing survey of earnings and benefits among private firms, and State and Local government. The survey resulted from the integration of three surveys: the Occupational Compensation Survey Program (OCSP); the Employment Cost Index (ECI); and the Employee Benefits Survey (EBS). Data from these surveys are critical for setting Federal white-collar salaries, determining monetary policy (as a Principal Federal Economic Indicator), and providing data for compensation administrators and researchers in the private sector.

Data are collected from a sample of employers. These data consist of information about the duties, responsibilities, and compensation for a sample of occupations for each sampled employer.

Data are updated on either an annual or quarterly basis. The updates allow for production of data on change in earnings and total compensation.

II. Current Actions

In 1996, BLS began the National Compensation Survey (NCS) with the collection of occupational earnings by locality and by job duties and responsibilities. Since that time, BLS has published compilations of these data for 65 separate localities.

In 1998, BLS began the collection of benefits data in the NCS. BLS collected information on the cost, provisions, and incidence of all the major employee benefits through the ECI and EBS. The change to the NCS sample reduces total respondent burden and increases possible ways BLS can provide data.

NCS data on benefit costs will continue to be used to produce the Employment Cost Index and Employer Expenditures for Employee Compensation Series. The data provided will be the same, and the series will be continuous.

The NCS also will provide much of the data now provided by the EBS. These data include estimates of how many workers receive the various employer-sponsored benefits and the common features of those benefit plans.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics

Title: National Compensation Survey.

Affected Public: Business or other for-profit; not-for-profit institutions; and State, Local or Tribal Government.

Total Respondents: 40,116 (3-year average).

Frequency: Annually in some establishments, and quarterly in others.
Total Responses: 71,607 (3-year average).
Average Time Per Response: 45 minutes (3-year average).
Estimated Total Burden Hours: 54,262 hours (3-year average).
Total Burden Cost (capital/startup): \$0.
Total Burden Cost (operating/maintenance): \$0.

All figures in the chart below are based on a 3-year average. The sum of total respondents and the sum of total responses are greater on the chart below than the figures listed above; many respondents are asked to provide information relating to more than one form.
 Collection forms can have multiple purposes. The chart below shows the average collection time for the

predominant use of the form, and the weighted average time for all uses of the form. The benefit initiation forms, for example, are used both for initial collection of benefits from an establishment, and for technical review of the initial collection. The initial collection takes an average of 180 minutes, while the records check takes about eight minutes. The weighted average collection time in 156 minutes.

Form	Total respondents	Frequency	Total annual responses	Average minutes per response	Average time for the predominant form use	Total annual burden
Earnings Initiation (NCS 99-1)	5,640	Annual or Quarterly	6,204	76	82	7,821
Earnings Update (NCS 99-2)	24,106	Annual or Quarterly	54,368	19	20	17,477
Benefits Initiation (NCS 99-3) ¹ ...	2,240	Annual or Quarterly	2,593	156	180	6,748
Benefits Update (NCS 99-4)	10,686	Annual or Quarterly	37,807	20	20	12,464
Informed Consent (NCS 99-5)	(*)	Unknown	Unknown	Negligible	Negligible	Negligible
Collection Not Tied to a Specific Form.	10,370	Annual	10,370	56	82	9,752
Total	53,041 .....	.....	111,342	.....	.....	54,262

¹ Form 3038D will continue to be used until the NCS data capture system is completed at the end of FY 2000.

* Unknown; dependent upon number of respondents who elect to have third parties provide data.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; the comments also will become a matter of public record.

Signed at Washington, D.C., this 23rd day of April 1999.

W. Stuart Rust, Jr.,

*Chief, Division of Management Systems,
 Bureau of Labor Statistics.*

[FR Doc. 99-10724 Filed 4-28-99; 8:45 am]

BILLING CODE 4510-24-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested

data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the "Mass Layoff Statistics (MLS) Program Survey."

A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the ADDRESSES section of this notice.

DATES: Written comments must be submitted to the office listed in the ADDRESSES section below on or before June 28, 1999. The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue NE., Washington, DC 20212. Ms. Kurz can be reached on 202-606-7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

Section 309(2)(a)(1)(A)(iii) of the Workforce Investment Act (WIA) states that the Secretary of Labor shall oversee development, maintenance, and continuous improvements of the incidence of, industrial and geographical location of, and number of workers displaced by, permanent layoffs and plant closings. Prior to the WIA, Section 462(e) of PL 97-300, the Job Training Partnership Act (JTPA), provided that the Secretary of Labor develop and maintain statistical data relating to permanent mass layoffs and plant closings and issue an annual report. The report includes, at a minimum, the number of plant closings

and mass layoffs, and the number of workers affected. The data are summarized by geographic area and industry.

The Mass Layoff Statistics (MLS) program uses a standardized, automated approach to identify, describe, and track the impact of major job cutbacks. The program utilizes, to the greatest degree possible, existing Unemployment Insurance (UI) records and computerized data files, supplemented by direct employer contact. Its major features include:

- The identification of major layoffs and closings through initial UI claims filed against the identified employer;
- The use of existing files on claimants to obtain basic demographic and economic characteristics on the individual;
- The telephone contact of those employers meeting mass layoff criteria to obtain specific information on the nature of the layoff and characteristics of the establishment;
- The identification of the continuing impact of the mass layoff on individuals by matching affected initial claimants with persons in claims status; and,
- The measurement of the incidence of the exhaustion of regular state UI benefits by affected workers.

In the program, State Employment Security Agencies (SESAs) submit seven comprehensive reports each quarter, and a preliminary, summary report each month. These computerized reports contain information from State administrative files and information obtained from those employers meeting the program criteria of a mass layoff.

Congress has provided for the implementation of the MLS program by the Bureau of Labor Statistic (BLS) through the Fiscal Years 1984–1992 appropriations for the Department of Labor, Health and Human Services, Education, and related agencies. The program was not operational in Fiscal Years 1993 and 1994. Program operation resumed in Fiscal Year 1995 with funds provided by the Employment and Training Administration (ETA).

At the present time, all states (including the District of Columbia and Puerto Rico) are participating in the program.

II. Current Actions

The information collected and compiled in the MLS program is used to satisfy legislative reporting requirements mandated by Section 309(2)(a)(1)(A)(iii) of the Workforce Investment Act (WIA), enacted on August 7, 1998. That section requires the Secretary of Labor to oversee the development, maintenance, and

continuous improvement of a nationwide employment statistics systems that includes the incidence of, industrial and geographical location of, and number of workers displaced by, permanent layoffs and plant closings.

In addition to the BLS uses of MLS data, such data are used by Congress, the Executive Branch, the business, labor, and academic communities, SESAs, and the U.S. Department of Labor for both macro- and microeconomic analysis, including specific labor market studies geared towards manpower assistance and development. Congress used these data in conjunction with the findings from a supplemental study of layoff actions in the development of the Worker Adjustment and Retraining Notification (WARN) Act, which was enacted in August 1988. Furthermore, the ETA uses MLS microdata in the evaluation of dislocated worker programs to assess the effectiveness of those activities and services.

A Congressionally mandated use of mass layoff data includes the WIA, which replaces Title III of the JTPA. Section 133 of the WIA encourages the use of MLS data in substate allocations relating the dislocated worker employment and training activities.

State agencies use of the MLS data in various ways, including the identification of geographic areas in need of special manpower services; ailing or troubled industries; specific employers needing assistance; outreach activities for the unemployed; and workers in need of temporary health care services.

There is no other comprehensive source of statistics on either establishments or workers affected by mass layoffs and plant closings; therefore, none of the aforementioned data requirements could be fulfilled if this data collection did not occur.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Mass Layoff Statistics Program.

OMB Number: 1220–0090.

Affected Public: Business or other for profit; Not-for-profit institutions; Farms; Federal Government; State, Local or Tribal Government.

Total Respondents: 15,652.

Frequency: SESAs report quarterly and annually. Affected employers report on occasion.

Total Responses: 16,432.

Average Time Per Response: 60 minutes for SESAs and 30 minutes for employers.

Estimated Total Burden Hours: 73,570 hours.

Total Burden Cost (capital/startup): \$0.

Total Burden Cost (operating/maintenance): \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, D.C., this 23rd day of April 1999.

W. Stuart Rust, Jr.,

*Chief, Division of Management Systems,
Bureau of Labor Statistics.*

[FR Doc. 99–10725 Filed 4–28–99; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection, Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed reinstatement, with change, of the “National Longitudinal Survey of Youth 79.” A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before June 28, 1999 The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency’s estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions used;

- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Karin G. Kruz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, NE, Washington, DC 20212. Ms. Kruz can be reached on 202-606-7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

Conducted since 1979, the National Longitudinal Survey of Youth 79 (NLSY79) consists of a nationally representative sample of individuals who were ages 14 to 21 in 1979. The cohort members were interviewed annually from 1979 to 1994. After the 1994 interview, the survey was moved to a biennial cycle.

The data collected in the NLSY79 will contribute to the knowledge about labor market processes involved in transitions between jobs, job searches, and hierarchies within jobs. Survey data will contribute to the knowledge about individuals' ability to succeed in the job market and how levels of success relate to educational attainment, vocational training, prior occupational experiences, and general and job-specific experiences.

The NLSY79 research contributes to the formation of national policy in the areas of education, training and employment programs, and unemployment compensation. In addition, members of the academic community publish articles and reports based on these NLSY79 data for the

Department of Labor (DOL) and other funding agencies. The DOL uses the changes measured in the labor market to design programs that would ease employment and unemployment problems. The survey design provides data gathered over time to form the only data set that contains this information. Without the collection of these data, an accurate longitudinal data set could not be provided to researchers and policy-makers, and the DOL could not perform its policy- and report-making activities, as described above.

II. Current Actions

This proposed collection covers wave 19 of this longitudinal study of individuals who were age 14 through 21 on December 31, 1978. The DOL will interview these youths in the year 2000 to study how young adults make the transition from full-time schooling through the establishment of their families and careers, and into the prime earning years that precede retirement. The longitudinal focus of this survey requires the collection of information on the same individuals over many years in order to trace their education, training, work experience, fertility, income and program participation. This detail makes the NLSY79 a unique national resource, unmatched by existing programs. Participation in the survey by other government agencies is encouraged as the omnibus nature of the survey makes it an efficient, low-cost data set. Recent rounds of the survey increasingly incorporate items needed for program and policy purposes by agencies other than the DOL.

Information about the aptitudes of the children of the female respondents in the youth data set will be collected. For the most part, this is a repetition of instruments already administered biennially to these children in 1986. This will permit medical and social science researchers to uniquely consider a large number of basic research issues relating to the associations between family background, federal program activities, infant and maternal health and outcomes from early childhood

through adolescence. Thus, while the principal focus of the survey remains the collection of data for labor force analysis, the questionnaires administered to these children include items needed by other agencies that are not always directly related to employment and training studies. However, as these children reach adolescence the focus of the surveys on these "young adults" returns to the school-to-work transition.

The specific objectives of the study are to:

- (1) Explore the early labor market activity and family formation of individuals in this age group;
- (2) Explore in greater depth than has until now been possible the complex economic, social, and psychological factors responsible for variation in the labor market experience of this cohort;
- (3) Analyze the impact of a changing socio-economic environment on the educational and labor market experiences of this cohort by comparing data from the present study with those yielded by the surveys of the earlier NLS cohorts of young men (1966) and young women (1968) as well as the NLS cohort of young men and women interviewed for the first time in 1997;
- (4) Consider how employment-related activities of women impact the subsequent cognitive and emotional development of their children; and
- (5) Meet the data collection and research needs of various government agencies that have been interested in the relationships between child and maternal health, other child outcomes, drug and alcohol use, juvenile deviant behavior and education, employment, and family experiences.

Type of Review: Reinstatement, with change, of a previously approved collection.

Agency: Bureau of Labor Statistics.

Title: National Longitudinal Survey of Youth 79.

OMB Number: 1220-0109.

Affected Public: Individuals or households.

Frequency: Biennially.

Form	Total number of respondents	Total annual responses	Average minutes per response	Total estimated annual burden hours
Pretest	50	50	60	50
Young Adults	8,300	8,300	60	8,300
Reinterview	1,250	1,250	6	125
Children of Female Respondents	6,390	6,390	52	5,538
Totals	15,990	15,990	.....	14,013

Total Burden Cost (capital/startup): \$0.

Total Burden Cost (operating/maintenance): \$0.

Comments submitted in response to this notice will be summarized and/or

included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, D.C., this 23rd day of April 1999.

W. Stuart Rust, Jr.,

Chief, Division of Management Systems,
Bureau of Labor Statistics.

[FR Doc. 99-10726 Filed 4-28-99; 8:45 am]

BILLING CODE 4510-24-M

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection

Activities: Submission to OMB for Revision to a Currently Approved Information Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until June 28, 1999.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. James L. Baylen (703) 518-6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428, Fax No. 703-518-6433, E-mail: jbaylen@ncua.gov.

OMB Reviewer: Alexander T. Hunt (202) 395-7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518-6411.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: 3133-0141.

Form Number: N/A

Type of Review: Extension of a currently approved collection.

Title: 12 CFR 701.22. Organization and Operation of Credit Unions.

Description: NCUA has authorized federal credit unions to engage in loan

participation, provided they establish written policies and enter into a written loan participation agreement. NCUA believes written policies are necessary to ensure a plan is fully considered before being adopted by the Board.

Respondents: All Federal Credit Unions.

Estimated No. of Respondents/Recordkeepers: 1,000.

Estimated Burden Hours Per Response: 4 hours.

Frequency of Response: On occasion.

Estimated Total Annual Burden Hours: 4,000.

Estimated Total Annual Cost: \$100,000.

By the National Credit Union Administration Board on April 22, 1999.

Becky Baker,

Secretary of the Board.

[FR Doc. 99-10647 Filed 4-28-99; 8:45 am]

BILLING CODE 7535-01-U

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection

Activities: Submission to OMB for Revision to a Currently Approved Information Collections; Comment Request.

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collections to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Public Law 104-13, 44 U.S.C. Chapter 35). These information collection are published to obtain comments from the public.

DATES: Comments will be accepted until June 28, 1999.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. James L. Baylen (703) 518-6411, National Credit Union Administration 1775 Duke Street, Alexandria, Virginia 22314-3428, Fax No. 703-518-6433, E-mail: jbaylen@ncua.gov.

OMB Reviewer: Alexander T. Hunt (202) 395-7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

Copies of the information collection requests, with applicable supporting documentation, may be obtained by

calling the NCUA Clearance Officer, James L. Baylen, (703) 518-6411.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: 3133-0143.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Title: 12 C.F.R. 760 Loans in Areas Having Special Flood Hazards.

Description: Federally insured credit unions are required by statute and by proposed 12 CFR Part 760 to file reports, make certain disclosures and keep records. Borrowers use this information to make valid purchase decisions. The NCUA uses the records to verify compliance.

Respondents: All federal credit unions.

Estimated No. of Respondents/Recordkeepers: 5,500.

Estimated Burden Hours Per Response: 7 minutes.

Frequency of Response: Recordkeeping and on occasion.

Estimated Total Annual Burden Hours: 101,333.

Estimated Total Annual Cost: N/A.

OMB Number: 3133-0121.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Title: 12 C.F.R. 701.14 Notice of Change of Officials and Senior Executive Officers.

Description: The regulation directs newly chartered and troubled credit unions to provide NCUA with 30 days notice before making a management change.

Respondents: Troubled and newly chartered credit unions.

Estimated No. of Respondents/Recordkeepers: 534.

Estimated Burden Hours Per Response: 2 hours.

Frequency of Response: Reporting and on occasion.

Estimated Total Annual Burden Hours: 1,068.

Estimated Total Annual Cost: N/A.

OMB Number: 3133-0108.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Title: 12 C.F.R. 748.2 Monitoring Bank Secrecy Act Compliance.

Description: The collection is needed to allow NCUA to determine whether credit unions have established a program reasonably designed to assure and monitor their compliance with currency recordkeeping and reporting requirements established by Federal statute and Department of the Treasury regulations.

Respondents: Federally insured credit unions.

Estimated No. of Respondents/Recordkeepers: 11,127.

Estimated Burden Hours Per Response: 3 hours.

Frequency of Response: Recordkeeping.

Estimated Total Annual Burden Hours: 33, 477.

Estimated Total Annual Cost: N/A.

OMB Number: 3133-0068.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Title: 12 C.F.R. 701.31 Non Discrimination Policy.

Description: This regulation requires a federal credit union (FCU) to keep a copy of the property appraisal. It also requires that a FCU using geographical factors in evaluating real estate loan applications must disclose such facts on the appraisal and state for justification. This regulation insures compliance with the Fair Housing anti-redlining requirements.

Respondents: Federally credit unions.

Estimated No. of Respondents/Recordkeepers: 4,000.

Estimated Burden Hours Per Response: 1 hours.

Frequency of Response: Recordkeeping on occasion.

Estimated Total Annual Burden Hours: 4,000.

Estimated Total Annual Cost: N/A.

OMB Number: 3133-0142.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Title: 12 C.F.R. 741.6(c) Requirements for Insurance.

Description: Credit Unions that submit late or inaccurate call reports are required to submit a proposal that describes how it will avoid another late or inaccurate report.

Respondents: Federally insured credit unions.

Estimated No. of Respondents/Recordkeepers: 630.

Estimated Burden Hours Per Response: 2 hours.

Frequency of Response: Reporting and on occasion.

Estimated Total Annual Burden Hours: 1,260.

Estimated Total Annual Cost: \$21,186.60.

By the National Credit Union Administration Board on April 22, 1999.

Becky Baker,

Secretary of the Board.

[FR Doc. 99-10648 Filed 4-28-99; 8:45 am]

BILLING CODE 7535-01-U

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Revision to a Currently Approved Information Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until June 28, 1998.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. James L. Baylen (703) 518-6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428, Fax No. 703-518-6433, E-mail: jbaylen@ncua.gov.

OMB Reviewer: Alexander T. Hunt (202) 395-7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518-6411.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: 3133-0004.

Form Number: NCUA 5300

Type of Review: Revision to the currently approved collection.

Title: Semi-Annual and Quarterly Call Report.

Description: The financial and statistical information is essential to NCUA in carrying out its responsibility for the supervision of federally insured credit unions. The information also enables NCUA to monitor all federally insured credit unions whose share accounts are insured by the National Credit Union Share Insurance Fund (NCUSIF).

Respondents: All Credit Unions.

Estimated No. of Respondents/Recordkeepers: 11,000.

Estimated Burden Hours Per Response: 8 hours.

Frequency of Response: Quarterly and Semi-Annually.

Estimated Total Annual Burden Hours: 200,000.

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on April 21, 1999.

Becky Baker,

Secretary of the Board.

[FR Doc. 99-10649 Filed 4-28-99; 8:45 am]

BILLING CODE 7535-01-P

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biological Infrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Biological Infrastructure (#1215).

Date and Time: Tuesday, May 4, 1999 at 8:30 am-5:00 pm, Wednesday, May 5, 1999 at 8:30 am-Adjourn.

Place: National Science Foundation at 4201 Wilson Boulevard, Arlington, VA 22230, Room 680.

Type of Meeting: Closed.

Contact Person: Paul Gilna, Program Director; Computational Biology Activities Program in Biological Sciences; National Science Foundation; 4201 Wilson Boulevard, Room 615N; Arlington, Virginia 22230, Telephone: (703) 306-1469.

Purpose of Meeting: To provide advice and recommendation concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for acquisition of Computational Biology Activities Program in Biological Sciences as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary of confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 22, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99-10662 Filed 4-28-99; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biological Infrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Biological Infrastructure (#1215).

Date and Time: Tuesday, May 4, 1999 at 8:30 a.m.–5p.m.—Wednesday, May 5, 1999 at 8:30a.m.—Adjourn.

Place: National Science Foundation at 4201 Wilson Boulevard, Arlington, VA 22230, Room 380.

Type of Meeting: Closed.

Contact Person: Carter Kimsey, Program Coordinator; Postdoctoral Research Fellowships in Biological Informatics Program in Biological Sciences; National Science Foundation; 4201 Wilson Boulevard, Room 615N; Arlington, Virginia 22230 Telephone: (703) 306-1469.

Purpose of Meeting: To provide advice and recommendation concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for acquisition of Postdoctoral Research Fellowships in Biological Informatics Program in Biological Sciences as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 22, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99-10663 Filed 4-28-99; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biomolecular Processes; Notice of Sunshine Act Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Biomolecular Processes (5138) (Panel B).

Date and Time: Thursday and Friday, April 29-30, 1999, 9:00 A.M. to 5:00 P.M.

Place: National Science Foundation, 4201 Wilson Boulevard, Rm. 630, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Christopher Greer, Program Director, or Dr. Susan Porter Ridley, Assistant Program Manager for Biochemistry of Gene Expression, Room 655, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306-1441.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Biochemistry of Gene Expression Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a

proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals.

These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: April 22, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99-10665 Filed 4-28-99; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biomolecular Processes

Sunshine Meeting Notice

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Biomolecular Processes—(5138) (Panel A).

Date and Time: Wednesday, Thursday, and Friday, May 5-7, 1998 9 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 340, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Alison M. Berry, Program Director, or Dr. Susan Porter Ridley, Assistant Program Manager, for Metabolic Biochemistry, Room 655, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. (703/306-1441).

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Metabolic Biochemistry Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 22, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99-10667 Filed 4-28-99; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Committee of Visitors CISE Instrumentation Program Panel in Experimental and Integrative Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 920463, as amended), the National Science Foundation announces the following meeting.

Name: Committee of Visitors in Experimental and Integrative Activities (1193).

Date and Time:

April 27, 1999; 8:30-5:00 p.m. (Closed)

April 28, 1999; 8:30-10:30 p.m. (Closed)

April 28, 1999; 10:30-5:00 p.m. (Open)

Place: Room 1105.17.

Type of Meeting: Part Open.

Contact Person(s): Dr. Michael Foster, Acting Division Director, Division of Experimental and Integrative Activities, National Science Foundation, Room 1160, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306-1980.

Purpose of Meeting: To assess program-level technical and managerial matters pertaining to proposal decisions.

Agenda: To assess program-level technical and managerial matters pertaining to proposal decisions. The review will address the integrity and efficacy of processes used to solicit, review, recommend, and document proposal actions, and the relationship between award decisions and program goals. The Open portion of the meeting will include consideration of the results of NSF investment.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552 b.(c)(4) and (6) of the Government in the Sunshine Act.

Dated April 22, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99-10666 Filed 4-28-99; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Infrastructure, Methods and Science Studies; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation (NSF) announces the following three meetings.

Name: Advisory Panel for Infrastructure, Methods & Science Studies (#1760).

1. *Date & Time:* April 23-24, 1999; 8:30 a.m.–5:00 p.m.

Place: Loyola University, Chicago, IL.
Contact Person: Dr. Michael Sokal,
 Program Director for Science and Technology
 Studies, National Science Foundation, 4201
 Wilson Boulevard, Arlington, VA 22230.
 Telephone: (703) 306-1742.

Agenda: To review and evaluate Science
 and Technology Studies proposals as part of
 the selection process for awards.

2. *Date & Time:* May 3-4, 1999; 8:30 a.m.-
 5:00 p.m.

Room: 310.

Contact Person: Dr. Cheryl L. Eavey,
 Program Director for Methods, Measurement
 and Statistics, National Science Foundation,
 4201 Wilson Boulevard, Arlington, VA
 22230. Telephone: (703) 306-1729.

Agenda: To review and evaluate Methods,
 Measurement and Statistics proposals as part
 of the selection process for awards.

3. *Date & Time:* May 6-7, 1999; 8:30 a.m.-
 5:00 p.m.

Room: 370.

Contact Person: Dr. Rachelle Hollander,
 Program Director for Societal Dimensions of
 Engineering, Science and Technology,
 National Science Foundation, 4201 Wilson
 Boulevard, Arlington, VA 22230. Telephone:
 (703) 306-1743.

Agenda: To review and evaluate Societal
 Dimensions of Engineering, Science and
 Technology proposals as part of the selection
 process for awards.

Type of Meetings: Closed.

Purpose of Meeting: To provide advice and
 recommendations concerning support for
 research proposals submitted to the NSF for
 financial support.

Reason for Closing: The proposals being
 reviewed include information of a
 proprietary or confidential nature, including
 technical information; financial data, such as
 salaries; and personal information
 concerning individuals associated with the
 proposals. These matters are exempt under 5
 U.S.C. 552b(c)(4) and (6) of the Government
 in the Sunshine Act.

Dated: April 22, 1999.

Linda Allen-Benton,

*Acting Director, Division of Human Resource
 Management.*

[FR Doc. 99-10661 Filed 4-28-99; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Physics; Notice of Meeting

In accordance with the Federal
 Advisory Committee Act (Pub. L. 92-
 463, as amended), the National Science
 Foundation announces the following
 meeting:

Name: Special Emphasis Panel in Physics
 (1208) DOE/NSF Nuclear Science Advisory
 Committee.

Date and Time: Friday, April 30, 1999; 9
 a.m. to 5 p.m.

Place: LBL Washington, DC Project Office;
 Suite 500, 1250 Maryland Ave, SW,
 Washington, DC.

Type of Meeting: Opened.

Contact Person: Dr. Bradley D. Keister,
 Program Director for Nuclear Physics, Room
 1015, National Science Foundation, 4201
 Wilson Blvd., Arlington, VA 22230.
 Telephone: (703) 306-1891.

Purpose of Meeting: To advise the National
 Science Foundation and the Department of
 Energy on scientific priorities within the
 field of basic nuclear science research.

Agenda:

- Presentation of Interim Report of the
 ISOL Task Force.
- Presentations by agencies
 representatives.
- Public Comment*.

Dated: April 22, 1999.

Linda Allen-Benton,

*Acting Director, Division of Human Resource
 Management.*

[FR Doc. 99-10664 Filed 4-28-99; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Indiana Michigan Power Company

[Docket Nos. 50-315 and 50-316]

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Nuclear Regulatory Commission
 (the Commission) is considering
 issuance of an amendment to Facility
 Operating License No. DPR-58 and
 Facility Operating License No. DPR-74
 issued to Indiana Michigan Power
 Company (the licensee) for operation of
 the Donald C. Cook Nuclear Power
 Plant, Units 1 and 2 located in Berrien
 County, Michigan.

The proposed license amendment
 would revise Technical Specification
 section 3/4.8.1.2, "Electrical Power
 Systems, Shutdown," and its associated
 bases to provide a one-time extension of
 the 18-month surveillance interval for
 specific surveillance requirements for
 Units 1 and 2. This surveillance will be
 performed prior to the first entry into
 Mode 4 subsequent to receipt of the
 requested T/S amendment. In addition,
 for Unit 2 only, a minor administrative
 change is included to delete a reference
 to T/S 4.0.8, which is no longer
 applicable. For Unit 1 only, an editorial
 change is made to add the word "or" to
 action statement 3.8.1.2.

Before issuance of the proposed
 license amendment, the Commission
 will have made findings required by the
 Atomic Energy Act of 1954, as amended

* Persons wishing to speak should make
 arrangement through the Contact Person identified
 above.

(the Act) and the Commission's
 regulations.

The Commission has made a
 proposed determination that the
 amendment request involves no
 significant hazards consideration. Under
 the Commission's regulations in 10 CFR
 50.92, this means that operation of the
 facility in accordance with the proposed
 amendment would not (1) Involve a
 significant increase in the probability or
 consequences of an accident previously
 evaluated; or (2) Create the possibility of
 a new or different kind of accident from
 any accident previously evaluated; or
 (3) Involve a significant reduction in a
 margin of safety. As required by 10 CFR
 50.91(a), the licensee has provided its
 analysis of the issue of no significant
 hazards consideration, which is
 presented below:

1. Does the Change Involve a Significant Increase in the Probability of Occurrence or Consequences of an Accident Previously Evaluated?

A discussion of each of the applicable
 accidents follows.

Fuel Handling Accident

The only time a fuel handling accident
 could occur is during the handling of a fuel
 assembly. The design of fuel handling
 equipment is such that an interruption of
 A.C. power would not cause a fuel element
 to be inadvertently dropped. Therefore, an
 interruption or loss of A.C. power does not
 significantly increase the probability of a fuel
 handling accident.

At present, fission product activities in the
 fuel assembly pellet-to-cladding gaps are
 greatly reduced. The fuel handling accident
 analysis considers the thyroid dose at the site
 boundary and in the low population zone.
 This dose is dominated by the isotope iodine
 131, which also decays more slowly than the
 other iodine contributors to the dose. The
 activity of iodine 131 decreases by one-half
 every 8.05 days. The current shutdown
 period of approximately 18 months
 represents over 70 half-lives. Activity of a
 radioactive material is generally considered
 to be negligible after 7 half-lives (a reduction
 in activity of $1/128$). By contrast, the accident
 analysis assumes an iodine reduction of less
 than $1/10$ (from activated charcoal filtration)
 in the fuel handling building, and no
 reduction in the containment, prior to
 release. Therefore, the consequences of a fuel
 handling accident are clearly bounded by the
 existing safety analysis without taking credit
 for any iodine removal by charcoal filtration.
 The greatly reduced fission product activity
 at the current time provides assurance that
 the consequences of this event are bounded
 by the existing analysis. Therefore, the
 consequences are not significantly increased.

Accidental Release of Radioactive Liquids

The inadvertent release of radioactive
 liquid wastes to the environment was
 evaluated for the waste evaporator
 condensate and monitor tanks, condensate
 storage tank, primary water storage tank,

refueling water storage tank (RWST), the auxiliary building storage tanks and the chemical and volume control system (CVCS) holdup tanks. It was concluded, in the UFSAR Chapter 14 evaluation, that loss of liquid from these tanks to the environment is not a credible accident. This conclusion does not depend on operating mode, hence, further evaluation of this event is not required.

Waste Gas Release

Radioactive gases are introduced into the reactor coolant by the escape of fission products if defects exist in the fuel cladding. The processing of the reactor coolant by auxiliary systems results in the accumulation of radioactive gases in various tanks. The two main sources of any significant gaseous radioactivity that could occur would be the volume control tank (VCT) and the gas decay tanks. It is assumed that a tank ruptures by an unspecified mechanism after the reactor has been operating for one core cycle with 1% defects in the fuel cladding. There is no identified mechanism by which an interruption or loss of power could result in a tank rupture. Therefore, it is concluded that the probability of occurrence of a tank rupture would not be significantly increased by an interruption or loss of A.C. power. The greatly reduced fission product activities at the current time provides assurance that the consequences of this event are bounded by the current analysis and would, therefore, not be significantly increased.

Uncontrolled Rod Cluster Control Assembly (RCCA) Withdrawal From a Subcritical Condition

This event can only occur with the reactor trip breakers closed and the control rod drive mechanisms (CRDMs) energized. With the exception of testing or special maintenance, the rod drive motor generator set remains tagged out until Mode 3 and this alone would preclude rod movement. If the conditions for rod withdrawal are met, two operable source range instruments and two reactor trip channels and trip breakers must be operable. An interruption or loss of power would preclude CRDM movement and release the control rods. The source range instruments would remain available. Therefore, it is concluded that the probability of occurrence of an uncontrolled RCCA withdrawal would not be significantly increased by an interruption or loss of A.C. power in Modes 5 or 6. Acceptable consequences for this event rely on precluding its occurrence.

Uncontrolled Boron Dilution

This event requires a malfunction of the CVCS. The CVCS is designed to limit, even under various postulated failure modes, the potential rate of dilution to a value which provides the operator sufficient time to correct the situation in a safe and orderly manner. The rate of addition of unborated water makeup to the reactor coolant system is limited by the capacity of the primary water pumps. The maximum addition rate in this case is 225 gpm with both primary water pumps running. An interruption or loss of A.C. power would preclude pump operation and accidental dilution. The RWST is not a credible dilution source as recognized by a

footnote to T/S 3/4.8.1.2. Therefore, the possibility of an uncontrolled boron dilution is not significantly increased. Acceptable consequences for this event rely on precluding its occurrence and by detection with the source range nuclear instrumentation required by the T/S in Modes 5 and 6.

The proposed revision involves deferral of certain surveillance requirements when shut down but does not reduce the required operable power sources of the Limiting Condition for Operation (LCO), does not increase the allowed outage time of any required operable power supplies and does not reduce the requirement to know that the deferred SRs [surveillance requirements] could be met at all times. Deferral of the testing does not by itself increase the potential that the testing would not be met and the previously evaluated accidents described above do not rely on automatic starting or loading of the single operable EDG [emergency diesel generator] permitted in Modes 5 and 6. The monthly EDG starts, fuel level checks, and fuel transfer pump checks will continue to be performed to provide adequate confidence that the required EDG will be available if needed. Therefore, it is concluded that the required A.C. sources will remain available and the previously evaluated consequences will not be increased.

The proposed administrative change for unit 2 deletes a reference to T/S 4.0.8 that is no longer applicable and, thus, does not increase the probability or consequences of an accident. The editorial change to unit 1 corrects a typographical error. The correction is not intended to change the meaning.

Therefore, based on the above discussion, it is concluded that the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the Change Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated?

The proposed changes do not involve operation of the required electrical power sources in a manner or configuration different than those previously recognized or evaluated. No new failure mechanisms of the A.C. power supplies are introduced by extension of the subject surveillance intervals.

The proposed administrative change for unit 2 deletes a reference to T/S 4.0.8 that is no longer applicable and, thus, does not create the possibility of a new or different kind of accident. The editorial change to unit 1 corrects a typographical error. The correction is not intended to change the meaning. Therefore, it is concluded that the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the Change Involve a Significant Reduction in a Margin of Safety?

The required operable power supplies have not been reduced. Deferral of the specified SRs does not by itself introduce a failure mechanism, and past performance of the SRs has demonstrated reliability in passing the

deferred surveillances. Therefore, the availability of power supplies assumed for accident mitigation is not significantly reduced and previous margins of safety are maintained.

The proposed administrative change for unit 2 deletes a reference to T/S 4.0.8 that is no longer applicable and thus, does not increase the probability or consequences of an accident. The editorial change to unit 1 corrects a typographical error. The correction is not intended to change the meaning. Therefore, these changes do not involve a significant reduction in the margin of safety.

In summary, based upon the above evaluation, I&M has concluded that these changes involve no significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92 are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received

may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 26, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and at the local public document room located at the Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, MI 49085. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended

petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention:

Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Jeremy J. Euto, Esquire, 500 Circle Drive, Buchanan, MI 49107, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(I)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated December 3, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, MI 49085.

Dated at Rockville, Maryland, this 22nd day of April 1999.

For the Nuclear Regulatory Commission.

John F. Stang, Sr.,

Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99-10687 Filed 4-28-99; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-282 and 50-306]

Northern States Power Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses DPR-42 and DPR-60 Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses DPR-42 and DPR-60 issued to Northern States Power Company (the licensee) for operation of the Prairie Island Nuclear Generating Plant, Units 1 and 2, located in Goodhue County, Minnesota.

The proposed amendments would change the implementation date for the

relocation of the requirements specified in Technical Specification Sections 3.1.E and 5.1 to the Updated Final Safety Analysis Report. On December 7, 1998, the NRC had previously issued license amendments 141 and 132 for Units 1 and 2, respectively, approving the relocation of aforementioned requirements by June 1, 1999. The proposed amendments would postpone the implementation date to September 1, 1999.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does operation of the facility with the proposed amendment[s] involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change is administrative in nature and does not significantly affect any system that is a contributor to initiating events for previously evaluated accidents. Neither does the change significantly affect any system that is used to mitigate any previously evaluated accidents. Therefore, the proposed change does not involve any significant increase in the probability or consequence of an accident previously evaluated. Current Technical Specification requirements will remain in place.

2. Does operation of the facility with the proposed amendment[s] create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change is administrative in nature and does not alter the design, function, or operation of any plant component and does not install any new or different equipment, therefore a possibility of a new or different kind of accident from those previously analyzed has not been created.

3. Does operation of the facility with the proposed amendment[s] involve a significant reduction in a margin of safety?

The proposed change is administrative in nature and does not involve a significant reduction in the margin of safety associated with the fuel cladding, reactor coolant boundary, containment, or any safety limit.

Current Technical Specification requirements will remain in place.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 26, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request

for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise

statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by close of business on the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 20, 1999, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Rockville, Maryland, this 22nd day of April 1999.

For the Nuclear Regulatory Commission.

George F. Dick,

Acting Chief, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99-10684 Filed 4-28-99; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Florida Power & Light Company, Inc.

[Docket No. 50-389]

St. Lucie Plant, Unit 2 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-16, issued to Florida Power & Light Company, Inc., (the licensee), for operation of the St. Lucie Plant, Unit 2, located in St. Lucie County, Florida.

Environmental Assessment

Identification of the Proposed Action

The proposed amendment would modify the St. Lucie Plant, Unit 2, Technical Specifications by changing the criticality requirements for the design of the spent fuel storage racks, referencing new tables that specify the reactivity effects of fuel assembly burnup and decay time, and increasing the listed capacity of the spent fuel pool. These changes would allow the use of credit for soluble boron in the spent fuel criticality analyses. This would allow Florida Power & Light to

increase the capacity of the spent fuel storage pool. The proposed action is in accordance with the licensee's application for amendment dated December 31, 1997, as supplemented May 15, September 15, November 25, 1998, and January 28, 1999.

The Need for the Proposed Action

The proposed action would increase the allowed storage capacity of the St. Lucie Plant, Unit 2, spent fuel pool (SFP) to 1360 fuel assemblies, allowing the licensee to continue to operate beyond 2001. The Unit 2 SFP at St. Lucie Plant contains 1584 spent fuel storage cells, of which 1076 are currently allowed for storage by the technical specifications. The licensee estimates that, by the year 2001, St. Lucie Plant, Unit 2, will have filled all SFP storage locations not reserved for a full-core off-load of fuel. The projected loss of capability to store spent fuel from future operation of St. Lucie Plant, Unit 2, would affect the licensee's ability to operate St. Lucie Plant, Unit 2. The proposed amendment is needed in order to ensure the capability to perform a full-core off-load to the SFP until approximately 2007.

Environmental Impacts of the Proposed Action

Thermal Impact

The licensee's thermal analysis on the effects of the proposed change revealed that the proposed increase in storage capacity will change the maximum decay heat load for a partial core offload from 16.9E6 Btu/hr to 19.76E6 Btu/hr and for full core offload conditions from 31.7E6 Btu/hr to 35.22E6 Btu/hr. This increased heat load results in an increase of approximately 3°F in the maximum fuel pool water temperature for the partial core offload case, and an increase of approximately 5°F in water temperature for storage of the limiting full core offload (note: maximum fuel pool temperature will be maintained less than or equal to 150°F). The total heat load rejected to the environment by St. Lucie Plant, Unit 2, is about 6.2E9 Btu/hr. The percentage increase in the heat rejected to the environment due to the increase in spent fuel storage capacity is on the order of 0.05% for partial core discharges and 0.06% for fuel storage following a full core offload. This heat rejection to the environment is not considered a significant increase from current heat rejection levels.

Radiological Evaluation

Solid Radioactive Waste. The net effect of increasing the St. Lucie, Unit 2, spent fuel pool storage capacity is that

older fuel elements will be retained in wet storage beyond the time when they would have otherwise been loaded into casks for dry storage on-site. Retaining already-aged fuel in wet storage for an additional period of time will not appreciably increase the activity in the fuel pool water or the amount of solid radioactive waste which must be disposed of because the short-lived isotopes associated with these fuel bundles will have had an opportunity to decay. Therefore, increasing the fuel pool storage capacity as proposed for St. Lucie, Unit 2, will have no significant effect on the quantity of radioactive waste collected.

Gaseous Radioactive Waste. Storage of additional quantities of spent fuel in the SFP will not significantly increase the release of gaseous fission products such as Krypton-85 and Iodine-131. Experience has demonstrated that during the period between refueling outages, there is no longer a significant release of fission products, including Krypton-85, from stored spent fuel containing cladding defects. Iodine-131 released from spent fuel assemblies to the SFP water will not be significantly increased as a result of the expansion of the fuel storage capacity since the Iodine-131 inventory in the fuel will decay to negligible levels in the period between refueling outages. The licensee has stated that fuel rod integrity at St. Lucie, Unit 2, has been very good, with most fuel cycles evidencing no leaking fuel rods. Additionally, the rod pressure, which tends to act as driving force for fission product release, is substantially decreased after long periods of fuel cooling.

The increased heat load on the SFP from the storage of additional spent fuel assemblies could potentially result in an increase in the SFP evaporation rate, which may result in a slight increase in the amount of gaseous tritium released from the pool. However, the overall release of radioactive gases from St. Lucie Plant, Unit 2, will remain a small fraction of the limits of 10 CFR Part 20, and is therefore considered insignificant.

Radioactive Releases Due to Accidents. The existing analyses of record pertaining to the radiological consequences of a fuel handling accident within the St. Lucie Plant, Unit 2, Fuel Handling Building (FHB) and the postulated drop of a spent fuel cask just outside the FHB have been examined to assess the impact of the proposed license amendment. The assumptions and parameters previously employed in evaluating the fuel mishandling accident were consistent with NRC Regulatory Guides 1.13 and

1.25. The previously analyzed consequences of dropping a spent fuel cask were based on the guidelines provided in Section 15.7.5 of the Standard Review Plan. The licensee's review of the existing analysis of the fuel handling accident has concluded that the gap activities provided in the analysis of record for the fuel handling accident conservatively bound those values expected to occur at assembly discharge burnups of up to 60,000 MWD/MTU. As defined by Section 15.7.4 of the Standard Review Plan, calculated dose values are well within the guidelines if the calculated whole body dose is less than or equal to 6 rem and the calculated thyroid dose is less than or equal to 75 rem.

The proposed license amendment does not involve any changes to the method of operating or range of motion of the spent fuel cask handling crane. No movement of loads in excess of the nominal weight of a fuel assembly, control element assembly, and associated handling tool is permitted over other fuel assemblies in the storage pool. Protection against dropping the spent fuel cask into the spent fuel storage pool is provided by the basic layout of the FHB. As noted in updated final safety analysis report, Section 9.1.4.3.2, additional protection is afforded by the trolley bumpers and a set of limit switches that work together with bridge and trolley brakes to prevent movement of the crane hook into the restricted area.

The proposed amendment will not involve any changes in the operation or range of motion of the spent fuel handling machine. During movement of a fuel assembly, the load on the hoist cable is monitored to ensure that movement is not restricted. Installed interlocks will continue to restrict movement of the handling machine when the hoist is withdrawing or inserting an assembly.

The licensee has also examined the existing analysis of an accident involving the drop of a spent fuel cask containing ten irradiated fuel assemblies. This review has determined that conservative input assumptions were used and that the results of the existing analysis are well within the acceptance criteria for a Limiting Fault-2 event.

Increasing the storage capacity of the St. Lucie, Unit 2, SFP as described in this proposed license amendment will have no effect on the radiological consequences of an assumed fuel mishandling event or on the consequences of dropping a loaded spent fuel cask. For each of these events,

the calculated doses are small relative to the guideline values.

The impact of the proposed increase in St. Lucie, Unit 2, spent fuel storage capacity and the implications of the use of reactivity credit for fuel pool soluble boron have been examined in the above discussion. Each of the impacts of the proposed change has been quantified and determined to be within acceptable limits by comparison to established acceptance criteria.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Summary

The Commission has completed its evaluation of the proposed action. The proposed action will not increase the probability or consequences of accidents, no changes will be made in the types of any effluents that may be released off-site, and there will be no significant increase in occupational or public radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action involves features located entirely within the restricted area as defined in 10 CFR Part 20. It will not affect non-radiological plant effluents and has no other environmental impact. The proposed action does not involve any historic sites. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action. Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed action

Shipping Fuel to a Permanent Federal Fuel Storage/Disposal Facility

Shipment of spent fuel to a high-level radioactive storage facility is an alternative to increasing the onsite spent fuel storage capacity. However, the U.S. Department of Energy's (DOE's) high-level radioactive waste repository is not expected to begin receiving spent fuel until approximately 2010 at the earliest. In October 1996, the Administration did commit DOE to begin storing waste at a centralized location by January 31, 1998. However, no location has been identified and an interim federal storage facility has yet to be identified in advance of a decision on a permanent repository. Therefore, shipping spent fuel to the DOE repository is not considered an alternative to increased

onsite spent fuel storage capacity at this time.

Shipping Fuel to a Reprocessing Facility

Reprocessing of spent fuel from the St. Lucie Plant, Unit 2, is not a viable alternative since there are no operating commercial reprocessing facilities in the United States. Spent fuel would have to be shipped to an overseas facility for reprocessing. This approach has never been used and it would require approval by the U.S. Department of State as well as other entities. Additionally, the cost of spent fuel reprocessing is not offset by the salvage value of the residual uranium and reprocessing represents an added cost. Therefore, this alternative is considered unacceptable.

Shipping Fuel to Another Utility or Site or to St. Lucie, Unit 1, for Storage

Shipment of irradiated fuel from St. Lucie, Unit 2, to Turkey Point or to the St. Lucie, Unit 1, fuel pool would provide short-term relief from the storage problem at St. Lucie, Unit 2, but this transfer of fuel between units would create no additional storage locations for irradiated fuel. As a result, any fuel transfer would accelerate the loss of fuel pool storage at the receiving unit and give no benefit to the facility. Currently, the Turkey Point site has installed fuel pool storage capacity sufficient to handle site requirements for irradiated fuel storage until approximately the end of licensed life in 2012 (for Unit 3) and 2013 (for Unit 4). Further expansion of the storage capacity of the Turkey Point spent fuel pools is not feasible. Unlike the situation at Turkey Point, the St. Lucie site will require development of an Independent Spent Fuel Storage Facility (ISFSI) to permit operation to the end of licensed life. As a result, shipment of irradiated fuel from St. Lucie to Turkey Point would require the early development of an ISFSI at Turkey Point without eliminating the requirement to subsequently develop an ISFSI at the St. Lucie site. Additionally, the design of the Turkey Point fuel pool storage racks has been optimized for storage of fuel with a different lattice and different reactivity characteristics than that used at St. Lucie, Unit 2; thus, storage of Unit 2 fuel at Turkey Point would both limit storage of future discharged Turkey Point fuel and represent a less than optimal use of the existing Turkey Point storage capability. Likewise, the shipment of irradiated fuel from St. Lucie, Unit 2, to St. Lucie, Unit 1, for storage does not eliminate the need to develop additional spent fuel storage capability at the St. Lucie site in the future. FPL knows of no other utility that is prepared to accept

shipments of irradiated fuel from St. Lucie, Unit 2, for long-term storage at its site.

For these reasons, and considering the increased fuel handling and additional occupational radiation exposure incurred during the shipment of irradiated fuel, the alternative of shipping St. Lucie, Unit 2, fuel to Turkey Point or to St. Lucie, Unit 1, for storage is not an acceptable alternative to the proposed action.

Alternatives Creating Additional Storage Capacity

A variety of alternatives to increase the storage capacity of the St. Lucie, Unit 2, spent fuel pool were considered prior to developing the proposed license amendment based on soluble boron credit. Fuel rod consolidation was examined as a potential alternative and was eliminated because of the limited industry experience in disassembling irradiated fuel and because of the potential for fission product release due to rod breakage during disassembly. Additionally, because the Department of Energy (DOE) considers consolidated fuel to be a non-standard waste form, FPL was concerned that the presence of fuel in this form would cause the DOE to delay its acceptance of waste from St. Lucie, Unit 2.

The addition of poison inserts to the Unit 2 fuel pool was examined and later rejected because the large quantity of inserts necessary to adequately control the fuel pool reactivity had a significantly greater initial cost that the alternative selected. Additionally, use of poison inserts increases the volume of radioactive waste that must be disposed of or decontaminated during decommissioning of the spent fuel pool, making this alternative unacceptable.

The early implementation of dry cask storage for irradiated fuel at the St. Lucie site was also considered. Dry cask storage involves transferring irradiated fuel, after several years of storage in the Unit 2 fuel pool, to high capacity casks with passive heat dissipation features. After loading, these casks would be placed on a concrete pad at an outdoor location on the St. Lucie site. This alternative was rejected by FPL because each of the alternatives discussed above would provide additional storage locations for irradiated fuel at lower cost and with less environmental impact.

As a result, FPL concluded that none of the alternative technologies that could create additional spent fuel storage capacity at St. Lucie, Unit 2, could do so with an environmental impact less than the impacts associated with the chosen option.

Reduction of Spent Fuel Generation

To minimize the quantities of irradiated fuel generated during full power operation at St. Lucie, FPL has developed efficient fuel loading patterns that maximize the utilization of fissile material within each assembly consistent with license limits on the integrated fuel rod exposure. Batch discharge burnups for St. Lucie, Unit 2, fuel regularly approximate 45 GWD/MTU with peak assembly burnups reaching 50 GWD/MTU by the time of discharge. St. Lucie, Unit 2, consistently depletes fuel assemblies to these burnups without experiencing cladding perforations so that the fission product inventory present in the spent fuel pool water remains low. The high values of batch average and peak assembly discharge burnup ensure that the electricity generated by St. Lucie, Unit 2, yields the minimum possible amount of spent fuel.

The fuel assembly design used at St. Lucie, Unit 1, and at Turkey Point is not compatible with the St. Lucie, Unit 2, core. As a result, partially irradiated fuel from other FPL nuclear units can not be used at Unit 2 (or vice versa) to reduce the rate of spent fuel discharge.

Operation of St. Lucie, Unit 2, at a reduced power level for long periods of time would extend the existing spent fuel pool storage capacity. However, to compensate for the reduced generation by St. Lucie, Unit 2, another power generation facility would be required to increase its power output, possibly resulting in an increase in airborne pollution and greenhouse gas emissions. The adverse environmental impact of increased airborne pollution and greenhouse gas emissions resulting from a long-term derate of St. Lucie, Unit 2, generating capacity is significantly greater than the environmental impact associated with increasing the storage capacity of the existing Unit 2 spent fuel pool.

The No-Action Alternative

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no significant change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for St. Lucie, Unit 2.

Agencies and Persons Consulted

By Letter dated March 8, 1991, Mary E. Clark of the State of Florida, Department of Health and Rehabilitative Services, informed Deborah A. Miller, Licensing Assistant, U.S. NRC, that the State of Florida does not desire notification of issuance of license amendments. Thus, the State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 31, 1997, as supplemented May 15, 1998, September 15, 1998, November 25, 1998, and January 28, 1999. The May 15, 1998 supplement was a result of an U.S. Nuclear Regulatory Commission request for additional information dated April 8, 1998. All of these documents are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Indian River Community College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34981-5596.

Dated at Rockville, Maryland, this 23rd day of April 1999.

For the Nuclear Regulatory Commission.

William C. Gleaves,

Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99-10685 Filed 4-28-99; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-482]

Wolf Creek Nuclear Operating Corporation; Wolf Creek Generating Station Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption to Facility Operating License No. NPF-42, issued to Wolf Creek Nuclear Operating Corporation (WCNOC), for operation of the Wolf Creek Generating Station, located in Coffey County, Kansas.

Environmental Assessment**Identification of the Proposed Action**

The proposed action would exempt WCNOC from certain requirements of 10 CFR 50.60 and 10 CFR Part 50, Appendix G. The proposed exemption would allow WCNOC to apply American Society for Mechanical Engineers (ASME) Code Case N-514 for determining Wolf Creek Generating Station's cold overpressurization mitigation system (COMS) pressure setpoint.

The proposed action is in accordance with the licensee's application for exemption dated December 29, 1998.

The Need for the Proposed Action

The proposed exemption is needed to support an amendment to the Wolf Creek Technical Specifications which will revise the heatup, cooldown and COMS curves. The use of ASME Code Case N-514 would allow an increased operating band for system makeup and pressure control to allow operational flexibility.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that application of Code Case N-514 represents a special circumstance in accordance with 10 CFR 50.12(a)(2)(ii) on specific exemptions, such that the specific requirements of 10 CFR 50.60 and Appendix G are "* * * not necessary to achieve the underlying purpose of the rule," which in this case is to protect the reactor vessel from brittle fracture.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Wolf Creek Generating Station dated June 1982.

Agencies and Persons Consulted

In accordance with its stated policy, on March 5, 1999, the staff consulted with the Kansas State official, Mr. Vick Cooper, of the Kansas Department of Health and Environment, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 29, 1998, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 22nd day of April 1999.

For the Nuclear Regulatory Commission.

Kristine M. Thomas,

Project Manager, Section 2, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99-10686 Filed 4-28-99; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Applications for Licenses To Export Nuclear Material

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following application for an export license. Copies of the application are on file in the Nuclear Regulatory

Commission's Public Document Room located at 2120 L Street, N.W., Washington, D.C..

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear

Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of the applications for licenses to export nuclear grade graphite and heavy water as defined in 10 CFR Part 110 and noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the material to be exported. The information concerning the application follows.

NRC EXPORT LICENSE APPLICATION

Name of applicant, Date of application, Date received, application No.	Description of items to be exported	Country of destination
Aldrich Chemical Co., 03/15/99, 03/18/99, XMAT0397	Heavy Water to Canada for upgrading and return to U.S. ...	Canada.

Dated this 22nd day of April 1999 at Rockville, Maryland.

For the Nuclear Regulatory Commission.

Ronald D. Hauber,

Director, Division of Nonproliferation, Exports and Multilateral Relations, Office of International Programs.

[FR Doc. 99-10683 Filed 4-28-99; 8:45 am]

BILLING CODE 7590-01-P

working in licensed activities for a period of at least 5 years.

As the basis for the request, the petitioner states that the NRC notified the owner of the Seabrook Station, in a letter dated March 16, 1999, that an NRC investigation documented in Office of Investigation Report No. 1-98-005 concluded that (1) an electrician was terminated as a result of raising a safety concern and (2) a false record was created.

The Petitioner's request for enforcement action is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The request for enforcement action has been referred to the Director of the Office of Enforcement. As provided by section 2.206, appropriate action will be taken on this petition within a reasonable time.

The Petitioner's request to attend the upcoming predecisional enforcement conference with the licensee is not considered to be a request for enforcement action pursuant to 10 CFR 2.206, and it is denied. As stated in Section V of the Commission's "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), predecisional enforcement conferences are a meeting between the NRC staff and the licensee. As stated in the Enforcement Policy, these meetings will normally be closed to public observation when the enforcement action being contemplated by the NRC staff is based on the findings of an OI investigation report that has not been publically disclosed or when the enforcement action being contemplated may be taken against an individual. I find no reason in this case to make an exception to the Commission's stated policy of keeping these types of meetings closed to public observation.

A copy of the petition is available for inspection at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC 20555-0001.

Dated at Rockville, Maryland, this 20th day of April, 1999.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 99-10688 Filed 4-28-99; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-443; License No. NPF-86]

North Atlantic Energy Service Corporation, et al. Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by Petition dated March 31, 1999, David A. Lochbaum (Petitioner), acting on behalf of the Union of Concerned Scientists (UCS), has requested that the U.S. Nuclear Regulatory Commission (NRC) take action with regard to the Seabrook Station, Unit No. 1, operated by North Atlantic Energy Service Corporation. Petitioner requests three specific actions: (1) That the NRC take enforcement action against individuals alleged to have unlawfully discriminated against a contract electrician in violation of 10 CFR 50.7; (2) that the NRC take enforcement action against individuals alleged to have created a false record in violation of 10 CFR 50.9; and (3) that the Petitioner be granted permission to attend an upcoming predecisional enforcement conference between the NRC and the licensee on these matters. The Petitioner specifically requested that the NRC ban any individuals who engaged in wrongdoing in the above matters from

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of Information Collection: Request for Review of Part B Medicare Claim; OMB 3220-0100 Under Section 7(d) of the Railroad Retirement Act (RRA), the RRB administers the

Medicare program for persons covered by the railroad retirement system.

The RRB utilizes Forms G-790 and G-791 to provide railroad retirement beneficiaries who are claimants for Part B Medicare benefits with the means for requesting the United Healthcare Insurance Company, the RRB's current Medicare carrier, to review claims determinations or to hold hearings on the review determinations. Completion is required to obtain a benefit. One response is requested of each respondent.

The RRB proposes no changes to RRB Forms G-790 and G-791. The completion time for both the G-790 and the G-791 is estimated at 15 minutes.

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751-3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611-2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 99-10741 Filed 4-28-99; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41322; International Series Release No. 1192; File No. SR-Amex-98-49]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the American Stock Exchange LLC. Relating to Listing Additional Series of World Equity Benchmark Shares™

April 22, 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 23, 1998, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change. The Exchange submitted Amendment No. 1 to its proposal on February 24, 1999,³ and

Amendment No. 2 on April 9, 1999.⁴ The proposal rule change, as amended, is 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, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade under Amex Rules 1000A *et seq.* Index Fund Shares based on the following MSCI Indices: Brazil, Greece, Indonesia (Free), South Korea, Portugal, South Africa, Taiwan, Thailand (Free), Turkey, United States and EMU. The MSCI EMU Index is comprised of companies from countries participating in the EMU.⁵

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

In Securities Exchange Act Release No. 36947,⁶ the Commission approved Amex's listing and trading of Index Fund Shares under Amex Rules 1000A

Amex Rules 127 and 190, analogized the minimum number of shares per Creation Unit for the proposed WEBS to the number needed for Portfolio Depository Receipts and Index Fund Shares, and described the Exchange's prospectus delivery requirements. See Restated 19b-4 Filing marked Amendment No. 1 ("Amendment No. 1").

⁴In Amendment No. 2, the Exchange provided a description of the methodology used to calculate the MSCI Indices, discussed the requirements of Amex Rule 411 and the disclosure of the procedure for making purchases and redemption of WEBS, revised its tracking error discussion, and lowered the minimum number of shares needed for Creation Unit. See Letter from Michael Cavalier, Associate General Counsel, Legal & Regulatory Policy, Amex, to Katherine England, Assistant Director, Division of Market Regulation ("Division"), Commission, dated April 8, 1999 ("Amendment No. 2").

⁵See Amendment No. 1, *supra* note 3.

⁶Securities Exchange Act Release No. 36947 (March 8, 1996), 61 FR 10606 (March 14, 1996).

et seq. Index Fund Shares are shares issued by an open-end management investment company that seek to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic equity market index.

The first Index Fund Shares listed on the Exchange were seventeen series of World Equity Benchmark Shares™ ("WEBS™") issued by Foreign Fund, Inc. (now WEBS Index Fund, Inc.) ("Fund"), based on the following Morgan Stanley Capital International ("MSCI") indices: Australia, Austria, Belgium, Canada, France, Germany, Hong Kong, Italy, Japan, Malaysia, Mexico (Free), Netherlands, Singapore (Free), Spain, Sweden, Switzerland and the United Kingdom.⁷ These WEBS Index Series, which the Commission specifically approved for Amex listing and trading in Securities Exchange Act Release No. 36947,⁸ have been trading on the Amex since March 18, 1996.

The Exchange proposes to list additional WEBS Index Series based on the following MSCI indices: MSCI Brazil Index, MSCI Greece Index, MSCI Indonesia (Free) Index, MSCI South Korea Index, MSCI Portugal Index, MSCI South Africa Index, MSCI Taiwan Index, MSCI Thailand (Free) Index, MSCI Turkey Index, MSCI United States Index and MSCI EMU Index.⁹ Descriptions of the eleven specific indices referenced above have been prepared by the Fund and are available in the public file.

The MSCI EMU Index is comprised of stocks of companies from countries participating in the EMU. Currently, eleven countries are participating in the EMU: Austria, Belgium, Finland, France, Germany, Ireland, Italy, Luxembourg, the Netherlands, Portugal and Spain. The MSCI EMU is currently comprised of stocks of companies from ten of these EMU countries (*e.g.*, all of the EMU countries except Luxembourg). MSCI has advised that it may, in accordance with its methodology, change the composition of MSCI EMU in the future, such changes could include adding stock(s) of companies from Luxembourg or from any other

⁷"World Equity Benchmark Shares" and "WEBS" are service marks of Morgan Stanley Group, Inc. "MSCI" and "MSCI Indices" are service marks of Morgan Stanley & Co. Incorporated.

⁸See Securities Exchange Act Release No. 36947, *supra* note 6.

⁹The Fund has filed with the Commission an Application for Orders under Sections 6(c) and 17(b) of the Investment Company Act of 1940 ("1940 Act") as amended, for the purpose of exempting the eleven additional WEBS Index Series referenced herein from various provisions of the 1940 Act and rules thereunder (File No. 812-10756).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³In Amendment No. 1, the Exchange generally added a new Morgan Stanley Capital International ("MSCI") Index based on the European Economic and Monetary Union ("EMU"), added references to

country that becomes a participant in EMU.¹⁰

Issuances of WEBS by the Fund are made only in Creation Unit size aggregations or multiples thereof. The size of the applicable Creation Unit size aggregation will be set forth in the Fund's prospectus and varies from one WEBS Index Series to another, but is generally substantial (e.g., value in excess of \$450,000 per Creation Unit). The Fund issues and sells WEBS through Funds Distributor, Inc. ("Distributor"), the distributor and principal underwriter, on a continuous basis at the net asset value per share next determined after an order to purchase WEBS in Creation Unit size aggregations is received in proper form. Following issuance, WEBS are traded on the Exchange like other equity securities by professionals, as well as retail and institutional investors.

Creation Unit size aggregations of WEBS are generally issued in exchange for the "in kind" deposit of a specified portfolio of securities, together with a cash payment representing, in part, the amount of dividends accrued up to the time of issuance. Such deposits are made primarily by institutional investors, arbitrageurs and the Exchange specialist. Redemption of WEBS is generally made on an in-kind basis, with a portfolio of securities and cash exchanged for WEBS that have been tendered for redemption. Issuances or redemptions could also occur for cash under specified circumstances (e.g., if it is not possible to effect delivery of securities underlying the specific series in a particular foreign country) and at other times in the discretion of the Fund.

The Fund makes available on a daily basis a list of the names and the required number of shares of each of the securities to be deposited in connection with the issuance of a particular WEBS Index Series in Creation Unit size aggregations, as well as information relating to the required cash payment representing, in part, the amount of accrued dividends.

A WEBS Index Series may make periodic distributions of dividends from net investment income, including net foreign currency gains, if any, in an amount approximately equal to accumulated dividends on securities held by the WEBS Index Series during the applicable period, net of expenses and liabilities for such period.

The net asset value for each WEBS Index Series is calculated by the Fund's administrator, PFPC Inc. ("Administrator"). After calculation,

such net asset values are available to the public from the Fund's Distributor via a toll free telephone number, and are also available to National Securities Clearing Corporation ("NSCC") participants through data made available from NSCC.

WEBS are registered in book entry form through The Depository Trust Company. Trading in WEBS on the Exchange is effected until 4:00 p.m. (ET) each business day. The minimum trading increment for WEBS is $\frac{1}{16}$ of \$1.00, pursuant to Amex Rule 127, Commentary .02.¹¹

a. *MSCI Indices.* A description of the methodology used to calculate the MSCI Indices was prepared by MSCI. The methodology is substantially similar to the procedures previously submitted to the Commission in connection with the Exchange's initial proposal to list WEBS. The current description varies from the original description submitted in connection with the Exchange's initial WEBS proposal. As to the changes, the current description expands upon the reasons MSCI believes full market capitalization weighting is preferable to other weighting schemes; expands upon the description of calculating the foreign MSCI "Free" Indices (indices that exclude companies and share classes not purchasable by foreigners based on certain countries' restrictions on foreign ownership); provides specific reasons for excluding large new issues from an Index; and provides factors to be considered in determining which companies should be deleted from an Index.¹² MSCI generally seeks to have 60% of the capitalization of a country's stock market reflected in the MSCI Index for such country, although in some cases, other considerations may result in an MSCI Index reflecting less or more than this percentage.¹³

b. *Shares Per Creation Unit.* It is anticipated that the number of WEBS shares constituting a Creation Unit for each WEBS Index Series will range from 50,000 to 500,000¹⁴ and that the value of a Creation Unit at start of trading for these series will be in excess of \$500,000. The fund will establish a minimum number of WEBS shares per Creation Unit for each Index Series prior to commencement of trading, which minimum will be disclosed in the Fund's prospectus. It is further

anticipated that the net asset value¹⁵ of an individual share will initially range from \$7 to \$25.

Each MSCI Index on which a WEBS Index Series is based is calculated by MSCI for each trading day in the applicable foreign exchange markets based on official closing prices of the applicable foreign exchange markets. For each trading day, MSCI publicly disseminates each index value for the previous day's close. MSCI Indices are reported periodically in major financial publications worldwide, and are also available through vendors of financial information.

There are two broad categories of changes to the MSCI Indices. The first consists of market-driven changes, including mergers, acquisitions and bankruptcies. These are announced and implemented as they occur. The second category consists of structural changes to reflect the evolution of a market that may occur due to changes in industry composition or regulations, among other reasons. Structural changes to MSCI Indices may occur only on four dates throughout the year: the first business day of March, June, September and December. The changes are announced at least two weeks in advance.

As noted in the WEBS prospectus for the initial seventeen WEBS Index Series (Registration No. 33-97598), the investment objective of each WEBS Index Series is to seek to provide investment results that correspond generally to the price and yield performance of public securities traded in the aggregate in particular markets, as represented by specific MSCI benchmark indices. Each WEBS Index Series utilizes a "passive" or indexing investment approach which attempts to approximate the investment performance of its benchmark index through quantitative analytical procedures. Each Index Series has the policy to remain as fully invested as practicable in a pool of securities the performance of which will approximate the performance of the benchmark MSCI Index taken in its entirety.

A WEBS Index Series will normally invest at least 95% of its total assets in stocks that are represented in the relevant MSCI Index and will at all times invest at least 90% of its total assets in such stocks, subject to certain limited exceptions.¹⁶ A WEBS Index

¹¹ *Id.*

¹² See Amendment No. 2, *supra* note 4.

¹³ Telephone conversation between Michael Cavalier, Associate General Counsel, Legal & Regulatory Policy, Amex, and Marc McKayle, Attorney, Division, Commission, on April 14, 1999.

¹⁴ *Id.*

¹⁵ The Exchange expanded the term "NVA." Telephone conversation between Michael Cavalier, Associate General Counsel, Legal & Regulatory Policy, Amex, and Terri Evans, Attorney, Division, Commission, on March 10, 1999.

¹⁶ The WEBS prospectus states that, in order to permit the Advisor additional flexibility to comply

Continued

¹⁰ See Amendment No. 1, *supra* note 3.

Series does not hold all of the issues that comprise the subject MSCI Index, but attempts to hold a representative sample of the securities in the Index utilizing a technique known as "portfolio sampling." As noted in the WEBS prospectus, it is expected that, over time, the "expected tracking error" of a WEBS Index Series relative to the performance of the relevant MSCI Index will be less than 5%.¹⁷ An expected tracking error of 5% means that there is a 68% probability that the net return on the asset values for the Index Series (including dividends and without reflecting expenses) will be between 95% and 105% of the return of the subject MSCI Index after one year without rebalancing the portfolio composition.¹⁸ While no particular level of tracking error is assured, the Fund's advisor, Barclays Global Fund Advisors ("Advisor"), monitors the tracking error of each Index Series on an ongoing basis and seeks to minimize tracking error to the maximum extent possible. Semi-annual and annual reports of the Fund disclose tracking error over the previous six month periods, and in the event that tracking error exceeds 5%, the Fund Board of Directors will consider what action might be appropriate.

c. *Criteria for Initial and Continued Listing.* WEBS are subject to the criteria for initial and continued listing of Index Fund Shares in Amex Rule 1002A. For each of the eleven WEBS Index Series,¹⁹ it is anticipated that a minimum of two Creation Units will be required to be outstanding at the start of trading, with the exception of the United States WEBS Index Series, for which one Creation Unit will be required to be outstanding at commencement of trading (in light of the large size of a

with the requirements of the Internal Revenue Code of 1986, as amended, and other regulatory requirements and to manage future corporate actions and index changes in the smaller markets, each of the Australia, Austria, Belgium, Hong Kong, Italy, Mexico (Free), Netherlands, Singapore (Free), Spain, Sweden and Switzerland WEBS Index Series will at all times invest at least 80% of its total assets in such stocks and at least half of the remaining 20% of its total assets in such stocks or in stocks included in the relevant market, but not in the relevant MSCI Index. See Amendment No. 1, *supra* note 3.

¹⁷ This expected tracking error applies to all WEBS Index Series, including the proposed eleven WEBS Index Series and existing WEBS Index Series. See Amendment No. 2, *supra* note 4.

¹⁸ This applies to all WEBS Index Series. See Amendment No. 2, *supra* note 4. The Exchange clarified that there is only a 68%, not 69% as described in Amendment No. 2, probability that the net return on the asset value of the Index Series will be between 95% and 105%. Telephone conversation between Michael Cavalier, Associate General Counsel, Legal & Regulatory Policy, Amex, and Terri Evans, Attorney, Division, Commission, on April 13, 1999.

¹⁹ See Amendment No. 1, *supra* note 3.

Creation Unit of the United States WEBS Index Series in comparison with the others). It is anticipated that a Creation Unit will consist of 50,000 WEBS except for the United States WEBS Index Series and EMU WEBS Index Series, for which the anticipated minimums are 500,000 and 200,000 WEBS, respectively. The value of a Creation Unit at the start of trading would in all cases be in excess of \$500,000. The proposed minimum number of Creation Units is identical to the minimum applied in connection with the listing of the initial seventeen WEBS Index Series in 1996, except for the Japan WEBS Index Series, for which one Creation Unit was required to be outstanding.²⁰ For the initial WEBS Index Series, the number of shares per Creation Unit ranged from 40,000 (for the Belgium Index Series) to 600,000 (for the Japan Index Series).²¹ The Exchange believes that the proposed minimum number of WEBS outstanding at the start of trading of each WEBS Index Series is sufficient to provide market liquidity and to further the Fund's objective to seek to provide investment results that correspond generally to the price and yield performance of a specified MSCI Index.²²

d. *Dissemination of Indicative Optimized Portfolio Value.* As noted above, MSCI disseminates values for each MSCI Index once each trading day, based on closing prices in the relevant exchange market. In addition, the Fund makes available on a daily basis the names and required number of shares of each of the securities to be deposited in connection with the issuance of WEBS in Creation Unit size aggregations for each WEBS Index Series, as well as information relating to the required cash payment representing, in part, the amount of accrued dividends applicable to such WEBS Index Series. This information is made available by the Fund's Advisor to any NSCC participant requesting such information. In addition, other investors can request such information directly from the Fund's Distributor. The net asset value

²⁰ See Securities Exchange Act Release No. 36947, *supra* note 6.

²¹ See Amendment No. 2, *supra* note 4. The Commission notes that number of shares per Creation Unit for the original WEBS were as follows: Australia—200,000, Austria—100,000, Belgium—40,000, Canada—100,000, France—200,000, Germany—300,000, Hong Kong—75,000, Italy—150,000, Japan—600,000, Malaysia—75,000, Mexico—100,000, Netherlands—50,000, Singapore (Free)—100,000, Spain—75,000, Sweden—75,000, Switzerland—125,000 and United Kingdom—200,000. See Securities Exchange Act Release No. 36947, *supra* note 6.

²² See Amendment No. 2, *supra* note 4.

for each WEBS Index Series is calculated daily by the Fund's Administrator.

In order to provide updated information relating to each WEBS Index Series for use by investors, professionals and persons wishing to create or redeem WEBS,²³ the Exchange disseminates through the facilities of the Consolidated Tape Association ("CTA") an updated "indicative optimized portfolio value" ("Value") for each of the seventeen WEBS Index Series currently traded as calculated by Bloomberg, L.P. The Exchange will also disseminate a Value for the proposed eleven new WEBS Index Series²⁴ over CTA facilities (Network B) as calculated by a securities information provider ("Value calculator"). It is anticipated that the methodology utilized in connection with the seventeen WEBS Index Series currently traded will also be utilized for the proposed eleven new series. The Value is disseminated on a per WEBS basis every 15 seconds during regular Amex trading hours of 9:30 a.m. to 4:00 p.m. (ET). The equity securities values included in the Value are the values of the designated portfolio of equity securities ("Deposit Securities") constituting an optimized representation of the benchmark MSCI foreign index for each WEBS Index Series, which is the same as the portfolio that is to be utilized generally in connection with creations and redemptions of WEBS in Creation Unit size aggregations on that day. The equity securities included in the Value reflect the same market capitalization weighting as the Deposit Securities in the optimized portfolio for the particular WEBS Index Series. In addition to the value of the Deposit Securities of each WEBS Index Series, the Value includes a cash component consisting of estimated accrued dividend and other income, less expenses. The Value also reflects changes in currency exchange rates between the U.S. dollar and the applicable home country currency.

The Value does not reflect the value of all securities included in the applicable benchmark MSCI index. In addition, the Value does not necessarily reflect the precise composition of the current portfolio of securities held by the Fund for each WEBS Index Series at

²³ WEBS cannot be redeemed individually but must be redeemed in Creation Unit size aggregations applicable to the specific WEBS Index Series.

²⁴ Telephone conversation between Michael Cavalier, Assistant General Counsel, Legal & Regulatory Policy, Amex, and Terri Evans, Attorney, Division, Commission, on March 10, 1999.

a particular point in time. Therefore, the Value on a per WEBS basis disseminated during Amex trading hours should not be viewed as a real time update of the net asset value of the Fund, which is calculated only once a day. While the Value disseminated by the Amex at 9:30 a.m. is generally very close to the most recently calculated Fund net asset value on a per WEBS basis,²⁵ it is possible that the value of the portfolio of securities held by the Fund for a particular WEBS Index Series may diverge from the Deposit Securities Values during any trading day. In such case, the Value will not precisely reflect the value of the Fund portfolio. Following calculation of net asset value by the Fund's Administrator as of 4:00 p.m. (ET), the Value on a per WEBS basis can be expected to be the same as the net asset value of the Fund on a per WEBS basis.

However, during the trading day, the Value can be expected to closely approximate the value per WEBS share of the portfolio of securities for each WEBS Index Series except under unusual circumstances (e.g., in the case of extensive rebalancing of multiple securities in a WEBS Index Series at the same time by the Fund Advisor). The circumstances that might cause the Value to be based on calculations different from the valuation per WEBS share of the actual portfolio of an Index Series would not be different than circumstances causing any index fund or trust to diverge from an underlying benchmark index.

The Exchange believes that dissemination of the Value based on the Deposit Securities providing additional information regarding each WEBS Index Series that is not otherwise available to the public and is useful to professionals and investors in connection with WEBS trading on the Exchange or the creation or redemption of WEBS.

- Greece, Indonesia (Free), South Korea, Taiwan, Thailand (Free)

For Greece, Indonesia (Free), South Korea, Taiwan, Thailand (Free), there is no overlap in trading hours between the foreign markets and the Amex. Therefore, for each Index Series, the Value calculator will utilize closing prices (in applicable foreign currency prices) in the principal foreign market for securities in the WEBS portfolio, and convert the price to U.S. dollars. This Value will be updated every 15 seconds

during Amex trading hours to reflect changes in currency exchange rates between the U.S. dollar and the applicable foreign currency. The Value will also include the applicable estimated cash component for each WEBS Index Series.

- Brazil, Portugal, South Africa, Turkey, EMU

For Brazil, Portugal, South Africa, Turkey, and countries included in the WEBS EMU Index,²⁶ which have trading hours overlapping regular Amex trading hours, the Value calculator will update the applicable Value every 15 seconds to reflect price changes in the applicable foreign market or markets,²⁷ and convert such prices into U.S. dollars based on the current currency exchange rate. When the foreign market or markets²⁸ are closed but the Amex is open, the Value will be updated every 15 seconds to reflect changes in currency exchange rates after the foreign markets close.²⁹ The Value will also include the applicable estimated cash component for each Index Series.

- United States

For United States WEBS Index Series, the Value calculator will update the Value at least every 15 seconds, and such Value will include the applicable estimated cash component.

e. *Original and Annual Listing Fees.* The Amex original listing fee applicable to the listing of WEBS Index Series is \$5,000 per WEBS Index Series (i.e., \$55,000 for the eleven WEBS Index Series listed above).³⁰ In addition, the annual listing fee applicable to WEBS Index Series under Section 141 of the Amex *Company Guide* will be based upon the year-end aggregate number of outstanding WEBS in all series, including the seventeen existing series and the additional series proposed herein.

f. *Stop and Stop Limit Orders.* Amex Rule 154, Commentary .04(c) provides that stop and stop limit orders to buy or sell a security (other than an option, which is covered by Amex Rule 950(f) and Commentary thereto) the price of which is derivatively priced based upon another security or index of securities, may with the prior approval of a Floor Official, be elected by a quotation, as set forth in Commentary .04(c)(i-v). The Exchange has designated Index Fund Shares, including WEBS, as eligible for this treatment.³¹

g. *Amex Rule 190.* Amex Rule 190, Commentary .04, applies to Index Fund Shares listed on the Exchange, including WEBS. Commentary .04 states that nothing in Amex Rule 190(a) should be construed to restrict a specialist registered in a security issued by an investment company from purchasing and redeeming the listed security, or securities that can be subdivided or converted into the listed security, from the issuer as appropriate to facilitate the maintenance of a fair and orderly market.³²

h. *Prospectus Delivery.* The Exchange, in an Information Circular to Exchange members and member organizations, will inform members and member organizations, prior to commencement of trading, that investors purchasing WEBS are required to receive a Fund prospectus prior to or concurrently with the confirmation of a transaction therein.³³

i. *Purchases and Redemption in Creation Unit Size.* In the Information Circular, members and member organization will be informed that procedures for purchases and redemptions of WEBS in Creation Unit Size are described in the Fund prospectus and Statement of Additional Information, and that WEBS are not individually redeemable but are redeemable only in Creation Unit Size aggregations or multiples thereof.³⁴

j. *Suitability.* Prior to commencement of trading, the Exchange will issue an Information Circular informing members and member organizations of the characteristics of the specific series and of applicable Exchange rules, as well as of the requirements of Amex Rule 411 (Duty to Know and Approve Customers).³⁵

k. *Trading Halts.* In addition to other factors that may be relevant, the Exchange may consider factors such as those set forth in Amex Rule 918C(b) in exercising its discretion to halt or suspend trading in Index Fund Shares, including WEBS. These factors would include, but are not limited to: (1) the extent to which trading is not occurring in stocks underlying the index; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.³⁶ In addition, trading in WEBS will be halted if the

(regarding Exchange designation of equity derivative securities as eligible for such treatment under Rule 154, Commentary .04(c)).

²⁵ See Amendment No. 1, *supra* note 3.

²⁶ See Amendment No. 1, *supra* note 3.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ See Securities Exchange Act Release No. 29063 note 9 (April 10, 1991) 56 FR 15652 (April 17, 1991)

³² See Amendment No. 1, *supra* note 3.

³³ *Id.*

³⁴ See Amendment No. 2, *supra* note 4.

³⁵ *Id.*

³⁶ See Amex Rule 918C.

²⁵ A slight difference between the Value disseminated at 9:30 a.m. and the most recently calculated Fund net asset value can be expected because the Value will include an estimated cash amount consisting principally of any dividend accruals for the Deposit Securities going "ex-dividend" on that day.

circuit breaker parameters under Amex Rule 117 have been reached.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act³⁷ in general and furthers the objectives of Section 6(b)(5)³⁸ in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, and, in general to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. 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, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Amex-98-49 and should be submitted by May 20, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³⁹

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 99-10760 Filed 4-28-99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41315; File No. SR-NYSE-98-42]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the New York Stock Exchange, Inc. To Amend MOC/LOC Order Entry and Cancellation Procedures During a Regulatory Halt

April 20, 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 November 25, 1998, the New York Stock Exchange, Inc. ("NYSE" 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. On March 19, 1999, the Exchange submitted Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

²⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Letter from Donald Siemer, Director, Market Surveillance, NYSE to Richard Strasser, Assistant Director, Division of Market Regulation ("Division"), SEC, dated March 15, 1999 ("Amendment No. 1"). In Amendment No. 1, the Exchange provided information regarding the Exchange's regulatory trading halt policy and clarified that the Exchange does not seek to amend its regulatory trading halt policy in this proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the market-on-close ("MOC") and limit-on-close ("LOC") procedures permitting entry and cancellation of MOC/LOC orders after 3:40 p.m. when a regulatory trading halt is in effect.

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. II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Cancellation of MOC/LOC Orders During a Regulatory Halt. Under Exchange policy, a trading halt in an Exchange-listed stock may be put into effect when the Exchange determines that a regulatory condition exists in that stock.⁴ The purpose of a regulatory halt is to allow the market the time to absorb and react to the news or market conditions. Trading halts may also be instituted when non-regulatory conditions exist.⁵

Current Exchange procedures⁶ utilized for MOC and LOC orders prohibit Exchange members from

⁴ A regulatory condition may exist if news is pending about the stock or if time is needed for new dissemination about the stock. When instituting a regulatory halt, the Exchange follows procedures contained in the section on Trading Halt and Suspension Procedures of the Consolidated Tape Association Plan, which was filed with the Commission. See Securities Exchange Act Release No. 10787 (May 10, 1994), 39 FR 17799; and Securities Exchange Act Release No. 16983 (July 16, 1980), 45 FR 49414 (July 24, 1980).

⁵ A non-regulatory condition may exist if a stock has an order imbalance of significant size or when there are equipment problems affecting the trading in a stock. See Securities Exchange Act Release No. 38225 (January 31, 1997), 62 FR 5875 (February 7, 1997) and Exchange Information Memo No. 97-23 (May 8, 1997).

⁶ For a description of the Exchange's current procedures see Securities Exchange Act Release No. 40094 (June 15, 1998), 63 FR 38230 (July 15, 1998) and Exchange Information Memo No. 98-20 (June 22, 1998).

³⁷ 15 U.S.C. 78f.

³⁸ 15 U.S.C. 78f(b)(5).

canceling MOCs and LOCs after 3:40 p.m., except in the case where the member entering the order made a legitimate error or the member must cancel the order to comply with the provisions of Exchange Rule 80A(c).⁷ Therefore, if a regulatory halt for a particular stock is in effect at 3:40 p.m. or occurs after that time, market participants are not permitted to cancel their MOC and LOC orders in that stock, even if the stock reopens at a price substantially different from the last sale.

The Exchange is proposing that when a regulatory halt is in effect at 3:40 p.m. or occurs after that time, members may cancel MOC and LOC orders until 3:50 p.m. or until the stock reopens, whichever occurs first. The Exchange is not proposing any changes in the case of a *non*-regulatory halt with respect to this position.

The Exchange believes that this exception to the no-cancellation policy for MOC/LOC orders is appropriate because of the need of market participants to be able to respond to information that was not available before 3:40 p.m. Furthermore, by limiting the period of time for canceling MOC and LOC orders to 3:50 p.m. at the latest, specialists will have sufficient time to arrange an orderly close.

Entry of MOC/LOC Orders During a Regulatory Halt. Current Exchange procedures prohibit members from entering MOC and LOC orders after 3:40 p.m. except to offset a published imbalance. If any type of halt is in effect at 3:40 p.m., no imbalance of MOC or LOC orders would be published,⁸ and, therefore, no MOC or LOC orders could be entered after 3:40 p.m. If a regulatory halt occurs after an imbalance has been published at 3:40 p.m., market conditions may differ substantially from

those that existed at the time of the imbalance publication.

Therefore, the Exchange is proposing that if a regulatory halt is in effect at 3:40 p.m. or occurs after that time, members may enter MOC and LOC orders on either side of the market until 3:50 p.m. or until the stock reopens, whichever occurs first. If an order imbalance is published following a regulatory halt, MOC and LOC order entry would be permitted only to offset the published imbalance.

Order Imbalance Publication After Any Trading Halt. Finally, under current Exchange policy, if a stock reopens at or before 3:50 p.m. following any type of halt, the specialist in that stock will publish an imbalance of 50,000 shares or more (or less than 50,000 shares with the approval of a Floor Official) as soon as practicable after 3:50 p.m. The Exchange is proposing that if the stock opens after 3:50 p.m., the specialist must publish an imbalance of 50,000 shares or more (or less than 50,000 shares with the approval of a Floor Official), if practicable.⁹ If a halt occurs after 3:50 p.m., the stock will not reopen on that day and MOC and LOC orders will not be executed.

The Exchange intends to issue an Information Memo to inform its members of the revised MOC/LOC procedures.

2. Statutory Basis

The Exchange believes the basis under the Act for the proposed rule change is the requirement under Section 6(b)(5)¹⁰ that the rules of an Exchange be designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

⁹The decision of whether an imbalance shall be published for a stock opening after 3:50 p.m. will be made by an Exchange Floor Director or other Exchange Floor Official. Telephone call between Betsy Lampert Minkin, Senior Project Specialist, NYSE and Kelly McCormick, Attorney, Division, SEC, on January 13, 1999.

¹⁰ 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve the proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street N.W., Washington, D.C. 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-98-42 and should be submitted by May 20, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Jonathan G. Katz,
Secretary.

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¹¹ 17 CFR 200.30-3(a)(12).

⁷ For example, Exchange Rule 80A(c) requires index arbitrage orders in any stock in the Standard & Poor's 500 Stock Price Index entered on the Exchange to be stabilizing (*i.e.*, the order must be marked either buy minus or sell plus) when the Dow Jones Industrial Average advances or declines by the 2% point level determined by the Exchange each quarter. See Securities Exchange Act Release No. 41041 (February 11, 1999), 64 FR 8424 (February 19, 1999). When Rule 80A(c) goes into effect, a MOC index arbitrage order without the appropriate tick restriction must be canceled unless it is related to an expiring derivative index product.

⁸ A specialist is required to publish tape indications to reopen a stock after a trading halt. The Exchange's policy on tape indications requires a minimum of ten minutes to elapse between the first indication and the reopening of a stock and a minimum of five minutes to elapse between the last indication and the reopening of a stock, provided that a minimum of ten minutes has elapsed since the first indication. See Securities Exchange Act Release No. 38225 (January 31, 1997), 62 FR 5875 (February 7, 1997) and Exchange Information Memo No. 97-23 (May 8, 1997).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41317; File No. SR-Phlx-99-09]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Modify Fees for Option Transactions

April 21, 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 March 30, 1999, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend certain fees charged to customers³ for operations transactions. In addition, the Exchange will raise certain transaction fees charged to the membership, the floor facilities fee, and charges for trading post/booth space and shelf space. The text of the proposed rule change is available at the Exchange and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to reduce certain transaction fees for options, to attract customer order flow to the Phlx options market, and to remain competitive. Specifically, equity option customer execution fees for contracts with a market value less than \$1.00 are being reduced from \$.15 per contract to \$.10 per contract. Equity option customer execution fees for contracts with a market value greater than or equal to \$1.00 are being reduced from \$.30 to \$.10 per contract. Fees for equity options transactions automatically executed by AUTO-X,⁴ currently charged at \$.15 per contract where the market value of the contract is less than \$1.00, and at \$.30 per contract for execution where the market value of the contract is greater than equal to \$1.00, are being waived for equity options. The contra-side to such orders (specialists or Registered Options Traders ("ROTs")) will continue to be charged the application transaction charge as discussed below.

In turn, the Exchange will increase fees to options specialists and ROTs from \$.07 per contract to \$.14 per contract for transactions in equity and index options.⁵ Fees for transactions in Value Line options will be increased from \$.09 to \$.14 per contract. Foreign currency options charges imposed on ROTs and specialists will be raised from \$.07 per contract to \$.14 per contract. In addition, the Exchange proposes to raise the trading post/booth/controller fee from \$375 per quarter to \$750 per quarter, the floor facility fee from \$187.50 per quarter to \$375 per quarter, and the fee charged for shelf space on all three trading floors—equity, option, and foreign currency option, from \$187.50 per quarter to \$375 per quarter. The Exchange proposes these changes to counterbalance revenues lost from the customer execution transaction charges.

The proposed fees will be effective April 1, 1999.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(4) of the Act⁶ in that it provides for the equitable

allocation of reasonable dues, fees and other charges among Exchange members and persons using the Exchange facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange represents that the proposed rule change should not impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received by the Exchange with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁷ and subparagraph (f)(2) of Rule 19b-4 under the Act because it involves a due, fee, or other charge.⁸ 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.⁹

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies of thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange represents that the equity option transaction charge is paid by member organizations for execution on behalf of their customers. Telephone conversation between Nadita Yagnik, Counsel, Exchange, and Joseph P. Morra, Attorney, Division of Market Regulation, Commission, on April 12, 1999. Thus, the Exchange filed this proposal under Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(2) thereunder. 15 U.S.C. 78s(b)(3)(A), 17 CFR 240.19b-4(f)(2).

⁴ AUTO-X is the automatic execution feature of AUTOM, the Phlx Automated Options Market System.

⁵ For clarity, the Exchange is renaming the index option transaction charge to emphasize that it applies to all index options except the Value Line index options.

⁶ 15 U.S.C. 78f(b)(4).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(2).

⁹ In viewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

the principal office of the Exchange. All submissions should refer to file number SR-Phlx-99-09, and should be submitted by May 20, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Jonathan G. Katz,

Secretary.

[FR Doc. 99-10762 Filed 4-28-99; 8:45 am]

BILLING CODE 8010-01-M

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Comment Request

In compliance with Pub. L. 104-13, the Paperwork Reduction Act of 1995, SSA is providing notice of its information collections 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.

The information collections listed below have been submitted to OMB for clearance. Written comments and recommendations on the 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 this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965-4145, or by writing to him.

1. Employee Work Activity Report—0960-0483. The data collected by the Social Security Administration on Form SSA-3033 is reviewed and evaluated to determine if the claimant meets the disability requirements of the law, when the claimant returns to work after the alleged or established onset date. When a possible unsuccessful work attempt or nonspecific subsidy is involved (and the information cannot be obtained through telephone contact), Form SSA-3033 will be used to request a description, by mail, of the employee's work effort. The respondents are employers of Old-Age, Survivors and Disability Insurance and Supplemental Security Income disability applicants and beneficiaries.

Number of Respondents: 12,500.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 3,125 hours.

2. Public Information Campaign Collections—0960-0544. The Social Security Administration uses the information collected through feedback cards to determine media interest in broadcasting public information materials. The respondents are radio, television stations and publications.

Number of Respondents: 24,000.

Frequency of Response: 1.

Average Burden Per Response: 1 minute.

Estimated Annual Burden: 400 hours.

(SSA Address): Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 6401 Security Blvd., 1-A-21 Operations Bldg., Baltimore, MD 21235
(OMB Address): Office of Management and Budget, OIRA, Attn: Lori Schack, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, DC 20503

Dated: April 23, 1999.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 99-10759 Filed 4-28-99; 8:45 am]

BILLING CODE 4190-29-P

DEPARTMENT OF STATE

[Public Notice No. 3038]

Office of Defense Trade Controls; Notifications to the Congress of Proposed Export Licenses

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates shown on the attachments pursuant to section 36(c) and in compliance with section 36(e) of the Arms Export Control Act (22 U.S.C. 2776).

EFFECTIVE DATE: As shown on each of the two (2) letters.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Lowell, Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State [(703) 875-6644].

SUPPLEMENTARY INFORMATION: Section 38(e) of the Arms Export Control Act mandates that notifications to the Congress pursuant to section 36(c) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

Dated: April 21, 1999.

William J. Lowell,

Director, Office of Defense Trade Controls.

BILLING CODE 4710-25-P

¹⁰ 17 CFR 200.30-3(a)(12).



United States Department of State

Washington, D.C. 20520

APR 13 1999

Dear Mr. Speaker:

Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of major defense equipment sold under a contract in the amount of \$50,000,000 or more.

The transaction described in the attached certification involves the sale of F-16 major airframe items, subassemblies, subcomponents and subsystems to Turkey for production of the F-16.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

A handwritten signature in cursive script that reads "Barbara Larkin".

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:

Transmittal No. DTC 60-99

The Honorable

J. Dennis Hastert

Speaker of the House of Representatives.



United States Department of State

Washington, D.C. 20520

APR 16 1999

Dear Mr. Speaker:

Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount \$50,000,000 or more.

The transaction contained in the attached certification concerns a joint venture, in which Norway, Ukraine, Russia, and the United Kingdom will also participate, to provide commercial space launch services for communications satellites from a modified oil platform in the Pacific Ocean.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

A handwritten signature in cursive script, appearing to read "Barbara Larkin".

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:

Transmittal No. DTC 6-99

The Honorable

J. Dennis Hastert,
Speaker of the House of Representatives.

DEPARTMENT OF STATE

[Public Notice 3039]

Bureau of Nonproliferation; Imposition of Lethal Military Equipment Sanctions Against the Government of Russia and Partial Waiver of These Sanctions

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The United States Government has determined that the Government of Russia transferred lethal military equipment to a country determined by the Secretary of State to be a state sponsor of terrorism. The United States Government determined that, despite the transfers, furnishing assistance to the Government of Russia, other than assistance furnished to the three Russian entities specifically involved in the transfer of lethal military equipment, is important to the national interests of the United States. Further, it is the policy of the United States Government to deny U.S. Government assistance to these three entities.

EFFECTIVE DATE: March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Joseph Smaldone, Office of Export Controls and Conventional Arms Nonproliferation Policy, Bureau of Nonproliferation, Department of State, (202-647-4231).

SUPPLEMENTARY INFORMATION: Pursuant to section 620H of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2378), section 573 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Pub. L. 103-87), section 563 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Pub. L. 103-306), section 552 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Pub. L. 104-107), section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Pub. L. 104-208), section 550 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Pub. L. 105-118), section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (Pub. L. 105-277), and Executive Order 12163, as amended, on March 29, 1999, the United States Government determined that the Government of Russia has provided lethal military equipment to a country determined by the Secretary of State to be a state sponsor of terrorism. Also on March 29, 1999 and pursuant to the

aforementioned provisions of law, the United States Government determined furnishing assistance restricted by these provisions to the Government of Russia (other than assistance furnished to the three entities named below) is important to the national interests of the United States. Further, it is the policy of the United States Government to deny all types of U.S. Government assistance to the following three entities:

- (1) Tula Instrument Design Bureau (including at Tula 300001, Russia);
- (2) Volsk Mechanical Plant (including at Saratov Region, 412013, Volsk, Russia);
- (3) TZNII Central Scientific Research Institute of Precision Machine-Building (a/k/a Tzniitochmash) (including at 142080 Klimovsk, Russia).

These measures shall remain in place until further notice.

Dated: April 21, 1999.

John P. Barker, Jr.,*Deputy Assistant Secretary of State for Nonproliferation Controls.*

[FR Doc. 99-10754 Filed 4-28-99; 8:45 am]

BILLING CODE 4710-25-P

DEPARTMENT OF TRANSPORTATION**Coast Guard**

[USCG-1999-5550]

Towing Safety Advisory Committee; Vacancies

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The Coast Guard is seeking applications for appointment to membership on the Towing Safety Advisory Committee (TSAC). TSAC provides advice and makes recommendations to the Department of Transportation on matters relating to shallow-draft inland and coastal waterway navigation and towing safety.

DATES: Application must reach the Coast Guard on or before July 6, 1999.

ADDRESSES: You may request an application form by writing to Commandant (G-MSO-1), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001; by calling 202-267-0229; or by faxing 202-267-4570. Submit application forms to the same address. This notice and the application form are available on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT:

Mr. Gerald Minate, Assistant Executive Director, telephone 202-267-0229, fax 202-267-4570.

SUPPLEMENTARY INFORMATION: The Towing Safety Advisory Committee

(TSAC) is a Federal advisory committee constituted under 5 U.S.C. App. 2. It provides advice and makes recommendations to the Secretary of Transportation on matters relating to shallow-draft inland and coastal waterway navigation and towing safely. The advice and recommendations also assist the Coast Guard in formulating the position of the United States in advance of meetings of the International Maritime Organization.

TSAC meets at least once a year at Coast Guard Headquarters, Washington, DC, or another location selected by the Coast Guard. It may also meet for extraordinary purposes. Its subcommittees and working groups may meet to consider specific problems as required.

The Coast Guard will consider application for six positions that expire or become vacant in October 1999 as follows: Three members from the barge and towing industry, reflecting a geographical balance; one member from port districts, authorities, or terminal operators; one member from maritime labor; and one member from shippers who are engaged in the shipment of oil or hazardous materials by barge.

To be eligible, applicants should have experience in towing operations, marine transportation, occupational safety and health, environmental protection, or business operations associated with the towing industry. Each member serves for a term of three years. A few members may serve consecutive terms. All members serve at their own expense and receive no salary, reimbursement of travel expenses, or other compensation from the Federal Government.

In support of the policy of the Department of Transportation on gender and ethnic diversity, the Coast Guard encourages applications from qualified women and members of minority groups.

Applicants selected may be required to complete a Confidential Financial Disclosure Report (OGE Form 450). Neither the report nor the information it contains may be released to the public, except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a).

Dated: April 19, 1999.

Joseph J. Angelo,*Director of Standards, Marine Safety and Environmental Protection.*

[FR Doc. 99-10722 Filed 4-28-99; 8:45 am]

BILLING CODE 4910-15-M

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****Federal Transit Administration****Environmental Impact Statement:
Pitkin, Eagle and Garfield Counties,
Colorado**

AGENCY: Federal Highway Administration (FHWA) and Federal Transit Administration (FTA), DOT.

ACTION: Revised notice of intent.

SUMMARY: The FHWA and FTA are jointly issuing this revised notice to advise the public that the project limits have been extended from the Pitkin County Airport to the City of Aspen, a distance of 3.7 miles; and from Glenwood Springs to West Glenwood, a distance of 2 miles. These extensions are in response to comments received at the public scoping meetings held in February 1998 and subsequent public meetings.

FOR FURTHER INFORMATION CONTACT: Eva LaDow, FHWA Colorado Division, 555 Zang Street, Room 250; Lakewood, Colorado 80228. Telephone (303) 969-6730 Extension 341. Dave Beckhouse, FTA Region VIII, 216 16th Street, Suite 650; Denver, Colorado 80202, Telephone (303) 844-3242. Joe Tempel, Colorado Department of Transportation, 4201 East Arkansas; Denver, Colorado 80222, Telephone (303) 757-9771.

SUPPLEMENTARY INFORMATION: The FHWA and FTA in cooperation with the Federal Railroad Administration (FRA), the Colorado Department of Transportation (CDOT) and the Roaring Fork Railroad Holding Authority (RFRHA) will prepare an environmental impact statement (EIS) and Section 4(f) evaluation on a proposal to make major transportation improvements in the Roaring Fork Valley from West Glenwood Springs to the City of Aspen, a distance of approximately 44.2 miles. The purpose of these improvements is to accommodate current and projected travel demands through the corridor. The proposed improvements will be identified in a Corridor Investment Study which will be combined with the EIS. The alternatives to be considered in detail in the EIS/4(f) evaluation include the following:

(1) The No Build Alternative—This alternative will include transportation improvements that are “committed” or currently approved transportation projects.

(2) An Improved Bus/Transportation System Management (TSM) Alternative—This alternative will include an optimal bus alternative on

the existing SH 82 alignment and improvements beyond the No Build Alternative that enhance the utility of the existing and committed transportation improvements. A valley wide trail is also included from Glenwood Springs to Aspen.

(3) The Build Alternative—This alternative consists of rail improvements in the corridor, a feeder bus service to the rail stations and TSM improvements. A valley wide trail is also included from Glenwood Springs to Aspen.

Comments or questions concerning this proposed action and the CIS/EIS/4(f) evaluation should be directed to the Colorado Department of Transportation at the address provided above.

Issued on April 9, 1999.

Ronald A. Sperl,

*Environmental/ROW Program Manager,
Colorado Division, Federal Highway
Administration, Lakewood, Colorado.*

Louis F. Mraz, Jr.,

*Regional Administrator, Federal Transit
Administration, Region VIII, Denver,
Colorado.*

[FR Doc. 99-10747 Filed 4-28-99; 8:45 am]

BILLING CODE 4910-22-M AND 4910-57-M

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety
Administration****Automotive Fuel Economy Program,
Report to Congress**

The attached document, 23rd Annual Report to Congress on the Automotive Fuel Economy Program, was prepared pursuant to 49 U.S.C. 32916 et seq. which requires that “the Secretary shall transmit to each House of Congress, and publish in the **Federal Register**, a review of the average fuel economy standards under this part.”

The 23rd Annual Report to Congress on the Automotive Fuel Economy Program summarizes the fuel economy performance of the vehicle fleet and the activities of the National Highway Traffic Safety Administration (NHTSA) during 1998. Included in this report is a section summarizing rulemaking activities during 1998. This report is available on the Internet at: <http://www.nhtsa.dot.gov/cars/problems/studies/fuelecon/index.html>. To obtain paper copies of this document, you may contact NHTSA’s Publications Ordering and Distribution Services on (202) 366-1566.

Issued on: April 20, 1999.

L. Robert Shelton,

*Associate Administrator for Safety
Performance Standards.*

U.S. Department of Transportation

Automotive Fuel Economy Program

*National Highway Traffic Safety
Administration*

Twenty-third Annual Report to
Congress Calendar Year 1998

This publication is distributed by the United States Department of Transportation, National Highway Traffic Safety Administration, in the interest of information exchange. The opinions, findings, and conclusions expressed in this publication are those of the author(s) and not necessarily those of the Department of Transportation or the National Highway Traffic Safety Administration. The United States Government assumes no liability for its contents or use thereof. If trade or manufacturers’ name or products are mentioned, it is because they are considered essential to the object of the publication and should not be construed as an endorsement. The United States Government does not endorse products or manufacturers.

**AUTOMOTIVE FUEL ECONOMY
PROGRAM**

*TWENTY-THIRD ANNUAL REPORT TO
CONGRESS*

CALENDAR YEAR 1998

Table of Contents

Section I: Introduction
Section II: Vehicle Fuel Economy Performance and Characteristics
A. Fuel Economy Performance by Manufacturer
B. Characteristics of the MY 1998 Passenger Car Fleet
C. Characteristics of the MY 1998 Light Truck Fleet
D. Passenger Car and Light Truck Fleet Economy Averages
E. Domestic and Import Fleet Fuel Economy Averages
Section III: 1998 Activities
A. Light Truck CAFE Standards
B. Low Volume Petitions
C. Enforcement
D. Contract Activities

Section I: Introduction

The 23rd Annual Report to Congress on the Automotive Fuel Economy Program summarizes the fuel economy performance of the vehicle fleet and the activities of the National Highway Traffic Safety Administration (NHTSA) during 1998, in accordance with 49 U.S.C. 32916 et seq., which requires the submission of a report each year. Included in this report is a section

summarizing rulemaking activities during 1998.

The Secretary of Transportation is required to administer a program for regulating the fuel economy of new passenger cars and light trucks in the United States market. The authority to administer the program was delegated by the Secretary to the Administrator of NHTSA, 49 CFR 1.50(f).

NHTSA's responsibilities in the fuel economy area include:

(1) Establishing and amending average fuel economy standards for manufacturers of passenger cars and light trucks, as necessary;

(2) Promulgating regulations concerning procedures, definitions, and reports necessary to support the fuel economy standards;

(3) Considering petitions for exemption from established fuel economy standards by low volume manufacturers (those producing fewer than 10,000 passenger cars annually worldwide) and establishing alternative standards for them;

(4) Preparing annual reports to Congress on the fuel economy program;

(5) Enforcing fuel economy standards and regulations; and

(6) Responding to petitions concerning domestic production by foreign manufacturers, and other matters.

Passenger car fuel economy standards were established by Congress for Model Year (MY) 1985 and thereafter at a level of 27.5 miles per gallon (mpg). NHTSA is authorized to amend the standard above or below that level. Standards for light trucks were established by NHTSA for MYs 1979 through 2000. NHTSA set a combined standard of 20.7 mpg for light truck fleets for MY 2000. All current standards are listed in Table I-1.

TABLE I-1.—FUEL ECONOMY STANDARDS FOR PASSENGER CARS AND LIGHT TRUCKS MODEL YEARS 1978 THROUGH 1999
[In MPG]

Model years	Passenger cars	Light Trucks ¹		
		Two-wheel drive	Four-wheel drive	combined ^{2,3}
1978	4 18.0	.....	.....	.....
1979	4 19.0	17.2	15.8	.....
1980	4 20.0	16.0	14.0	(5)
1981	22.0	6 16.7	15.0	(5)
1982	24.0	18.0	16.0	17.5
1983	26.0	19.5	17.5	19.0
1984	27.0	20.3	18.5	20.0
1985	4 27.5	7 19.7	7 18.9	7 9.5
1986	8 26.0	20.5	19.5	20.0
1987	9 26.0	21.0	19.5	20.5
1988	9 26.0	21.0	19.5	20.5
1989	10 26.5	21.5	19.0	20.5
1990	4 27.5	20.5	19.0	20.0
1991	4 27.5	20.7	19.1	20.2
1992	4 27.5			20.2
1993	4 27.5			20.4
1994	4 27.5			20.5
1995	4 27.5			20.6
1996	4 27.5			20.7
1997	4 27.5			20.7
1998	4 27.5			20.7
1999	4 27.5			20.7
2000	4 27.5			20.7

¹ Standards for MY 1979 light trucks were established for vehicles with a gross vehicle weight rating (GVWR) of 6,000 pounds or less. Standards for MY 1980 and beyond are for light trucks with a GVWR of 8,500 pounds or less.

² For MY 1979, light truck manufacturers could comply separately with standards for four-wheel drive, general utility vehicles and all other light trucks, or combine their trucks into a single fleet and comply with the standard of 17.2 mpg.

³ For MYs 1982-1991, manufacturers could comply with the two-wheel and four-wheel drive standards or could combine all light trucks and comply with the combined standard.

⁴ Established by Congress in Title V of the Act.

⁵ A manufacturer whose light truck fleet was powered exclusively by basic engines which were not also used in passenger cars could meet standards of 14 mpg and 14.5 mpg in MYs 1980 and 1981, respectively.

⁶ Revised in June 1979 from 18.0 mpg.

⁷ Revised in October 1984 from 21.6 mpg for two-wheel drive, 19.0 mpg for four-wheel drive, and 21.0 mpg for combined.

⁸ Revised in October 1985 from 27.5 mpg.

⁹ Revised in October 1986 from 27.5 mpg.

¹⁰ Revised in September 1988 from 27.5 mpg.

Section II: Vehicle Fuel Economy Performance and Characteristics

A. Fuel Economy Performance by Manufacturer

The fuel economy achievements for domestic and foreign-based manufacturers in MY 1997 were

updated to include final Environmental Protection Agency (EPA) calculations, where available, since the publication of the *Twenty-second Annual Report to the Congress*. These fuel economy achievements and current projected data for MY 1998 are listed in Tables II-1 and II-2.

Overall fleet fuel economy for passenger cars was 28.7 mpg in MY 1998, an increase of 0.1 mpg from the MY 1997 level. For MY 1998, Corporate Average Fuel Economy (CAFE) values increased above MY 1997 levels for ten of 23 passenger car manufacturers' fleets. (See Table II-1.) These ten

companies accounted for more than 51 percent of the total MY 1998 production. Twelve manufacturers declined below their MY 1997 levels due to increased market demand for heavier and high performance passenger cars, while one manufacturer remained at its MY 1997 level. Manufacturers

generally continued to introduce new technologies and more fuel-efficient models, and some larger, less fuel-efficient models. For MY 1998, the overall domestic manufacturers' fleet average fuel economy was 28.0 mpg. For MY 1998, Chrysler, and Ford/Mazda domestic passenger cars CAFE values

rose 1.2 mpg and 0.4 mpg from their 1997 levels, while General Motors, Honda, and Toyota fell 0.4 mpg, 0.4 mpg, and 0.2 mpg, respectively, from their MY 1997 levels. Overall, the domestic manufacturers' combined CAFE increased 0.1 mpg above MY 1997 level.

TABLE II-1.—PASSENGER CAR FUEL ECONOMY PERFORMANCE BY MANUFACTURER*
[Model years 1997 and 1998]

Manufacturer	Model year cafe (MPG)	
	1997	1998
DOMESTIC:		
Chrysler	27.5	28.7
Ford/Mazda	27.2	27.6
General Motors	28.2	27.8
Honda	29.9	29.5
Nissan .....	.....	29.9
Toyota	28.8	28.6
Sales Weighted Average (Domestic)	27.9	28.0
IMPORT:		
BMW	25.7	25.2
Chrysler	26.4	25.8
Fiat	13.7	13.4
Ford/Mazda	31.1	29.5
General Motors	31.3	28.9
Honda	34.4	34.6
Hyundai	30.9	31.5
Kia	30.6	30.6
Mercedes-Benz	25.2	27.1
Mitsubishi	30.0	29.7
Nissan	29.9	30.7
Porsche	23.2	24.5
Subaru	28.0	27.6
Suzuki	33.9	35.8
Toyota	30.1	30.7
Volvo	25.8	25.7
Volkswagen	28.6	28.7
Sales Weighted Average (Import)	29.8	29.9
Total Fleet Average	28.6	28.7
Fuel Economy Standards	27.5	27.5

*Manufacturers with low volume alternate fuel economy standards are not listed.

TABLE II-2.—LIGHT TRUCK FUEL ECONOMY PERFORMANCE BY MANUFACTURER *
[Model years 1997 and 1998]

Manufacturer	Model year CAFE (MPG)	
	Combined	
	1997	1998
Domestic:		
Chrysler	20.2	20.5
Ford/Mazda	20.0	20.1
General Motors	20.2	21.1
Sales Weighted Average (Domestic)	20.1	20.5
Foreign Based:		
Honda	27.1	27.1
Isuzu	19.4	21.4
Kia	23.8	23.7
Land Rover	17.2	17.2
Mercedes-Benz .....	.....	21.3
Mitsubishi	22.3	22.5
Nissan	22.1	22.2
Suzuki	27.4	27.2
Toyota	22.6	23.5
Sales Weighted Average (Foreign Based)	22.1	22.9
Total Fleet Average	20.4	20.9

TABLE II-2.—LIGHT TRUCK FUEL ECONOMY PERFORMANCE BY MANUFACTURER *—Continued
 [Model Years 1997 and 1998]

Manufacturer	Model year CAFE (MPG)	
	Combined	
	1997	1998
Fuel Economy Standards	20.7	20.7

* Mercedes-Benz began introducing light trucks in MY 1998.

In MY 1998, the fleet average fuel economy for import passenger cars increased by 0.1 mpg from the MY 1997 CAFE level to 29.9 mpg. Eight of the 17 import car manufacturers increased their CAFE values between MYs 1997 and 1998, while eight others decreased and one was unchanged.

Figure II-1 illustrates the changes in total new passenger car fleet CAFE from MY 1978 to MY 1998.

The total light truck fleet CAFE increased 0.5 mpg above the MY 1997 CAFE level of 20.4 mpg (see Table II-2). Figure II-2 illustrates the trends in

total light truck fleet CAFE from MY 1979 to MY 1998.

Six passenger car manufacturers (BMW, Chrysler Import, Fiat, Mercedes-Benz, Porsche, and Volvo) and three light truck manufacturers (Chrysler, Ford/Mazda, and Land Rover) are projected to fail to achieve the levels of the MY 1998 CAFE standards. However, NHTSA is not yet able to determine which of these manufacturers may be liable for civil penalties for non-compliance. Some MY 1998 CAFE values may change when final figures are provided to NHTSA by EPA, in mid-1999. In addition, several manufacturers

are not expected to pay civil penalties because the credits they earned by exceeding the fuel economy standards in earlier years offset later shortfalls. Other manufacturers may file carryback plans to demonstrate that they anticipate earning credits in future model years to offset current deficits.

Beginning in MY 1998, Nissan reported a domestic passenger car fleet consisting of its Altima model vehicle which is built in Smyrna, Tennessee. This fleet had the highest CAFE of the domestic passenger car fleets, but it was also the smallest fleet.

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Figure II-1

CAFE PERFORMANCE PASSENGER CARS

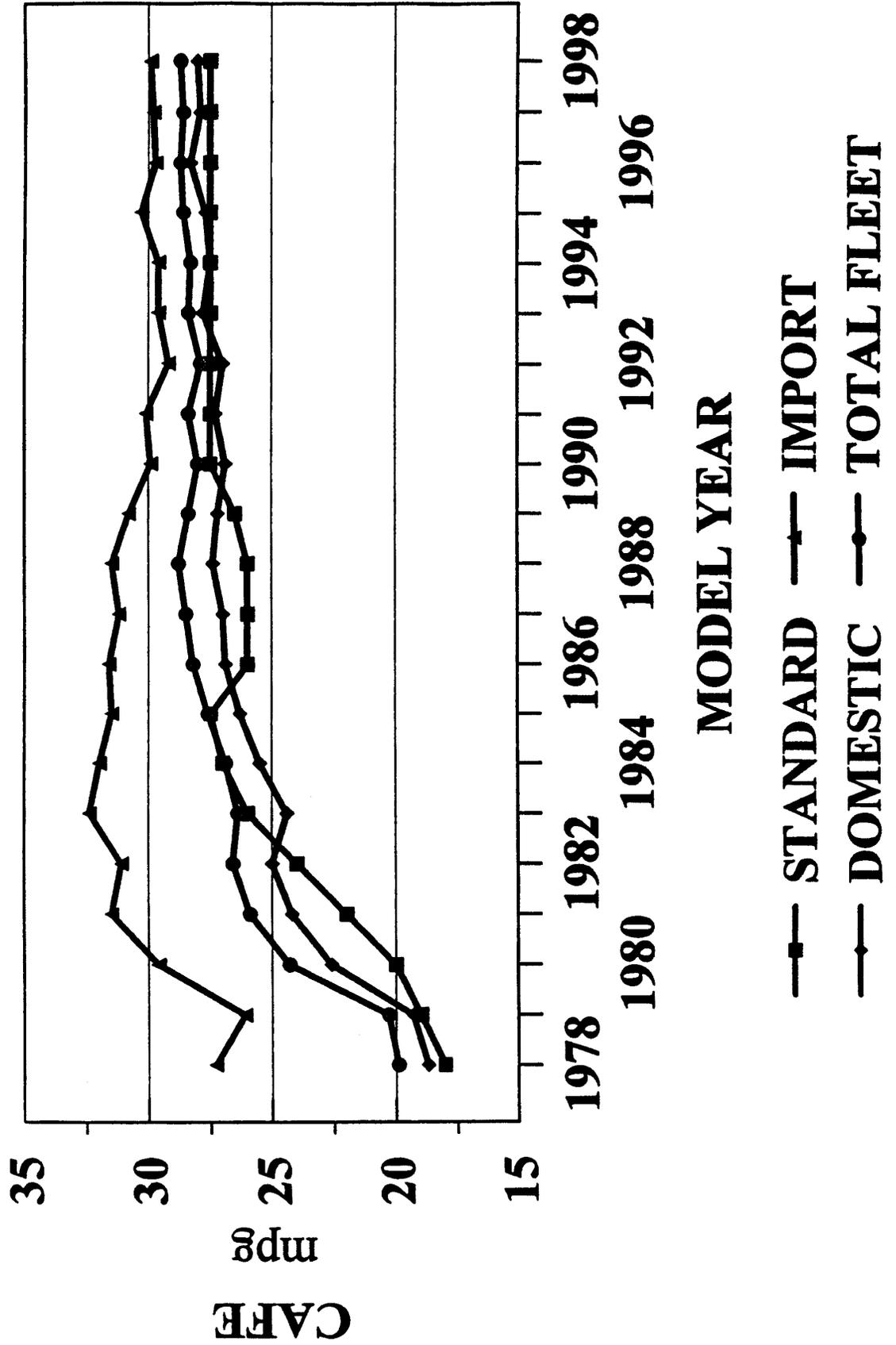
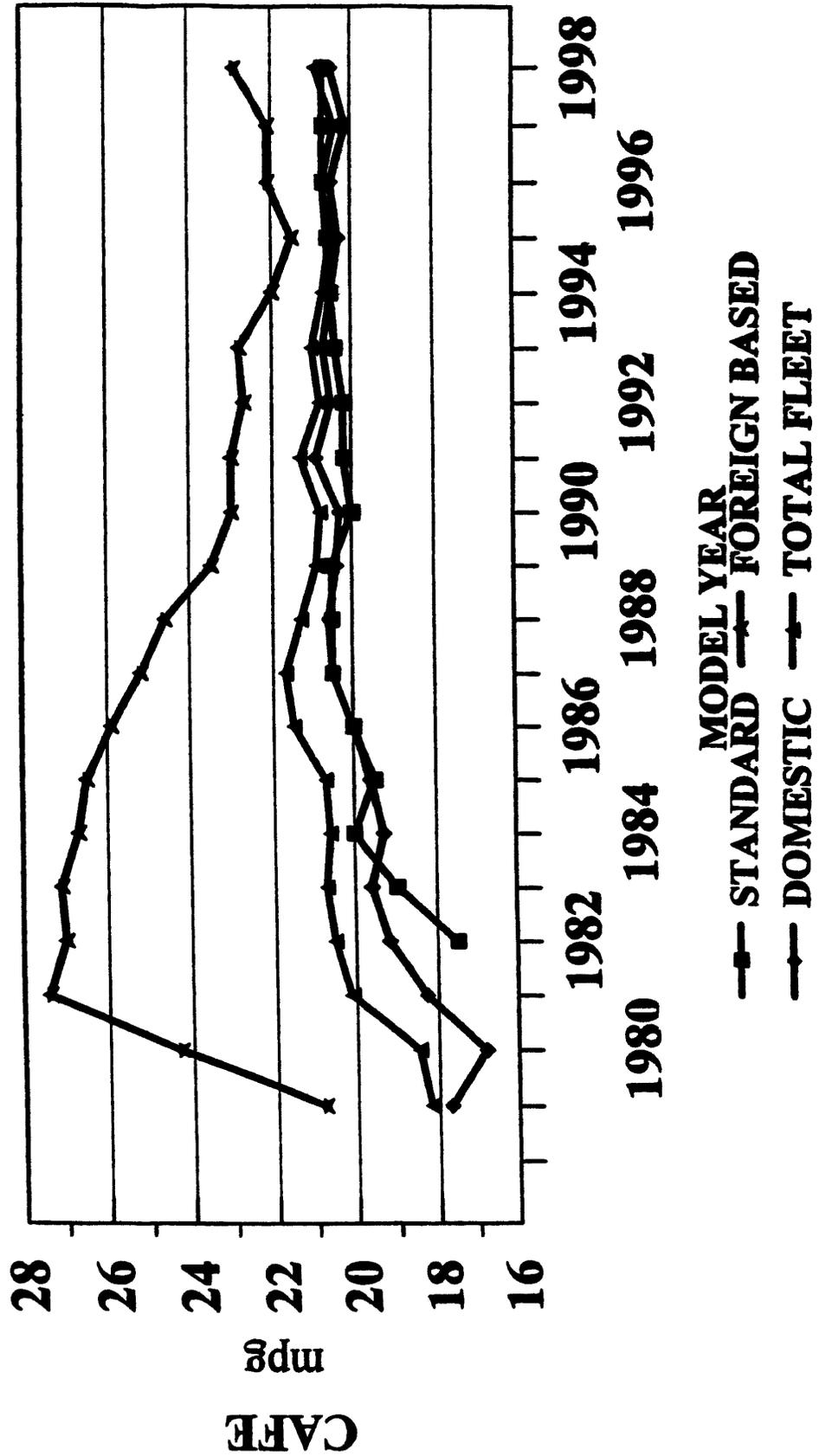


Figure II-2

CAFE PERFORMANCE LIGHT TRUCKS



B. Characteristics of the MY 1998 Passenger Car Fleet

The characteristics of the MY 1998 passenger car fleet reflect a continuing trend toward satisfying consumer demand for higher performance cars. (See Table II-3.) From MY 1997 to MY 1998, horsepower/100 pounds, a measure of vehicle performance, increased from 5.02 to 5.11 for domestic passenger cars and from 4.82 to 4.93 for import passenger cars. The total fleet average for passenger cars increased from 4.95 horsepower/100 pounds in MY 1997 to 5.05 in MY 1998, the highest level in the 42 years for which the agency has data. Compared with MY 1997, the average curb weight for MY 1998 decreased by 24 pounds for the domestic fleet and increased by 48 pounds for the import fleet. The total new passenger car fleet weight increased only from 3,071 pounds in MY 1997 to 3,075 pounds in MY 1998, primarily because of the larger share held by the domestic fleet. Average engine displacement decreased from 180 to 174 cubic inches for domestic passenger cars and increased from 135

to 137 cubic inches for import passenger cars, from MY 1997 to MY 1998.

The 0.1 mpg fuel economy improvement for the MY 1998 domestic passenger car fleet may be attributed in part to weight reduction and mix shifts.

The size/class breakdown shows an increased trend primarily toward mid-size passenger cars with the reduction of two-seater, minicompact, subcompact, compact, and large passenger cars for the overall fleet. The size/class mix in the domestic fleet shifted from two-seater, compact, and large passenger cars to subcompact and mid-size passenger cars. The size/class mix in the import fleet shifted from two-seater, minicompact, subcompact, and large passenger cars to compact and mid-size passenger cars. The import share of the passenger car market declined in MY 1998, as more foreign-based manufacturers achieved 75 percent domestic content for their U.S. and Canadian-assembled passenger cars.

The share of turbocharged and supercharged engines increased by 0.5 percentage points in MY 1998. Diesel engine shares increased in MY 1998. Diesel engines were offered on certain

Mercedes and Volkswagen models during MY 1998.

Passenger car fleet average characteristics have changed significantly since MY 1978 (the first year of fuel economy standards). (See Table II-4.) After substantial initial weight loss (from MY 1978 to MY 1982, the average passenger car fleet curb weight decreased from 3,349 to 2,808 pounds), the curb weight stabilized between 2,800 and 3,075 pounds. Table II-4 shows that the MY 1998 passenger car fleet has nearly equal interior volume and higher performance, but with more than 44 percent better fuel economy, than the MY 1978 fleet. (See Figure II-3.)

C. Characteristics of the MY 1998 Light Truck Fleet

The characteristics of the MY 1998 light truck fleet are shown in Table II-5. Light truck manufacturers are not required to divide their fleets into domestic and import fleets based on the 75-percent domestic content threshold used for passenger car fleets. In Table II-5, the light truck fleet is subdivided according to two-wheel drive or four-wheel drive.

TABLE II-3.—PASSENGER CAR FLEET CHARACTERISTICS FOR MYS 1997 AND 1998

	Total fleet		Domestic fleet		Import fleet	
	1997	1998	1997	1998	1997	1998
Characteristics:						
Fleet Average Fuel Economy, mpg	28.6	28.7	27.9	28.0	29.8	29.9
Fleet Average Curb Weight, lbs.	3071	3075	3143	3119	2944	2992
Fleet Average Engine Displacement, cu. in.	164	161	180	174	135	137
Fleet Average Horsepower/Weight ratio, HP/100 lbs. ...	4.95	5.05	5.02	5.11	4.82	4.93
Percent of Fleet	100	100	63.6	65.7	36.4	34.3
Segmentation by EPA Size Class, Percent:						
Two-Seater	1.0	0.7	0.3	0.2	2.3	1.7
Minicompact	0.6	0.4	0.0	0.0	1.6	1.2
Subcompact*	17.6	16.7	7.2	10.4	35.9	28.7
Compact*	37.4	35.8	39.3	35.8	33.9	35.8
Mid-Size*	30.3	34.1	33.3	35.4	25.2	31.6
Large*	13.1	12.3	19.9	18.2	1.2	1.0
Diesel Engines	0.08	0.19	0.0	0.0	0.2	0.6
Turbo or Supercharged Engines	1.5	2.0	1.3	1.2	1.8	3.6
Fuel Injection	100	100	100	100	100	100
Front-Wheel Drive	85.8	87.0	87.8	90.9	82.2	79.5
Automatic Transmissions	86.1	86.4	91.4	90.4	77.0	78.9
Automatic Transmissions with Lockup Clutches	97.7	99.2	100	99.0	93.1	99.8
Automatic Transmissions with Four or more Forward Speeds	92.1	92.0	90.6	90.8	95.2	94.8
percent Electric	0.02	0.0	0.04	0.0	0.0	0.0

*Includes associated station wagons.

TABLE II-4.—NEW PASSENGER CAR FLEET AVERAGE CHARACTERISTICS
 [Model years 1978–1998]

Model year	Fuel economy (mpg)	Curb weight (lb.)	Interior space (cu. ft.)	Engine size (cu. in.)	Horsepower/ weight (hp/100 lb.)
1978	19.9	3349	112	260	3.68
1979	20.3	3180	110	238	3.72
1980	24.3	2867	105	187	3.51
1981	25.9	2883	108	182	3.43
1982	26.6	2808	107	173	3.47
1983	26.4	2908	109	182	3.57
1984	26.9	2878	108	178	3.66
1985	27.6	2867	108	177	3.84
1986	28.2	2821	106	169	3.89
1987	28.5	2805	109	162	3.98
1988	28.8	2831	107	161	4.11
1989	28.4	2879	109	163	4.24
1990	28.0	2908	108	163	4.53
1991	28.4	2934	108	164	4.42
1992	27.9	3007	108	169	4.56
1993	28.4	2971	109	164	4.62
1994	28.3	3011	109	169	4.79
1995	28.6	3047	109	166	4.87
1996	28.7	3047	109	164	4.92
1997	28.6	3071	109	164	4.95
1998	28.7	3075	109	161	5.05

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Figure II-3 PASSENGER CAR FLEET AVERAGE CHARACTERISTICS

1978 = 1.0

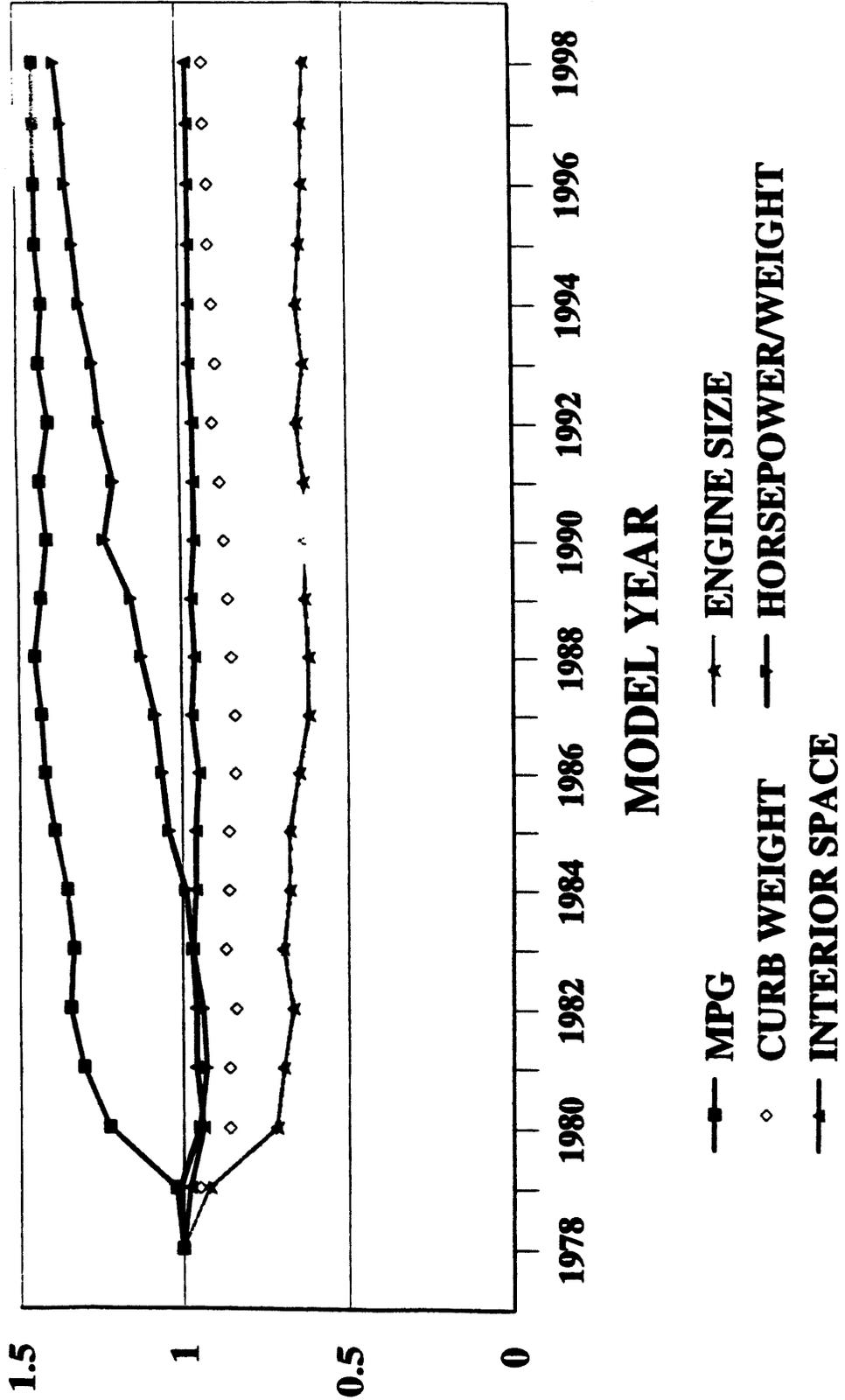


TABLE II-5.—LIGHT TRUCK FLEET CHARACTERISTICS FOR MYS 1997 AND 1998

	Total fleet		Two-wheel drive		Four-wheel drive	
	1997	1998	1997	1998	1997	1998
Characteristics:						
Fleet Average Fuel Economy, mpg	20.4	20.9	21.7	22.4	19.0	19.1
Fleet Average Equivalent Test Weight, lbs.	4471	4435	4283	4255	4703	4679
Fleet Average Engine Displacement, cu. in.	249	243	235	228	266	263
Fleet Average Horsepower/Weight ratio, HP/100 lbs.	4.20	4.23	4.18	4.20	4.23	4.26
Percent of Fleet	100	100	55.3	57.4	44.7	42.6
Percent of Fleet from Foreign-based Manufacturers	14.2	15.5	9.6	11.4	19.8	21.1
Segmentation by Type, Percent:						
Passenger Van	16.4	18.5	28.1	31.4	1.9	1.3
Cargo Van	3.9	3.3	6.9	5.6	0.3	0.2
Small-Pickup:						
Two-Wheel Drive	6.0	7.3	10.8	12.8	0.0	0.0
Large Pickup:						
Two-Wheel Drive	20.8	17.1	37.6	29.7	0.0	0.0
Four-Wheel Drive	14.8	13.3	0.0	0.0	33.1	31.3
Special Purpose:						
Two-Wheel Drive	9.2	11.8	16.6	20.6	0.0	0.0
Four-Wheel Drive	28.9	28.7	0.0	0.0	64.7	67.3
Diesel Engines	0.03	0.02	0.01	0.01	0.04	0.04
Turbo/Supercharged Engines	0.11	0.25	0.13	0.01	0.10	0.56
Fuel Injection	100	100	100	100	100	100
Automatic Transmissions	85.1	86.1	83.1	85.0	87.7	87.6
Automatic Transmissions with Lockup Clutches	95.5	99.3	99.1	99.1	100	100
Automatic Transmissions with Four or More Forward Speeds	99.5	95.1	92.2	92.2	98.5	94.6
Percent Electric	0.0	0.01	0.0	0.02	0.0	0.00

The MY 1998 average test weight of the total light truck fleet decreased by 36 pounds under that for MY 1997. The average fuel economy of the fleet increased by 0.5 mpg to 20.9 mpg. Diesel engine usage declined slightly in light trucks to 0.02 percent in MY 1998 from 0.03 percent in MY 1997. The share of the MY 1998 two-wheel drive fleet increased by 2.1 percentage points over that for the MY 1997 level of 55.3 percent.

CAFE levels for light trucks in the 0–8,500 pounds gross vehicle weight (GVW) class increased from 18.5 mpg in

MY 1980 to 21.7 mpg in MY 1987, before declining to 20.9 mpg in MY 1998, influenced by an increase in performance. Light truck production increased from 1.9 million in MY 1980 to 6.5 million in MY 1998. Light trucks comprised 44 percent of the total light duty vehicle fleet production in MY 1998, more than 2.5 times the share in MY 1980.

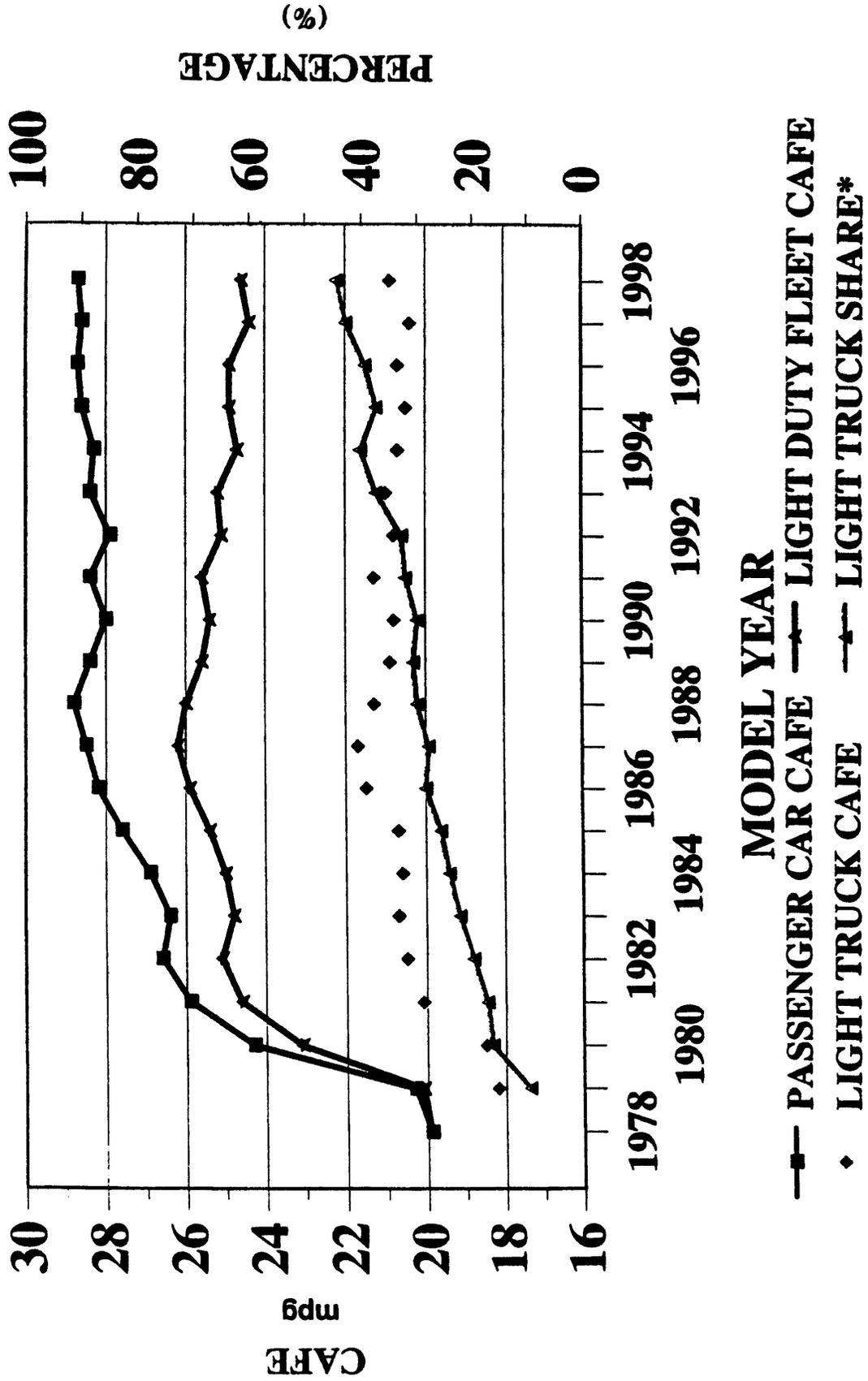
D. Passenger Car and Light Truck Fleet Economy Averages

Figure II-4 illustrates an increase in the light duty fleet (combined passenger

cars and light trucks) average fuel economy through MY 1987, followed by a gradual decline. (See also Table II-6). Passenger car average fuel economy remained relatively constant for MYS 1987–1998. The overall decline in fuel economy illustrates the growing influence of light trucks and their significant impact on the light duty fleet.

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Figure II-4
CAFE PERFORMANCE
TOTAL FLEET



* OF LIGHT DUTY FLEET

TABLE II-6.—DOMESTIC AND IMPORT PASSENGER CAR AND LIGHT TRUCK FUEL ECONOMY AVERAGES FOR MODEL YEARS 1978–1998
[In MPG]

Model year	Domestic			Import			All cars	All light trucks	Total fleet	Light truck share of fleet (%)
	Car	Light truck	Combined	Car	Light truck*	Combined				
1978	18.7			27.3			19.9			
1979	19.3	17.7	19.1	26.1	20.8	25.5	20.3	18.2	20.1	9.8
1980	22.6	16.8	21.4	29.6	24.3	28.6	24.3	18.5	23.1	16.7
1981	24.2	18.3	22.9	31.5	27.4	30.7	25.9	20.1	24.6	17.6
1982	25.0	19.2	23.5	31.1	27.0	30.4	26.6	20.5	25.1	20.1
1983	24.4	19.6	23.0	32.4	27.1	31.5	26.4	20.7	24.8	22.5
1984	25.5	19.3	23.6	32.0	26.7	30.6	26.9	20.6	25.0	24.4
1985	26.3	19.6	24.0	31.5	26.5	30.3	27.6	20.7	25.4	25.9
1986	26.9	20.0	24.4	31.6	25.9	29.8	28.2	21.5	25.9	28.6
1987	27.0	20.5	24.6	31.2	25.2	29.6	28.5	21.7	26.2	28.1
1988	27.4	20.6	24.5	31.5	24.6	30.0	28.8	21.3	26.0	30.1
1989	27.2	20.4	24.2	30.8	23.5	29.2	28.4	21.0	25.6	30.8
1990	26.9	20.3	23.9	29.9	23.0	28.5	28.0	20.8	25.4	30.1
1991	27.3	20.9	24.4	30.1	23.0	28.4	28.4	21.3	25.6	32.2
1992	27.0	20.5	23.8	29.2	22.7	27.9	27.9	20.8	25.1	32.9
1993	27.8	20.7	24.2	29.6	22.8	28.1	28.4	21.0	25.2	37.4
1994	27.5	20.5	23.5	29.7	22.1	27.8	28.3	20.8	24.7	40.2
1995	27.7	20.3	23.8	30.3	21.5	27.9	28.6	20.5	24.9	37.4
1996	28.3	20.5	24.1	29.7	22.2	27.7	28.7	20.7	24.9	39.4
1997	27.9	20.1	23.3	29.8	22.1	27.5	28.6	20.4	24.4	42.8
1998	28.0	20.5	23.3	29.9	22.9	27.6	28.7	20.9	24.6	44.5

*Light trucks from foreign-based manufacturers.

While passenger car and light truck fleet fuel economies increased from MY 1977 to MY 1998 by 0.1 mpg and 0.5 mpg, respectively, the total fleet fuel economy for MY 1998 increased by 0.2 mpg to 24.6 mpg. The shift to light trucks for general transportation is an important trend in consumers' preference and has a significant fleet fuel consumption effect.

E. Domestic and Import Fleet Fuel Economy Averages

Domestic and import passenger car fleet average fuel economies have improved since MY 1978, although the increase is far more dramatic for the domestic fleet. The domestic passenger car fleet CAFE has continued to increase gradually since MY 1978, but the import passenger car fleet CAFE peaked in MY 1984 and has declined since then. In MY 1998, the domestic passenger car fleet average fuel economy was 28.0 mpg. The import passenger car fleet average fuel economy was 29.9 mpg. Compared with MY 1978, this reflects an increase of 9.3 mpg for domestic cars and 2.6 mpg for import cars.

Since MY 1980, the total light truck fleet average fuel economy and the average for domestic light truck manufacturers have improved overall, but both have remained below the fuel economy level for the foreign based light truck fleet. The foreign based light truck average fuel economy has decreased significantly since its highest

level of 27.4 mpg for MY 1981 to 22.9 mpg for MY 1998. For MY 1998, the domestic light truck fleet has an average fuel economy level of 20.5 mpg, which is 2.4 mpg lower than the foreign based light truck fleet. For MY 1998, the foreign based light truck fleet fuel economy increased 0.8 mpg above the MY 1997 level to 22.9 mpg. The domestic manufacturers continued to dominate the light truck market, comprising 84 percent of the total light truck fleet.

The disparity between the average CAFEs of the import and domestic manufacturers has declined in recent years as domestic manufacturers have maintained relatively stable CAFE values while the import manufacturers moved to larger vehicles and more four-wheel drive light trucks, thus lowering their CAFE values.

Section III: 1998 Activities

A. Light Truck CAFE Standards

On April 6, 1998, NHTSA published a final rule establishing a combined standard of 20.7 mpg for light trucks for MY 2000. The Department of Transportation and Related Agencies Appropriations Act for Fiscal Year 1998, Pub. L. 105-66, precludes the agency from setting the MY 2000 standard at a level other than the level for MY 1999.

B. Low Volume Petitions

49 U.S.C. 32902(d) provides that a low volume manufacturer of passenger cars may be exempted from the generally applicable passenger car fuel economy standards if these standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if NHTSA establishes an alternative standard for that manufacturer at its maximum feasible level. A low volume manufacturer is one that manufactured fewer than 10,000 passenger cars worldwide, in the model year for which the exemption is sought (the affected model year) and in the second model year preceding that model year.

In 1998, NHTSA acted on three low volume petitions filed by DeTomaso, Lamborghini and Vector, and Rolls-Royce.

DeTomaso filed a low volume petition for its high performance exotic vehicle, Mangusta. DeTomaso requested alternative standards for its passenger cars for MYs 2000 and 2001. NHTSA is reviewing this petition and will respond in early 1999.

Lamborghini and Vector submitted a joint petition requesting that each company be exempted from the generally applicable average fuel economy standard and requested that lower alternative standards for their passenger cars for MYs 1998 and 1999. The agency published a proposal

announcing NHTSA's tentative conclusion that Lamborghini and Vector should be exempted from the MY 1998 and 1999 passenger automobile average fuel economy standard of 27.5 mpg, and that alternative standards of 12.4 mpg for MYs 1998 and 1999 be established for Lamborghini and Vector (63 FR 5774; February 4, 1998). Thereafter, on July 24, 1998, Audi AG, a wholly owned subsidiary of Volkswagen, acquired full ownership of Lamborghini. This acquisition causes Lamborghini to be ineligible for an exemption under 49 U.S.C. Section 32902(d) for MYs 1998 and 1999. However, Vector remains eligible for an exemption from the generally applicable average fuel

economy standard. A final decision will be issued in early 1999.

NHTSA also witnessed the acquisition of another low volume manufacturer by an import manufacturer. On July 3, 1998, Volkswagen AG (Volkswagen) purchased Rolls-Royce Motor Cars. Volkswagen's acquisition of Rolls-Royce renders this low volume manufacturer ineligible for an exemption under 49 U.S.C. Section 32902(d) for MY 1998 and thereafter. Together, Audi and Volkswagen have an annual worldwide production of more than 10,000 vehicles.

C. Enforcement

49 U.S.C. 32912(b) imposes a civil penalty of \$5.50 for each tenth of a mpg

by which a manufacturer's CAFE level falls short of the standard, multiplied by the total number of passenger automobiles or light trucks produced by the manufacturer in that model year. Credits earned for exceeding the standard in any of the three model years immediately prior to or subsequent to the model years in question can be used to offset the penalty.

Table III-1 shows CAFE fines paid by manufacturers in calendar year 1998. In calendar year 1998, manufacturers paid civil penalties totaling \$55,293,202 for failing to comply with the fuel economy standards of 27.5 mpg for passenger cars in MYs 1996 and 1997.

TABLE III-1.—CAFE FINES COLLECTED DURING CALENDAR YEAR 1998

Model year	Manufacturer	Amount fined	Date paid
1996	BMW	\$289,840	11/98
	Fiat	194,480	10/98
	Mercedes-Benz	6,825,610	11/98
	Porsche	2,127,600	11/98
	Land Rover	4,329,850	11/98
	Volvo	5,534,550	11/98
1997	BMW	11,834,910	11/98
	Fiat	542,340	10/98
	Mercedes-Benz	11,731,035	11/98
	Porsche	2,525,820	11/98
	Land Rover	4,195,032	11/98
	Volvo	5,162,135	11/98

D. Contract Activities

- Database Maintenance: Products and Production Capabilities of North American Automobile Manufacturing Plants.

This program was initiated to provide NHTSA with reliable information on industry product development and financing to assist in the analysis of fuel economy rulemaking activities. After calendar year 1998, NHTSA will terminate its contract for the maintenance of the database. This is because of funding reductions. In FY 1999, NHTSA will compile and maintain some of this information in-house. The agency has requested funds in the FY 2000 budget to restore contract support for maintenance of the database.

- Technology Study of Fuel Economy Benefits of Continuously Variable Transmissions (CVTs).

In fiscal year 1997, NHTSA initiated a study with a consultant to the Volpe National Transportation Systems Center to evaluate the fuel economy and emissions benefits and cost implications of continuously variable transmissions that may be feasible for vehicles larger than those vehicles that are currently

employing this technology (e.g., mid-size passenger cars and compact light trucks with an equivalent test weight of 3,625 pounds and a 3-liter engine). The study concluded that such an application would improve the vehicle fuel economy by 6 to 11 percent with no increase in cost or weight over a conventional 4-speed automatic transmission with lockup torque converter. The NO_x emissions, however, would be higher. The final report will be published in early 1999.

[FR Doc. 99-10562 Filed 4-28-99; 8:45 am]
BILLING CODE 4910-59-P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 99-41]

Revocation of Customs Broker's License

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Broker's license revocation.

I, as Commissioner, hereby pursuant to section 641(b)(5), Tariff Act of 1930,

as amended (19 U.S.C. 1641(b)(5)) and section 111.45(a) of the Customs Regulations (19 CFR 111.45(a)), revoke the following Customs broker license.

Port	Individual	License No.
New York	Trimodal International, Inc.	7405

Dated: April 21, 1999.

Raymond W. Kelly,
Commissioner.

[FR Doc. 99-10742 Filed 4-28-99; 8:45 am]
BILLING CODE 4820-02-P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 99-42]

Cancellations of Customs Brokers' Licenses

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Brokers' Licenses Cancellations.

I, as Commissioner, hereby pursuant to section 641(f), Tariff Act of 1930, as

amended (19 U.S.C. 1641(f) and § 111.51(a) of the Customs Regulations (19 CFR 111.51(a)), cancel the following Customs brokers' licenses without prejudice.

Port	Individual	License No.
New York	World Freight Forwarders, Inc.	13055
New York	A F International—A Division of Big Apple Customs Brokers, Inc.	9568
New York	Person & Weidhorn, Inc.	3661
New York	Leyden Customs Expeditors, Inc.	3149
Wilmington ...	Janice Carter Wilson.	7440
Los Angeles	Pui Ching Company, Inc.	16232

Dated: April 21, 1999.

Raymond W. Kelly,

Commissioner.

[FR Doc. 99-10743 Filed 4-28-99; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF THE TREASURY

Customs Service

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue

Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of Customs duties. Due to recent legislation, the interest rate applicable to overpayments by corporations is now different than the interest rate for overpayments by non-corporations. For the quarter beginning April 1, 1999, the interest rates for overpayments will be 7 percent for corporations and 8 percent for non-corporations, and the interest rate for underpayments will be 8 percent. This notice is published for the convenience of the importing public and Customs personnel.

EFFECTIVE DATE: April 1, 1999.

FOR FURTHER INFORMATION CONTACT: Ronald Wyman, Accounting Services Division, Accounts Receivable Group, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278, (317) 298-1200, extension 1349.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85-93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of Customs duties shall be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was recently amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Pub.L. 105-206, 112 Stat. 685) to provide different interest rates applicable to overpayments: one for

corporations and one for non-corporations. The interest rate applicable to underpayments is not so bifurcated.

The interest rates are based on the short-term Federal rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 99-16 (see, 1999-13 IRB 5, dated March 29, 1999), the IRS determined the rates of interest for the third quarter of fiscal year (FY) 1999 (the period of April 1—June 30, 1999). The interest rate paid to the Treasury for underpayments will be the short-term Federal rate (5%) plus three percentage points (3%) for a total of eight percent (8%). For corporate overpayments, the rate is the Federal short-term rate (5%) plus two percentagepoints (2%) for a total of seven percent (7%). For overpayments made by non-corporations, the rate is the Federal short-term rate (5%) plus three percentage points (3%) for a total of eight percent (8%). These interest rates are subject to change for the fourth quarter of FY-1999 (the period of July 1—September 30, 1999).

For the convenience of the importing public and Customs personnel the following list of Internal Revenue Service interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of Customs duties, is published in summary format.

Beginning date	Ending date	Underpayments (percent)	Overpayments (percent)	Corporate Overpay-ments (Eff. 1-1-99) (percent)
Prior to:				
070174	063075	6	6	.....
070175	013176	9	9	.....
020176	013178	7	7	.....
020178	013180	6	6	.....
020180	013182	12	12	.....
020182	123182	20	20	.....
010183	063083	16	16	.....
070183	123184	11	11	.....
010185	063085	13	13	.....
070185	123185	11	11	.....
010186	063086	10	10	.....
070186	123186	9	9	.....
010187	093087	9	8	.....
100187	123187	10	9	.....
010188	033188	11	10	.....
040188	093088	10	9	.....
100188	033189	11	10	.....
040189	093089	12	11	.....
100189	033191	11	10	.....
040191	123191	10	9	.....
010192	033192	9	8	.....
040192	093092	8	7	.....

Beginning date	Ending date	Underpayments (percent)	Overpayments (percent)	Corporate Overpay-ments (Eff. 1-1-99) (percent)
100192	063094	7	6	.....
070194	093094	8	7	.....
100194	033195	9	8	.....
040195	063095	10	9	.....
070195	033196	9	8	.....
040196	063096	8	7	.....
070196	033198	9	8	.....
040198	123198	8	7	.....
010199	033199	7	7	.....
040199	063999	8	8	6 7

Dated: April 26, 1999.

Raymond W. Kelly,

Commissioner of Customs.

[FR Doc. 99-10675 Filed 4-28-99; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Report of Amended Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs (VA) intends to conduct a recurring computer program matching Social Security Administration (SSA) records with VA pension and parents' dependency and indemnity compensation (DIC) records, and records of those veterans receiving total compensation benefits because of unemployability.

The goal of this match is to provide VA with data from income tax return information disclosed to SSA.

VA plans to match records of VA beneficiaries receiving income dependent benefits and to adjust VA income dependent benefits. VA will also use SSA's wage and self employment income records to determine the continued eligibility for VA compensation benefits of those individuals who are receiving disability

compensation at the 100 percent rate because of unemployability.

VA will use this information to adjust VA benefit payments as prescribed by law. The proposed matching program will enable VA to ensure accurate reporting of income.

RECORDS TO BE MATCHED: The VA records involved in the match are the VA system of records, Compensation, Pension, Education and Rehabilitation Records—VA (58 VA 21/22) first published at 41 FR 9294, March 3, 1976 and last amended at 63 FR 37941 (July 14, 1998). The SSA records consist of return information with respect to net earnings from self employment and wages, to Federal, State and local agencies administering certain benefit programs from the system of records identified as Earnings Recording and Self Employment System, HHS/SSA/OSR, 09-60-0059. In accordance with Title 5 U.S.C. subsection 552a(o)(2) and (r), copies of the agreement are being sent to both Houses of Congress and to the Office of Management and Budget (OMB).

This notice is provided in accordance with the provisions of the Privacy Act of 1974 as amended by Pub. L. 100-503.

DATES: The match will start no sooner than 30 days after publication of this Notice in the **Federal Register**, or 40 days after copies of this Notice and the agreement of the parties is submitted to Congress and OMB, whichever is later, and end not more than 18 months after

the agreement is properly implemented by the parties. The involved agencies' Data Integrity Boards (DIB) may extend this match for 12 months provided the agencies certify to their DIBs within three months of the ending date of the original match that the matching program will be conducted without change and that the matching program has been conducted in compliance with the original matching program.

ADDRESSES: Interested individuals may submit written comments to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1154, Washington, DC 20420. Comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between 8 a.m. and 4:30 p.m., Mondays through Fridays, except holidays.

FOR FURTHER INFORMATION CONTACT: Kathleen Grill (212), (202) 273-7234.

SUPPLEMENTARY INFORMATION: This information is required by Title 5 U.S.C. subsection 552a(e)(12), the Privacy Act of 1974. A copy of this notice has been provided to both Houses of Congress and OMB.

Approved: April 26, 1999.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

[FR Doc. 99-10824 Filed 4-28-99; 8:45 am]

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Federal Register

Vol. 64, No. 82

Thursday, April 29, 1999

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FEDERAL REGISTER PAGES AND DATES, APRIL

15633-15914.....	1
15915-16332.....	2
16333-16600.....	5
16601-16796.....	6
16797-17078.....	7
17079-17270.....	8
17271-17500.....	9
17501-17940.....	12
17941-18322.....	13
18323-18550.....	14
18551-18796.....	15
18797-19016.....	16
19017-19250.....	19
19251-19438.....	20
19439-19684.....	21
19685-19862.....	22
19863-20140.....	23
20141-20938.....	26
20543-22778.....	27
22779-23006.....	28
23007-23164.....	29

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:	
7177.....	17075
7178.....	17077
7179.....	17499
7180.....	17939
7181.....	18317
7182.....	18321
7183.....	19017
7184.....	19439
7185.....	19681
7186.....	19683
7187.....	22777
7188.....	23005

Executive Orders:

June 14, 1839	
(Revoked in part by PLO 7385).....	19386
11223 (Amended by EO 13118).....	16595
11269 (Amended by EO 13118).....	16595
11958 (Amended by EO 13118).....	16595
12163 (Amended by EO 13118).....	16595
12188 (Amended by EO 13118).....	16595
12260 (Amended by EO 13118).....	16595
12293 (Amended by EO 13118).....	16595
12301 (Amended by EO 13118).....	16595
12599 (Amended by EO 13118).....	16595
12703 (Amended by EO 13118).....	16595
12884 (Amended by EO 13118).....	16595
12981 (Amended by EO 13117).....	16391
13116.....	16333
13117.....	16591
13118.....	16595
13119.....	18797
13120.....	23007

Administrative Orders:

Presidential Determinations:	
No. 99-18 of March 25, 1999.....	16337
No. 99-19 of March 31, 1999.....	17081
No. 99-20 of March 31, 1999.....	17083
No. 99-21 of April 8, 1999.....	18551

Memorandums:

March 23, 1999	
(Amended by EO 13118).....	16595
March 31, 1999.....	17079

5 CFR

351.....	16797
532.....	15915, 17941
870.....	16601, 22543
890.....	15633
1200.....	15916
2411.....	18799

Proposed Rules:

532.....	20221
----------	-------

7 CFR

6.....	17501
254.....	17085
301.....	15916
760.....	17942
801.....	19019
916.....	19022
917.....	19022
932.....	23009
981.....	18800
982.....	23011
1079.....	19034
1216.....	20102
1361.....	18323
1437.....	17271
1477.....	18553
1728.....	17219
1753.....	16602
1951.....	19863

Proposed Rules:

28.....	15937
340.....	16364
905.....	15634
944.....	15634
1000.....	16026
1001.....	16026
1002.....	16026
1004.....	16026
1005.....	16026
1006.....	16026
1007.....	16026
1012.....	16026
1013.....	16026
1030.....	16026
1032.....	16026
1033.....	16026
1036.....	16026
1040.....	16026
1044.....	16026
1046.....	16026
1049.....	16026
1050.....	16026
1064.....	16026
1065.....	16026
1068.....	16026
1076.....	16026
1079.....	16026, 19071
1106.....	16026
1124.....	16026
1126.....	16026
1131.....	16026
1134.....	16026
1135.....	16026

1137.....	16026	39.....	15657, 15659, 15661, 15669, 15920, 16339, 16621, 16624, 16625, 16801, 16803, 16805, 16808, 16810, 17086, 17512, 17514, 17522, 17524, 17947, 17949, 17951, 17954, 17956, 17950, 17961, 17962, 17964, 17966, 18324, 18802, 18804, 18806, 19254, 19689, 19691, 19693, 19695, 19879, 19881, 19883, 20142, 20144, 20146, 20148, 20150, 20152, 20153, 22544, 22779, 22780, 22782, 23016	762.....	17968	671.....	18662
1138.....	16026			774.....	17968		
1139.....	16026			Proposed Rules:		21 CFR	
1205.....	19072			922.....	19945	26.....	16347
1216.....	20107					184.....	19887
1220.....	18831			16 CFR		201.....	18571
1306.....	19084			239.....	19700	312.....	19269
1309.....	19084			700.....	19700	330.....	18571
3418.....	18534			701.....	19700	331.....	18571
				702.....	19700	341.....	18571
8 CFR				703.....	19700	346.....	18571
103.....	17943			Proposed Rules:		355.....	18571
Proposed Rules:				241.....	18081	358.....	18571
2.....	17128			256.....	18081	369.....	18571
				259.....	19729	510.....	15683, 18571
9 CFR		71.....	15673, 15674, 15675, 15676, 15678, 15679, 16024, 16340, 16341, 16342, 16343, 16344, 17219, 17934, 18563, 19255, 19257, 19258, 19259, 19260, 19261, 19262, 19263, 19265, 19266, 19267, 19268, 19885, 19886, 20155, 20156, 20157, 20158, 20159, 20160, 20161, 20162, 22674	312.....	22750	520.....	15683, 15684, 18571, 18572, 23017
1.....	15918			17 CFR		522.....	15683, 15685, 18573
3.....	15918, 19251			1.....	19711	556.....	18573, 23017
391.....	19865			5.....	19711	558.....	15683, 18574, 20163
Proposed Rules:				31.....	19711	701.....	18571
72.....	17573			202.....	19450	874.....	18327
93.....	16655			232.....	19469	882.....	18327
201.....	15938			240.....	19450	890.....	18329
				242.....	19450	900.....	18331
10 CFR		91.....	15912	249.....	19450	Proposed Rules:	
2.....	15636, 15920	93.....	17439	270.....	19469	1.....	15944
10.....	15636	95.....	18563	274.....	19469	101.....	15948, 17295
11.....	15636	97.....	17277, 17526, 17528, 19697, 22549	275.....	15680	310.....	17985
25.....	15636			279.....	15680	1308.....	17298, 17299
40.....	17506	401.....	19586	Proposed Rules:			
50.....	17944, 17947	411.....	19586	1.....	17439, 22588	22 CFR	
55.....	19868	413.....	19586	5.....	19730	Ch. II.....	15685
72.....	17510	415.....	19586	30.....	22588	Ch. VI.....	15686
73.....	17947	417.....	19586	200.....	19732	50.....	19713
95.....	15636	1214.....	19886	230.....	18481	51.....	19713
Proposed Rules:		Proposed Rules:		240.....	18393, 18481	121.....	17531
30.....	18833	39.....	16364, 16366, 16656, 17130, 18382, 18384, 18386, 18835, 18840, 18842, 18845, 19096, 19726, 19930, 19932, 19934, 19936, 19938, 19940, 19942, 20221, 20224, 20226, 20229, 20230, 22816, 22818	270.....	18481	123.....	17531
39.....	19089			284.....	17276	124.....	17531
40.....	18833	65.....	18302	343.....	17087	126.....	17531
50.....	22580	71.....	15708, 16024, 16368, 16369, 16370, 16371, 17133, 17717, 17983, 17984, 18392, 18481, 18584, 19310, 19312, 19313, 19314, 19316, 19317, 19728, 223028	385.....	17087	171.....	18808
70.....	18833			18 CFR		201.....	17535
170.....	15876, 18835	91.....	17293, 18302	1b.....	17087	514.....	17975, 17976
171.....	15876, 18835	105.....	18302	284.....	17276	Proposed Rules:	
		108.....	19220	343.....	17087	514.....	17988
12 CFR		119.....	16298, 18302	19 CFR			
3.....	19034	121.....	16298, 18766	10.....	16345	23 CFR	
208.....	19034	125.....	18766	12.....	17529	1327.....	19269
213.....	16612	129.....	16298	18.....	16345	Proposed Rules:	
225.....	19034	135.....	16298, 17293, 18766	113.....	16345	777.....	16870
226.....	16614	145.....	18766	122.....	18566		
303.....	20141	183.....	16298	178.....	16635, 16345	24 CFR	
325.....	19034	400.....	19626	192.....	16635	100.....	16324
330.....	15653	401.....	19626	Proposed Rules:		103.....	18538
611.....	16617	404.....	19626	4.....	19508	203.....	19895
620.....	16617	405.....	19626	19.....	16865	204.....	19895
701.....	19441	406.....	19626	111.....	22726	903.....	22550
745.....	19685	413.....	19626	146.....	15873	Proposed Rules:	
790.....	17085	415.....	19626	159.....	19508	Ch. IX.....	20232, 20234
935.....	16618, 16788	431.....	19626	20 CFR		990.....	17301
960.....	23014	433.....	19626	404.....	17100, 18566, 22903	25 CFR	
Proposed Rules:		435.....	19626	416.....	18566, 22903	61.....	19896
933.....	16792	15 CFR		652.....	18662	291.....	17535
934.....	16792	738.....	17968	660.....	18662	Proposed Rules:	
935.....	16792	740.....	17968	661.....	18662	Ch. I.....	18585
1750.....	18084	742.....	17968	662.....	18662	Ch. III.....	22588
		748.....	17968	663.....	18662	151.....	17574
13 CFR				664.....	18662	26 CFR	
115.....	18324			665.....	18662	1.....	15686, 15687
Proposed Rules:				666.....	18662	7.....	15687
107.....	18375			667.....	18662	31.....	15687
114.....	23027			668.....	18662	301.....	16640, 17279
120.....	15942			669.....	18662	602.....	15687, 15688, 15873,
121.....	15708			670.....	18662		
14 CFR							
13.....	19443						

17279	812.....17101	Proposed Rules:	25.....15709
Proposed Rules:	863.....17545	50.....19740	26.....15709
1.....16372		52.....15711, 15949, 16659,	28.....15709
49.....22819	33 CFR	17136, 17589, 17592, 17593,	70.....15709
301.....19217	100.....16348, 16812, 16813,	17990, 18858, 18860, 18861,	169.....15709
	19715, 22553, 22674	18862, 19097, 19330, 19331,	175.....15709
27 CFR	110.....20176, 22554	19332, 19957	
178.....17291	117.....16350, 16641, 17101,	62.....19333, 19958	47 CFR
	18576, 20177	63.....17465, 18862	0.....22559
Proposed Rules:	155.....18576	70.....16659	1.....19057
4.....17588	165.....16348, 16641, 16642,	81.....17593, 18864	2.....22559
5.....17588	17439, 18577, 18810, 18814	82.....16373	15.....22559
7.....17588	187.....19039	83.....23030	42.....19722
	334.....18580	112.....17227	43.....19057
28 CFR		152.....19958	52.....22562
16.....17977, 23019	Proposed Rules:	174.....19958	54.....22806
31.....19674	Ch. I.....20236	180.....16874, 19958, 19961	63.....19057, 22903
70.....19898	100.....18587, 20236	185.....16874, 19961	69.....16353
77.....19273	117.....17134, 22593	186.....16874, 19961	73.....17108, 19067, 19299,
504.....17270	154.....17222	194.....18870	19498, 22563, 22564, 22565,
Proposed Rules:	175.....15709	228.....23030	22566, 22567, 23022
65.....17128	177.....15709	261.....22820	74.....19498
90.....20090	179.....15709	271.....19968	
506.....20126	181.....15709	300.....17593, 19968	Proposed Rules:
540.....20126	183.....15709		Ch. I.....20238
			0.....16388
29 CFR	34 CFR	41 CFR	1.....16661
1601.....23019	682.....18974	Ch. 301.....16352, 18581	2.....16687
1910.....22552		60-250.....15690	25.....16880, 16687
1915.....22552	36 CFR	60-999.....15690	69.....16389
1917.....22552	7.....19480	302-11.....17105, 18659	73.....15712, 15713, 15714,
1918.....22552	1254.....19899		15715, 16388, 16396, 17137,
1926.....18809, 22552	Proposed Rules:	43 CFR	17138, 17139, 17140, 17141,
4044.....18575	1.....17293	Proposed Rules:	17142, 17143, 18596, 18871,
Proposed Rules:	2.....17293	3100.....17598	18872, 18873, 23036
1.....17442	3.....17293	3106.....17598	76.....16388
5.....17442	4.....17293	3130.....17598	
1625.....19952	5.....17293	3160.....17598	48 CFR
4007.....22589	6.....17293		231.....18827
	7.....17293	44 CFR	232.....18828
30 CFR		65.....17567, 17569	235.....18829
901.....20164	38 CFR	67.....17571	252.....18828
904.....20164	17.....22676	206.....19496	701.....16647
913.....20164	36.....19906	Proposed Rules:	703.....16647
914.....20164		67.....17598	715.....16647, 19217
915.....20164	39 CFR		722.....18481
916.....20164	20.....19039, 20178	45 CFR	731.....16647
918.....20164	111.....16814, 17102	260.....17720	732.....18481
920.....17978		261.....17720	752.....16647, 18481
925.....20164	40 CFR	262.....17720	909.....16649
935.....17980	50.....19717	263.....17720	970.....16649
936.....20164	52.....15688, 15922, 17102,	264.....17720	1333.....16651
943.....20164	17545, 17548, 17551, 17982,	265.....17720	1509.....20201
Proposed Rules:	18815, 18816, 18818, 18821,	283.....18484	1533.....17109
46.....18498, 18528	19277, 19281, 19283, 19286,	1224.....19293	1552.....17109, 20201
48.....18498	19910, 19913, 19916, 20186,	1611.....17108, 18372	1802.....19925
72.....22592	22789	2508.....19293	1804.....19925
75.....22592	62.....17219, 19290, 19919	Proposed Rules:	1812.....19925
204.....19739	63.....17460, 17555, 18824,	1635.....16383	1832.....18372
206.....15949, 17990	19719, 19922, 20189	2522.....17302	1842.....19928
250.....19318, 23029	81.....17551	2525.....17302	1852.....19925
700.....18585	82.....22982	2526.....17302	1853.....19925
740.....18585	90.....16526	2527.....17302	1871.....19925
746.....18585	180.....16840, 16843, 16850,	2528.....17302	
750.....18585	16856, 17565, 18333, 18339,	2529.....17302	Proposed Rules:
934.....18586	18346, 18351, 18357, 18359,		201.....22822
935.....18857	18360, 18367, 18369, 19042,	46 CFR	204.....22822
948.....19327	19050, 19484, 19489, 19493,	16.....22555	225.....22825
	22793, 22797, 22799, 22802	32.....18576	1833.....17603
31 CFR	185.....19489	510.....23019	
210.....17472	186.....19493	515.....23019	49 CFR
285.....22906	257.....19494	520.....23020	195.....15926
560.....20168	261.....16643	583.....23019	244.....19512
	271.....19925	Proposed Rules:	533.....16860
32 CFR	300.....15926, 16351	10.....15709	571.....16358, 20209, 22567
311.....22784	372.....20198	15.....15709	575.....20209
		24.....15709	581.....16359
			1106.....19512

Proposed Rules:

107.....18786
171.....16882, 22718
173.....22718
174.....22718
175.....22718
176.....22718
177.....16882, 22718
178.....16882
180.....16882
192.....16882, 16885
195.....16882, 16885
57119106, 19740, 20245,
 23037
572.....19742
578.....16690
611.....17062

50 CFR

14.....23022
1715691, 17110, 19300
229.....17292
600.....16862
622.....23026
64815704, 16361, 16362,
 18582, 19503
66016862, 17125, 19067,
 22810
67916361, 16362, 16654,
 17126, 18373, 19069, 19507,
 20210, 20216
69719069, 22814, 22815

Proposed Rules:

1716397, 16890, 18596,
 19108, 19333
20.....17308
32.....17992
22316396, 16397, 20248
224.....16397, 20248
226.....16397, 20248
300.....22826
60016414, 18394, 19111
622.....18395, 23039
64816417, 16891, 18394,
 19111
679.....19113

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H.R. 440/P.L. 106-22
Microloan Program Technical Corrections Act of 1999 (Apr. 27, 1999; 113 Stat. 36)

H.R. 911/P.L. 106-23
To designate the Federal building located at 310 New Bern Avenue in Raleigh, North

Carolina, as the "Terry Sanford Federal Building". (Apr. 27, 1999; 113 Stat. 38)

S. 388/P.L. 106-24
To authorize the establishment of a disaster mitigation pilot program in the Small Business Administration. (Apr. 27, 1999; 113 Stat. 39)

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