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Wednesday
August 11, 1999

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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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–15]

Amendment to Class E Airspace; Rock Rapids, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Rock Rapids, IA.

DATES: The direct final rule published at 64 FR 19263 was effective on 0901 UTC, July 15, 1999.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on April 20, 1999 (64 FR 19263). Due to an administrative error the Direct final rule; confirmation of effective date was not published in the **Federal Register** prior to the effective date of July 15, 1999. This document confirms the effective date amending the Class E airspace at Rock Rapids, IA. The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comments, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on July 15, 1999. No adverse comments were received, and thus this notice confirms that this direct final rule became effective on that date.

Issued in Kansas City, MO, on July 27, 1999.

Donovan D. Schardt,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–20713 Filed 8–10–99; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 2

Procedures in Prior Approval Proceedings

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission is amending its procedures governing applications for approval of proposed divestitures, acquisitions, or similar transactions that are subject to Commission review under outstanding orders. The amendment repeals the unnecessary and burdensome requirement for disclosure on the public record of communications concerning an application from persons outside the Commission to Commissioners and their advisors.

EFFECTIVE DATE: August 11, 1999.

FOR FURTHER INFORMATION CONTACT: Marc Winerman, Attorney, Office of the General Counsel, 202–326–2451.

SUPPLEMENTARY INFORMATION: Commission Rule 2.41(f)(3), 16 CFR 2.41(f)(3), requires that Commissioners and their advisors expeditiously disclose written communications, and memoranda setting forth the full contents and circumstances of oral communications, that they receive from outside parties concerning a prior approval application. The Commission is repealing this legally unnecessary and, in practice, burdensome provision. Consistent with existing practice, however, the Commission will provide applicants with an explanation of any adverse information that the Commission may consider, and provide applicants with an opportunity to respond. Applicants will thus continue to have an opportunity to respond to significant information transmitted by outside parties directly to Commissioners' offices (which former Rule 2.41(f)(3) covered), as well as information transmitted by outside parties to staff and through staff to those offices (which the former rule did not cover).

Procedural matters. The proposed amendments is exempt from the notice and comment requirements of the Administrative Procedure Act as a rule ''of agency organization, procedure, or practice.'' 5 U.S.C. 553(b)(A). It does not entail information collection and thus is not subject to the Paperwork Reduction Act of 1980. 44 U.S.C. 3501 *et seq.* And it will not have a significant economic impact on a substantial number of small businesses, and is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

List of Subjects in CFR Part 2

Administrative practice and procedure, reporting and record-keeping requirements.

Accordingly, the Federal Trade Commission amends Title 16, Chapter 1, Subchapter A, the Code of Federal Regulations as follows:

PART 2—NON-ADJUDICATIVE PROCEDURES

1. The authority for part 2 continues to read as follows:

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46.

2. In § 2.41, paragraph (f)(3) is removed.

3. In § 2.41, paragraphs (f)(4) and (5) are redesignated as paragraphs (f)(3) and (4), respectively.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 99–20698 Filed 8–10–99; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 343 and 385

[Docket No. RM98–13–001; Order No. 602–A]

Complaint Procedures

Issued: July 28, 1999.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; order on rehearing and clarification.

SUMMARY: On March 31, 1999, the Federal Energy Regulatory Commission (Commission) issued a final rule (Order No. 602) revising its regulations governing complaints filed with the Commission under the Federal Power Act, the Natural Gas Act, the Natural Gas Policy Act, the Public Utility Regulatory Policies Act of 1978, the Interstate Commerce Act, and the Outer Continental Shelf Lands Act. A number of requests for rehearing and clarification of the final rule were filed. The general framework established by the complaint rule remains the same. The order does, however, grant rehearing and clarification in instances where the suggested changes will improve the new procedures and contribute to ensuring that the process allows the resolution of complaints in the most suitable manner. The order, among other things, clarified the types of relief that may be granted with respect to complaints, modified certain procedures concerning the treatment of privileged information in complaints and answers, modified the requirement concerning simultaneous service of complaints, and reduced the scope of documentation required in an answer. With respect to changes made to the procedural rules applicable to oil pipeline proceedings, the order clarifies that the Commission will be flexible in its application of the complaint procedures to oil pipelines. The order also states that the Commission did not make any changes to the substantive regulations or policies governing oil pipeline complaints.

DATES: The regulations are effective September 10, 1999.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: David Faerberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–1275.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, N.E., Room 2A, Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission from November 14, 1994, to the present. CIPS can be accessed via Internet through FERC's Home Page (http://www.ferc.fed.us) using the CIPS Link or the Energy Information Online icon. Documents will be available on CIPS in ASCII and WordPerfect 6.1. User assistance is available at 202–208–2474 or by E-mail to cips.master@ferc.fed.us.

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Homepage using the RIMS link or the Energy Information Online icon. User assistance is available at 202–208–2222, or by E-mail to rimsmaster@ferc.fed.us.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, RVJ International, Inc. RVJ International, Inc. is located in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

Order on Rehearing and Clarification

Before Commissioners: James J. Hoecker, Chairman; Vicky A. Bailey, William L. Massey, Linda Breathitt, and Curt Hébert, Jr.

This order addresses a number of requests for rehearing and clarification of the Commission's final rule revising its complaint procedures. The general framework established by the complaint rule remains the same. The order does, however, grant rehearing and clarification in instances where the suggested changes will improve the new procedures and contribute to ensuring that the process allows the resolution of complaints in the most suitable manner.

I. Background

On March 31, 1999, the Federal Energy Regulatory Commission (Commission) issued a final rule (Order No. 602) revising its regulations governing complaints filed with the Commission under the Federal Power Act, the Natural Gas Act, the Natural Gas Policy Act, the Public Utility Regulatory Policies Act of 1978, the Interstate Commerce Act, and the Outer Continental Shelf Lands Act.[1] Order No. 602 was designed to encourage and support consensual resolution of complaints, and to organize the complaint procedures so that all complaints are handled in a timely and fair manner.

In order to organize the complaint procedures so that all complaints are handled in a timely and fair manner, the Commission revised Rule 206 of its Rules of Practice and Procedure.[2] Among other things, the Commission required that complaints meet certain informational requirements, required answers to be filed in a shorter, 20-day time frame, and provided various paths for resolution of complaints, including Fast Track processing for complaints that are highly time sensitive. The Commission intended these changes to ensure that the Commission and all parties to a dispute would have as much information as early in the complaint process as possible to evaluate their respective positions. The changes were also intended to ensure that the process used to resolve a complaint would be suited for the facts and circumstances surrounding the complaint, the harm alleged, the potential impact on competition, and the amount of expedition needed.

The Commission added a new Rule 218 providing for simplified procedures for complaints where the amount in controversy is less than $100,000 and the impact on other entities is *de minimis*. The Commission adopted these new procedures to provide a process by which small controversies can be resolved more simply and expeditiously than more complicated matters.

The Commission also took a number of steps to support its policy of promoting consensual resolution of disputes among parties in the first instance. The Commission pointed out that the recently created Dispute Resolution Service will work with all those interested in Commission activities to increase awareness and use of alternative dispute resolution (ADR) in all areas the Commission regulates. The Commission emphasized that this new service will also help identify cases appropriate for ADR processes and

[1] Complaint Procedures, Order No. 602, III FERC Stats. & Regs. ¶ 31,071 (1999), 64 FR 17087 (April 8, 1999).

[2] 18 CFR 385.206 (1998).

conduct ADR processes, including convening sessions. To further publicize and establish its Enforcement Hotline as a viable alternative to the filing of a formal complaint, the Commission codified its current Enforcement Hotline procedures.[3]

The Commission also revised its alternative dispute resolution regulations (Rules 604, 605 and 606)[4] to conform to the changes made by the Administrative Dispute Resolution Act of 1996[5] and foster an environment that promotes consensual resolution of disputes by eliminating provisions in its regulations which were seen as having a chilling effect on the use of ADR.

The Commission also revised certain sections of Part 343, Procedural Rules Applicable to Oil Pipeline Proceedings,[6] to conform to the changes in the Commission's complaint procedures in Part 385 of the regulations.

Requests for rehearing and/or clarification of Order No. 602 were filed by ARCO Products Company, and Ultramar Diamond Shamrock Corporation (ARCO); Association of Oil Pipe Lines (AOPL); Chevron Pipe Line Company (Chevron Pipe Line); Chevron Products Company (Chevron Products); Enron Interstate Pipelines (Enron); Express Pipeline Partnership (Express); Indicated Shippers; Interstate Natural Gas Association of America (INGAA); Southern Company Services, Inc. (Southern Company); and the Williams Companies, Inc. (Williams). Their requests for rehearing and/or clarification will be addressed below. The topic headings in the discussion section are those used in Order No. 602.

II. Discussion

The Commission continues to encourage and support consensual resolution of complaints and reaffirms its commitment to resolving disputes in as timely and as fair a manner as possible. The Commission has reviewed the requests for rehearing and concludes that in many instances the suggestions for change will improve the new procedures and contribute to ensuring that the process allows the resolution of complaints in the most suitable manner.

A. Informational Requirements for Complaints

The final rule revised Rule 206 of the Commission's Rules of Practice and Procedure to require that a complaint satisfy certain informational requirements.

Indicated Shippers states that Rule 206(b) requires the complainant to state whether informal procedures were used to resolve the complaint prior to filing. If such procedures were not used, the preamble to the final rule indicates that the complainant must explain why. However, the regulatory text does not expressly require such an explanation. Indicated Shippers submit that the regulatory text should be modified to reflect the requirement that an explanation be provided, as discussed in the preamble.

The Commission grants Indicated Shippers' request. In the final rule, the Commission strongly encouraged parties to attempt informal resolution of their disputes prior to the filing of a formal complaint. The Commission therefore adopted the proposal in the NOPR that parties be required to explain whether alternative dispute resolution was tried, and, if not, why. The regulatory text inadvertently omitted this requirement. Therefore, on rehearing § 385.206(b)(9)(i) is revised to require a complaint to state ''whether the Enforcement Hotline, Dispute Resolution Service, tariff-based dispute resolution mechanisms, or other informal dispute resolution procedures were used, or why these procedures were not used.''

In the final rule, the Commission adopted procedures to allow complainants and respondents to request privileged treatment of information contained in a complaint or answer, and for interested persons to obtain the privileged version of the complaint or answer. These procedures are contained in § 385.206(e) for complaints and § 385.213(c)(5) for answers.

On rehearing, the Indicated Shippers assert that the procedure in the final rule creates the potential that complainants would be required to provide confidential materials to non-parties. Indicated Shippers submit that the ten-day period contemplated for requesting and receiving confidential materials will conclude twenty days before answers and interventions are due. Indicated Shippers contend that a complainant would be required to produce confidential material for an entity that had not intervened at that point, and might not intervene at all. Indicated Shippers propose that the Commission amend the rule to provide that a complainant need not disclose confidential material to a non-party. Indicated Shippers argue that the complainant should be required to serve the material by the later of (1) five days after receipt of the request or (2) the date of the requesting party's motion to intervene. Indicated Shippers states that because respondents are automatically parties, the complainant would be required to provide the confidential materials to the respondent within five days of the respondent's request as provided in the final rule. In addition, Indicated Shippers state that an interested person seeking to examine the material before the intervention deadline could always intervene in advance of the deadline.

Indicated Shippers argue that the wording of Rule 206(e)(3) appears to foreclose any requests for confidential materials once the initial five-day period following the filing of the complaint has expired. Indicated Shippers propose that the Commission not adopt a deadline for requests for confidential materials. Indicated Shippers contend that truly interested person have an obvious motivation to obtain the confidential material as soon as possible, in order to participate meaningfully, and do not need the compulsion of a deadline. However, the Commission should not eliminate the five-day deadline for complainants to furnish the confidential material to parties once a request for such information is made. Indicated Shippers submit that the Commission should similarly modify the corresponding provisions of Rule 213.

The Commission grants Indicated Shippers request for rehearing. The Commission's intention in establishing procedures for privileged information was to allow a complainant to have adequate protection for information it believed was commercially sensitive while allowing the respondent and interested parties an opportunity to receive the privileged information in a meaningful time for filing answers and comments. The Commission did not intend for information to be available to non-parties. The Commission also agrees with Indicated Shippers argument that a deadline for requesting privileged information is not necessary because a party has an obvious motivation to receive the information quickly in order to meaningfully participate in the proceeding. The Commission will therefore make the modifications suggested by Indicated Shippers.

Section 385.206(e)(3), concerning procedures for privileged treatment of information in complaints, will now read:

> The respondent and any interested person who filed a motion to intervene in the complaint proceeding may make a written request to the complainant for a copy of the complete complaint. The request must include an executed copy of the protective

[3] 18 CFR Part 1b (1998).

[4] 18 CFR 385.604–606 (1998).

[5] Pub. L. 104–320, 110 Stat. 3870 (October 19, 1996).

[6] 18 CFR Part 343 (1998).

agreement and, for interested persons other than the respondent, a copy of the motion to intervene. Any person may file an objection to the proposed form of protective agreement.

Section 385.213(c)(5)(iii), concerning procedures for privileged treatment of information in answers, will now read:

The complainant and any interested person who has filed a motion to intervene may make a written request to the respondent for a copy of the complete answer. The request must include an executed copy of the protective agreement and, for interested persons other than the complainant, a copy of the motion to intervene. Any person may file an objection to the proposed form of protective agreement.

In the final rule, the Commission stated that the procedures for requesting privileged treatment have the advantage of enabling the parties to resolve disclosure disputes through consensual agreement among themselves without the need for Commission involvement in every instance involving privileged information. The Commission stated that it could still step in if parties were unable to agree on protective conditions or expressed a need for the added assurance against disclosure that would be offered by a Commission-issued protective order. The Commission stated that, if necessary, it could develop a model protective agreement akin to the model protective order developed recently by the Office of Administrative Law Judges.

While not seeking rehearing, AOPL and Chevron Pipe Line urge the Commission to seek comments on any such model protective agreement before adopting it. Their concerns stem from the fact that what may be an acceptable protective agreement for the natural gas and electric industries may not be acceptable for an oil pipeline subject to Section 15(13) of the Interstate Commerce Act. Section 15(13) of the Interstate Commerce Act makes it a crime for an oil pipeline to divulge information regarding its shippers. In Chevron Pipe Line's view, the only manner in which it can provide Section 15(13) information to another party in a proceeding (absent the shipper's consent) is if the protective agreement limits the availability of that information to outside counsel and expert witnesses. Chevron Pipe Line submits that the model protective agreement adopted by the Chief Judge, referenced by the Commission in Order No. 602, does not include that limitation.

The Commission understands the concerns of the oil pipeline industry and does not intend to adopt any model protective agreements or orders without input from the affected industries. If, in the future, the Commission determines that obtaining consensual agreement concerning privileged information is proving problematic, the Commission will then decide how to proceed in crafting model protective agreements or orders.

Southern Company asserts that while deadlines are imposed for filing answers, complainants are under no obligation to initiate the grievance process within any particular timeframe after the occurrence of the event giving rise to the dispute. This disparate treatment would allow complainants to spend unlimited time preparing a detailed complaint, complete with supporting expert witness testimony and exhibits. The respondent would then only have twenty days to investigate the facts, perform any needed research and prepare an answer. Such an approach is unfair and raises serious due process questions. Southern Company requests that the Commission revise the complaint procedures to limit availability of expedited adjudication to instances when the complainant shows that it initiated the grievance resolution process promptly following the occurrence of the event that underlies the dispute. In this regard, it would be reasonable for complainants to initiate the process within the same time frames applicable for respondents to submit an answer. Southern Company asserts that if a complainant is unable to initiate the process within those deadlines, it would be unreasonable to require respondents to answer within those timeframes. Southern Company contends that such an approach should not bar complaints that do not meet the deadlines, but the abbreviated timeframes for answers and Commission action set forth in the final rule should not apply to those complaints.

The Commission denies Southern Company's request for rehearing. Southern Company's request is essentially that a complainant be required to file a complaint within 20 days after the occurrence of the event underlying the complaint. In the Commission's view, this sort of ''statute of limitations'' requirement is inappropriate. The Commission and the parties would become bogged down unnecessarily in details concerning what is the event or occurrence which gave rise to the complaint, and from what event the deadline should run. Complainants have an incentive to file their complaints as quickly as possible so that they may obtain prompt relief, where appropriate. Further, given the more detailed filing requirements set forth in the complaint rule, it would be burdensome to require a complainant to file a complaint within 20 days after the event giving rise to the complaint. Nevertheless, the Commission clarifies that if a respondent wants additional time to file an answer it may request it. The Commission would consider a long time elapsed between the event giving rise to the complaint and the filing of the complaint as a factor justifying an extension of time. The Commission will be flexible in considering requests for extension and will favor granting them in circumstances where an extension will foster development of a complete record early in the complaint process.

B. Informal Resolution

Throughout the final rule the Commission reiterated its interest in strongly encouraging parties to attempt informal resolution of their dispute. In that regard the Commission had requested information on what professional assistance the Commission might provide to facilitate informal dispute resolution. In response a number of parties requested publication of complaints on the Commission's web site, a complaint status report on the Commission's web site, or a procedural hotline concerning a party's options for complaints. The Commission stated that although it could put certain basic information about a party's options in filing a complaint on the FERC Homepage, the idea of a complaint status report, as well as other electronic access issues relating to complaints, would be considered as part of the Commission's broader review of its information technology capabilities as well as the proceeding in Docket No. PL98–1–000 concerning public access to information and electronic filing.

Indicated Shippers assert the final rule creates the potential that interested persons not actually served with a complaint will not become aware of the complaint in time to intervene and present their legal positions and factual support in a timely manner. The late-filed and or incomplete interventions and answers which could result from inadequate notice may bog down the complaint proceedings with piecemeal record development and due process issues.

Given that the Commission accepts certain types of filings electronically, Indicated Shippers believe that the Commission should be able to post the full text of complaints on its web site. At a minimum, the Commission should post on its homepage a centralized list of pending complaints, comparable to the rate filings list on the Commission's gas page, which provides access to files. The listing should include (1) the names of the complainant and respondent, (2)

the docket number assigned, (3) the date the complaint was filed, and (4) whether the complaint included confidential information submitted under Part 388, for which execution of a confidentiality agreement would be required to obtain access. With this information, potentially affected parties reviewing the Commission's homepage could then access the notice via the Commission Issuances Posting System (CIPS) and the complaint itself via the Records and Information Management System (RMS).

In the alternative, the Commission could require the regulated entity to which the complaint relates to post the complaint, or notice of the complaint including filing date and docket number of the regulated entity's electronic bulletin board or web page.

The Commission agrees that Indicated Shippers' suggestion to include basic information on the Commission's Homepage is reasonable and may prove beneficial in notifying potential parties if issues in a complaint affect them. The Commission's goal continues to be to provide the public with as much information as possible with respect to complaints and the complaint process. Therefore, the Commission will be adding to its Homepage a list of all complaints pending with the Commission. The list will include the information suggested by the Indicated Shippers.

C. Simultaneous Service

In the final rule, the Commission adopted § 385.206(c) to read as follows:

> Any person filing a complaint must serve a copy of the complaint on the respondent, affected regulatory agencies, and others the complainant reasonably knows may be expected to be affected by the complaint. Service must be simultaneous with filing at the Commission for respondents and affected entities in the same metropolitan area as the complainant. Simultaneous or overnight service is acceptable for respondents and affected entities outside the complainant's metropolitan area. Simultaneous service can be accomplished through electronic mail, fax, express delivery, or messenger.

On rehearing, AOPL and Chevron Pipe Line assert that service simultaneous with filing should be by hand, fax or electronic mail unless demonstrably impossible. AOPL states that while hand service is certainly dependent on the geographic proximity of the complaint and respondent, fax and electronic mail are not. AOPL submits that there is no reason why a respondent should not, at a minimum, get a copy of the complaint the day it is filed unless complainant can prove there was no fax or electronic mail service available because of circumstances outside the complainant's control. A copy of the full filing should then follow by overnight mail. Chevron Pipe Line asserts that there is no practical distinction that simultaneous service is required only if the respondent is in the same metropolitan area as the complainant—that distinction does not take account of the real-life considerations involved in filing complaints with the Commission. If the entity filing the complaint is located outside the Washington, D.C. area, it will generally file the complaint with the Commission by next day delivery or by mail. In that case, there is no reason that the complainant cannot serve the respondent on the same day as the complaint is filed, regardless of where the respondent is located. Chevron Pipe Line asserts that the Commission should remedy this unnecessary distinction and require simultaneous service of all complaints on the respondent, while allowing next day service on any other required entity.

The Commission grants the requests for rehearing. The Commission concludes that the reference to a ''metropolitan area'' in the regulations could lead to unreasonable results. For example, as Chevron Pipe Line points out, under the regulation as written, a Washington, D.C. law firm filing a complaint on behalf of a Houston client would have to make simultaneous service on a Houston respondent, while service on a Philadelphia or Washington, D.C. respondent could be the next day. Therefore, § 385.206(c) will be revised to require simultaneous service on the respondent regardless of the respondent's location. The complainant should take all reasonable steps to serve the respondent simultaneous with filing at the Commission. Simultaneous or overnight service will be acceptable for all other affected entities.[7]

INGAA seeks clarification that, as part of the service requirement, parties must serve the complaint on the corporate official appointed to receive such service by the regulated entity. Thus, all Commission-regulated entities should be required to appoint an official to receive service of complaints, which official is to be designated on the company's electronic bulletin board or web site. INGAA states that absent this requirement, a complaint served on a corporation without identifying a specific individual recipient could be misrouted or its significance overlooked. INGAA submits that by the time the responsible officials become aware that a complaint has been filed, a large portion of time for answering may have been lost, adversely affecting the completeness and timeliness of the answer. INGAA asserts that a uniform requirement that every regulated entity appoint a corporate official responsible for receiving service of complaints, and a corollary requirement that complainants serve that official directly, will ensure that responses to those complaints are filed expeditiously, thus furthering the goals of the final rule.

The Commission finds INGAA's suggestion to be reasonable given the shorter amount of time respondents have to answer a complaint under the revised regulations. The requirement that a corporate official be designated to receive service of complaints should ensure expeditious receipt and handling of complaints by regulated entities. The Commission concludes that designating a corporate official to receive service would also be of benefit in other types of proceedings. The Commission therefore is issuing a notice of proposed rulemaking concurrently with this order proposing to add a new section (i) to § 385.2010 (Rule 2010) to require that all entities regulated by the Commission designate corporate officials or other persons to receive service of certain types of pleadings where a person to receive service has not otherwise been designated under the Commission's regulations.

D. Time Period for Answers, Comments and Interventions

Section 385.206(f) adopted in the final rule requires that answers, interventions and comments to a complaint must be filed within 20 days after the complaint is filed or, in cases where the complainant requests privileged treatment for information in its complaint, 30 days after the complaint is filed.

On rehearing, AOPL asserts that the time to answer should run from issuance of the notice of the complaint. AOPL argues that there is a real potential that interested parties who may be indirectly affected by a complaint may not be among those that would normally receive a copy of the complaint. Thus, not being served under the Commission's rules, they may not learn of the complaint until much of the already limited answer period has passed. AOPL submits that much would be gained from a due process standpoint, and little would be lost in terms of time, if the response, comments

[7] The Commission is also revising section 385.206(c) to require that simultaneous service by electronic mail must be in accordance with section 385.2010(f)(3) as promulgated in Order No. 604, Electronic Service of Documents, 87 FERC ¶ 61,205 (1999).

and intervention period began to run from the issuance of the notice.

The Commission recognizes that there may be interested persons who may not receive service of the complaint even using the broad category of ''others the complainant reasonably knows may be expected to be affected by the complaint,'' as required for service in Rule 206(c). Nevertheless, in the Commission's view, the time for filing answers should be determined from the date of filing of the complaint, rather than the notice. The Commission has found that in most instances interested parties are capable of responding to filings in a thoroughly capable manner even when doing so under time requirements shorter than those for answers to complaints.[8] In addition, AOPL's concerns should be alleviated by the fact that the Commission will be posting basic information on a complaint on the Commission's web site when it is received. This will permit interested persons to have the same amount of time to file answers, interventions, or comments as parties served under the regulations. The Commission also will remain flexible in considering the circumstances supporting any requests for extension of time to answer.

AOPL and Express assert that to the extent that the parties wish to pursue dispute resolution prior to the answer due date, the Commission should toll the answer period. If the complainant and the respondent agree to stay the answer in order to pursue settlement negotiations or some form of dispute resolution, the Commission should support such action. AOPL and Express contend that the Commission's rules should be modified to permit stay of the answer if settlement is being actively pursued.

The Commission will entertain requests to extend the time for answers pending the outcome of settlement negotiations or alternative dispute resolution. This is in keeping with one of the principles of the complaint rule of encouraging consensual resolution where possible. A further change to the regulations to recognize this, however, is unnecessary. The parties can simply file a motion pursuant to § 385.2008 requesting an extension of time within which to file an answer.

Chevron Pipe Line contends that the Commission should restore 30 days as the generally applicable period for filing an answer. Chevron Pipe Line asserts that a 20 calendar day response period, especially with next day service, does not permit sufficient time in which to research the facts and issues raised by a complex complaint and prepare a written response. Chevron Pipe Line argues that it is unnecessary to shorten the standard period to 20 calendar days, especially since the Commission is establishing procedures in which answers to extremely time sensitive complaints may be required in a shorter period under fast track processing. If the Commission believes that fast track processing is not, by itself, sufficient to handle time-sensitive matters, it should amend its rules to allow a complainant to seek a shortening of the answering period when it files its complaint, upon the proper showing. Chevron Pipe Line submits that under such a procedure, the answer would be filed more quickly, but the complainant would be accorded standard, not fast track, processing. Chevron Pipe Line asserts that by allowing only 20 calendar days and by beginning the period with the filing of the complaint rather than its service, the Commission is actually allotting less time for answers to complaints filed with it than is allotted for complaints filed in federal court. Chevron Pipe Line states that Rule 12 of the Federal Rules of Civil Procedure provide that answers must be filed within 20 days of service of the summons and complaint.

The Commission denies Chevron Pipe Line's request for rehearing. The Commission considers twenty days to be appropriate because it provides a respondent with a sufficient amount of time to answer a complaint while furthering the goal of speeding up the complaint resolution process. In addition, as more fully discussed below, the Commission is modifying the requirement that respondents provide ''all documents supporting the answer'' to ''documents supporting the answer.'' This will lessen the burden on respondents when they are preparing their answers. Finally, as also discussed below, and as touched on earlier, where good cause is shown, the Commission will give respondents more time to file an answer.

Williams urges the Commission to clarify that Rule 2008 of the Commission's Rules of Practice and Procedure is applicable to the complaint procedures and that the Commission will grant extensions of time to respond to complaint for good cause shown. Williams is concerned that in certain instances it may be impossible to meet the accelerated deadlines set forth in the complaint procedures.

The Commission clarifies that parties may file requests for extensions of time with respect to filing pleadings in a complaint case and the Commission may grant such requests pursuant to Rule 2008. As stated earlier, the Commission will consider extending the time for answering when an extension will further the goal of ensuring as complete a record as possible early in the complaint process.

The Commission will also be making a conforming change to Rule 213(d). That section currently states that answers to pleadings are due 30 days after the filing of the pleading or, if a notice is published in the **Federal Register**, 30 days after the publication of the notice. The Commission will modify the regulation so it will not be applicable to answers to complaints. This conforming change should have been made in the Final Rule but was overlooked.

D. Revisions to Oil Pipeline Regulations

The final rule revised certain sections of Part 343. Procedural Rules Applicable to Oil Pipeline Proceedings, to conform with the changes to the Commission's complaint procedures.

AOPL, Chevron Products, and Express assert that the Commission should exclude oil pipelines from the new rules and leave the distinctly different and entirely separate oil pipeline complaint procedures in place. Petitioners assert that the Commission's own discussion of the need for the new procedures only cited transitions in the natural gas and electric industries as the motivation for the new rules. They argue that nowhere in that discussion does the Commission recognize any transition or other development occurring in the oil pipeline arena militating for change. Further, petitioners assert that the very nature of the issues traditionally addressed in the oil pipeline arena are far more complex and factually based than the more generic, policy oriented disputes currently arising in the natural gas and electric sectors.

The Commission's purpose in revising the oil pipeline regulations was to ensure the consistency of the complaint procedures for all industries regulated by the Commission, while preserving the rate complaint standards adopted as an integral part of the package of ratemaking changes enacted in response to the Energy Policy Act of 1992. In the Commission's view, this purpose is still valid. Nevertheless, the Commission recognizes that the oil pipeline industry is not undergoing the same changes as the electric and gas industries. The Commission also acknowledges that complaint cases against oil pipelines in many instances may not require or lend themselves to the type of faster decision

[8] See, for example, 18 CFR 154.210, which requires that protests to tariff filings under section 4 of the Natural Gas Act must be filed not later than 12 days after the date of the tariff filing.

contemplated by the complaint rule. Accordingly, where the nature of a complaint against an oil pipeline may not fit neatly into the complaint resolution paths adopted in the Final Rule, the Commission will be flexible and devise a suitable procedure that will ensure resolution of the dispute in a manner that best serves all. Such an approach, which applies to other complaints as well, is best applied on a case-by-case basis, rather than through changes to the complaint regulations.

ARCO asserts that the standard of ''substantially in excess'' of cost based rates [9] is illegal and inconsistent with the decision of the Court of Appeals for the District of Columbia circuit in *Farmers' Union Central Exchange, Inc. et al.* v. *FERC,* 734 F.2d 1486, 1510 (D.C. Cir.), *cert. denied,* 469 U.S. 1034 (1984). ARCO asserts that the final rule fails to state all requirements for qualifying for or complaining against ''market-based'' rates, and is thus inconsistent with *Farmers Union II.* ARCO contends that the final rule conflicts with the actual practice of the Commission with respect to requirements for a complaint against cost-based or market-based rates. One or the other must conform. ARCO submits that the final rule, if it encompasses the process now in effect, discriminates against shippers seeking redress of grievances against oil pipelines and results in the effective refusal of the agency to do its statutory duty of ensuring that all rates are just and reasonable. ARCO contends that the Commission's new complaint process for shippers seeking rate redress from oil pipelines will require six different and sequential order, all subject to judicial review.

In the Final Rule the Commission made only two procedural changes to the oil pipeline regulations with respect to complaints. First, depending on whether the complaint involved rate or non-rate matters, certain information requirements in Rule 206 would have to be followed. Second, the Commission required that answers to complaints must be filed within 20 days after the complaint is filed. The Commission did not make any changes to the substantive regulations or policies governing oil pipeline complaints. ARCO's assertion in its request for rehearing that standards used to examine different types of rates are inconsistent with various court cases is inapposite because the complaint rule did not make any changes to oil pipeline ratemaking standards.[10] Accordingly, ARCO's request for rehearing is denied.

E. Content of Answers

Section 385.213(c)(4) adopted in the final rule requires that answers include ''all documents that support the facts in the answer in possession of, or otherwise attainable by, the respondent, including, but not limited to, contracts, affidavits, and testimony.''

On rehearing, AOPL, Chevron Pipe Line and Express assert that the requirements for answers are too complex and burdensome. AOPL asserts that the final rule applies parallel requirements for supporting affidavits, testimony and documentation for complaint and answer alike. AOPL submits that for practical and procedural reasons, this parallelism is both unreasonable and unnecessary. AOPL argues that respondents should be required to demonstrate in their answers the nature of the factual conflict posed by the complaint. They should not be required to file a responsive case in chief accompanied by ''all documents'' that would support their position. AOPL contends that the Commission should seek a middle ground between the new requirements and the prior rule. Chevron Pipe Line asserts that requiring the provision of all documents may be construed as moving discovery to the answering stage of a proceeding. Chevron Pipe Line argues that the reference to ''testimony'' is unnecessary, since factual support can be provided through affidavits, and is procedurally confusing, since testimony usually means a party's case developed after necessary discovery. Chevron Pipe Line suggests that the Commission remove the word ''all'' from before documents and by deleting the reference to ''testimony'' in Rule 213(c)(4). Chevron Pipe Line states that the rule would then call for a provision of documents supporting the facts in the answer. Chevron Pipe Line submits that respondents will be properly motivated to include supporting documents, especially since they will be aware that certain matters can be decided on the basis of the complaint and answer alone. Chevron Pipe Line also contends that the Commission's regulation should provide that when time to file an answer is shortened for fast track processing, the respondent is required to provide only readily accessible documents.

The Commission concludes that it would be reasonable to require respondents to provide ''documents that support the facts in the answer'' as opposed to ''all documents that support the facts in the answer.'' The reference to ''all documents'' could be considered a burdensome requirement given that respondents have 20 days to file an answer. The Commission's intent was not to move discovery to an earlier stage of the proceeding but rather to ensure that an answer was properly supported by documentation. In the Commission's view, a respondent will be motivated to provide all relevant documents that support its case, even if ''all documents'' are not required. Since a complaint case may be decided on the pleadings alone, a respondent runs the risk of an adverse decision if it decides to withhold documents beneficial to its position. The requirements for an answer need not parallel and be as stringent as those for a complaint because it is the complainant who bears the burden of proof. Accordingly, the Commission will grant rehearing and strike the word ''all'' before the word documents in § 385.213(c)(4).

The Commission clarifies that the reference to testimony in § 385.213(c)(4) does not require a respondent to prepare new testimony for a particular complaint proceeding. In order to avoid any confusion, the Commission will delete the reference to ''testimony'' in § 385.213(c)(4).[11] The references to ''contract, affidavits, and testimony'' in both § 385.206(b)(8) and § 385.213(c)(4) were intended to be examples of the types of documentation that complainants and respondents could provide. If it wishes, a party may prepare and submit testimony for a complaint proceeding. It is more likely, however, that a party would provide preexisting testimony which could shed light on an issue raised in the proceeding. Such testimony, for example, could be prior testimony in

[9] The standard is set forth in § 343.2(c) of the Commission's regulations and refers to the standard for challenging rates established under the indexing regulations of § 342.3 and the standard for challenging settlement rates established under § 342.4(c). The standard was established in Order No. 561, Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992, FERC Stats. & Regs. (Regulation Preambles 199–1996) § 30,985 (1993). 58 FR 58753 (November 4, 1993), *order on reh'g,* Order No. 561–A, FERC Stats. & Regs. (Regulation Preambles 1991–1996) § 31,000 (1994), 59 FR 40243 (August 8, 1994).

[10] Section 13(1) of the Interstate Commerce Act provides that anyone can file a complaint against ''anything done or omitted to be done by any common carrier * * *'' Thus, any complaint against an oil pipeline's market-based rates would fall under this provision and the burden would fall to the complainant to establish that those rates are no longer just and reasonable. The Commission has not established an evidentiary standard for adjudicating such complaints in this or any other proceeding. As for challenges to rates deemed just and reasonable under Section 1803(a) of the Energy Policy Act, the Act itself at Section 1803(b) establishes a ''substantial change'' standard that a complainant must meet.

[11] The Commission is also making the same change in § 385.206(b)(8).

another case describing certain aspects of a pipeline's operations.

Given the short time frame for an answer when a complaint is assigned to the Fast Track process, the Commission will look at the practicalities of a respondent being able to answer a complaint with extensive detail and documentation on a case-by-case basis. This assurance should alleviate Chevron Pipe Line's concerns.

Indicated Shippers assert that the final rule requires the respondent to serve its answer, without any confidential material and accompanied by a form of protective agreement, to each entity that has been served pursuant to Rule 206. It is possible, however, that an interested person that was not served by the complainant would have intervened in the complaint docket before the respondent files the answer. Indicated Shippers submit that such entities, as parties, should receive service of the response, including a form of protective agreement if the response contains confidential material. Indicated Shippers assert that Rule 213 should reflect this requirement.

Indicated Shippers' request is reasonable, and, accordingly, the Commission grants rehearing. To allow for the possibility of a person intervening early who would like to be served the answer, § 385.213(c)(5)(ii) will be modified to read ''A respondent must provide a copy of its answer without the privileged information and its proposed form of protective agreement to each entity that either has been served pursuant to § 385.206(c) or whose name is on the official service list for the proceeding compiled by the Secretary.''

F. Complaint Resolution Paths

Section 385.206(g) adopted in the final rule describes a number of procedural options that the Commission may use to resolve issues raised in complaints. These complaint resolution paths are (1) alternative dispute resolution, (2) decision on the pleadings by the Commission, and (3) hearing before an ALJ. Where a highly credible claim for relief is presented, and a persuasive showing is made that standard complaint resolution processing may not provide timely relief as quickly as circumstances may demand, the Commission will put the complaint on a Fast Track, to provide for expedited action by the Commission or an ALJ in a matter of weeks. The Fast Track process is described in § 385.206(h) of the regulations adopted by the final rule. Preliminary relief pending a resolution of the complaint by either the Commission or an ALJ may also be requested. A ruling on preliminary relief by an ALJ would be appealable to the Commission. Such an appeal is provided for in § 385.206(g)(2) adopted in the final rule.

Indicated Shippers supports the fast track concept in general. However, it states that without prompt notice, the procedure will create considerable uncertainty for the respondent and interested persons. Indicated Shippers contend that the Commission could alleviate uncertainty for the respondent and others by providing prompt notice adopting a Fast Track procedure and establishing an answer/intervention deadline or declining to adopt a Fast Track procedure. Ideally, such notice should be provided by the close of the business on the first business day following the filing of the complaint. Indicated Shippers submit that, in that way, the respondent and intervenors will have certainty quickly as to (1) whether the Commission will shorten the answer and intervention deadline, and (2) what the new deadline will be. Moreover, the Commission should not establish an answer/intervention deadline that is shorter than ten days, in keeping with the comments on the NOPR.

When it receives a complaint requesting Fast Track treatment the Commission will endeavor to issue, no later than the next business day following the filing of the complaint, a notice describing the complaint, stating whether the Fast Track process is to be used and, if so, the deadline for answers, interventions and comments, as well as any other information concerning the procedures to be used.

Enron, INGAA and Williams assert that the Commission has exceeded its NGA authority in specifying that interim relief is available for Natural Gas Act Section 5 complaint proceedings. Enron asserts that Section 5(a) of the NGA requires that the Commission must make a finding that a rate, practice or contract is unjust, unreasonable, unduly discriminatory, or preferential prior to fixing a new rate, practice or contract. Thus, Enron asserts, the NGA explicitly states that which must be proven in order for the Commission to impose a change. Enron argues that an order, even an interim order, mandating changes in a pipeline's rates or service must be based on a finding of substantial evidence. Enron submits that the Commission cannot now substitute a different standard. Enron contends that the standard in *Virginia Petroleum Jobber Ass'n* v. *FPC,* 259 F.2d 921 (D.C. Cir. 1958), cited in the final rule, does not satisfy the legal requirement of NGA Section 5(a). Enron states that a court may grant preliminary relief based merely upon the determination that the complainant is likely to succeed on the merits. Enron asserts that it is not sufficient under NGA section 5(a) that the Commission find merely that the action is likely to be found unjust, unreasonable, unduly discriminatory or preferential. Enron also contends that the absence of explicit statutory language authorizing preliminary relief is evidence that Congress did not intend to extend authority to the Commission.

INGAA asserts that the Commission itself has recognized that it has no authority under section 5 to grant interim relief.[12] INGAA asserts that the Commission's self grant of authority to order preliminary relief in this proceeding in a section 5 complaint case flies in the face of the explicit language of the statute that requires a hearing, with a final merits decision that the company's actions are unjust and unreasonable, prior to the imposition of any remedy. INGAA also cites *American Smelting and Refining Co.* v. *FPC,* 494 F. 2d 925, 933 (D.C. Cir. 1974) where the court held that:

> [t]he ''core section'' underlying the orders now before us is section 5(a) which empowers the Commission, on its own motion, after hearing, to correct discriminatory practices by natural gas companies. Like any order issued pursuant to section 5(a), an interim order can only issue after full hearing and must include a statement or reasons based upon findings of fact which are supported by substantial evidence in the record. No emergency can excuse these procedural requirements.

Thus, INGAA asserts, the court in *American Smelting* recognized that the Commission may not issue an interim order as provided in the final complaint rule.

The Commission will clarify what types of relief the Commission may provide under the complaint rule. At the outset, the Commission wishes to make it clear that it will act only where it has authority under the various statutes administered by the Commission. The final rule was designed to provide potential complainants with as many procedural options as possible to seek redress of their complaints given the short-term and dynamic nature of energy markets. The Commission acknowledges that use of certain terminology in the final rule

[12] *Citing,* Southern Natural Gas Co., 66 FERC ¶ 61,302 at 61,867 (1994) (stating that in *Western Resources, Inc.* v. *FERC,* 9 F.3d 1568, 1578 (D.C. Cir. 1993) the court found unlawful the Commission's attempt to replace the pipeline's pre-existing backhaul rate on an interim basis because it failed to meet the section 5 requirements).

may have led to confusion and concern on the part of many parties. By describing how the Commission envisions the complaint process working, the Commission hopes to eliminate such concern and confusion.

The Commission will eliminate all references to preliminary relief, other than stays or extensions of time, in the complaint regulations. Thus, sections 385.206(b)(7) and 385.206(h) will be modified and section 385.206(g)(2) will be deleted. In addition, the standards in section (b)(7)(i) through (iv), which are based on *Virginia Petroleum Jobber Ass'n* v. *FPC*, 259 F.2d 921 (D.C. Cir. 1958), will also be deleted. In the Commission's view, these changes should eliminate certain parties' concern that the Commission was attempting to establish procedures for granting injunctive-type relief.

There may be cases, however, in which the Commission can issue what could be categorized as an ''interim'' or ''preliminary'' order in a complaint proceeding pursuant to existing authorities. For example, a complainant may assert that a respondent's conduct is so egregious or the evidence is so substantial supporting its case that the Commission needs to take some immediate action. In filing its complaint, a complainant could indicate that its evidence is so substantial as to establish a prima facie case of a violation of the relevant statutory standard or regulatory requirement. In these instances, the Commission could pursue several options. If the Commission were to find the complainant's case compelling based upon substantial evidence, the Commission *sua sponte* could issue a show cause or declaratory order based on the facts known at that time prior to the answer being filed. The respondent would then be directed to address the requirements of the order rather than file an answer. If the Commission did not find that immediate action was appropriate, the Commission would wait for the respondent to file an answer and then decide the appropriate course of action. This type of relief may be appropriate in certain limited circumstances and is within the Commission's authority to grant. Further, a respondent's due process rights are protected because it has the opportunity to respond to the show cause or declaratory order.

The Commission could also take such other ''interim'' or ''preliminary'' actions, as it can now, such as issuing an order granting a stay or an order granting an extension of time, stop work order, or other orders contemplated by certificate or hydroelectric licensing conditions. In addition, a complainant may request forms of relief which it believes is within the Commission's authority to grant. The Commission will decide whether the relief may be granted on a case-by-case basis. Accordingly, the requests for rehearing are granted consistent with the discussion above.

Indicated Shippers assert that Rule 206(g)(1)(i) as codified states that the Commission may assign a case to be resolved through alternative dispute resolution or ''assign the case to a settlement judge in accordance with section 385.603.'' However, Rule 603 states that the Commission, instead of assigning cases directly to settlement judges, directs that the Chief Administrative Law Judge appoint a settlement judge. Indicated Shippers request that Rule 206(g)(1)(i) be revised to conform to Rule 603.

The Commission grants Indicated Shippers' request for rehearing since it accurately reflects the Commission's regulations. Therefore, § 385.206(g)(1)(i) will be modified to read ''The Commission may assign a case to be resolved through alternative dispute resolution procedures in accordance with §§ 385.604–606, in cases where the affected parties consent, or the Commission may order the appointment of a settlement judge in accordance with section 385.603.''

G. Simplified Procedures for Small Controversies

The final rule codified in new Rule 218 procedures for complaints involving small controversies that will allow them to be resolved more simply and expeditiously than more complicated matters. The procedure will be available if the amount in controversy is less than $100,000 and the impact on other entities is de minimis. Among other things, answers, interventions and comments are due within 10 days after the filing of the complaint.

Chevron Pipe Line asserts that the 10 day answer period is too short a time period (a maximum of seven business days if the complaint is filed on a Friday, including the day of receipt of the complaint) and there is no justification for adopting a shorter time than the normal period for answers. In Order No. 602, the Commission recognized that fast track processing will place a strain on its resources. In the same manner, preparing answers to complaints places a strain on the respondent's resources. Chevron Pipe Line asserts that business personnel necessary for the preparation of answers to complaints have other responsibilities, which cannot be completely ignored in favor of preparing the answer. Chevron Pipe Line contends that the Commission should not intensify that unavoidable strain with a 10 day answering period. Rather, it should allow the normal period for answers to small controversy complaints, and, amend its rules to allow a complainant to seek a shorter period upon the proper showing.

The Commission denies Chevron Pipe Line's rehearing. In the Commission's view, the 10 day answer period is sufficient given the more limited nature of the complaints filed under the simplified procedure. Moreover, a respondent is not required to file relevant documents with its answer, thus reducing its burden. Nevertheless, if a respondent believes that the answer period is too short, it may request an extension of time within which to file an answer pursuant to Rule 2008.

Williams asserts that the complaint procedures erroneously provide simplified procedures for controversies less than $100,000, regardless of the likelihood that such controversies could have significant policy impacts. Williams contends that the simplified procedure ignores the ultimate impact on both the respondent and the industry, especially when policy issues are involved. Williams argues that the value placed on a claim by a complainant in one instance might not accurately reflect the ultimate impact of the complaint proceeding. For example, a controversy that is worth $50,000 to the complainant may be worth millions of dollars to the respondent after a precedent is set and others avail themselves of that precedent. Further, Williams asserts that issues that involve matters of policy, even if the amount in controversy is small, must be given full and adequate consideration. Williams submits that the complaint procedures should be revised to eliminate the discriminatory, special treatment for small controversies and provide everyone with the same treatment and procedures.

The Commission denies the request for rehearing. The simplified procedures for complaints are designed to resolve disputes between the complainant and the regulated entity involving less complex matters, for example, a billing dispute. It was not contemplated that small controversy complaints would have any major policy implications. The procedures are designed to allow a complainant with limited resources to seek relief before the Commission without incurring the time and expense associated with a more formal complaint. The effects of a small controversy complaints were intended

to be limited to the complainant and respondent, hence the *de minimis* impact requirement. Nevertheless, if in a respondent's view, the use of the simplified procedures is not appropriate, it should provide support for such assertion in its answer. In the event the Commission finds that a small controversy case has policy implications affecting an industry, or resolution of the complaint would require the respondent to take action affecting other customers that would have a cumulative effect over $100,000, it can remove the case from the simplified procedures and use the more formal procedures under Rule 206. Such decisions will be made on a case-by-case basis.

III. Effective Date

The amendments to the Commission's regulations adopted in this order on rehearing will become effective September 10, 1999.

List of Subjects in 18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

David P. Boergers,

Secretary.

In consideration of the foregoing, the Commission denies rehearing in part, grants rehearing in part, and clarifies Order No. 602 as described above, and amends Part 385, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

PART 385—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

2. In § 385.206, paragraphs (b)(7), (b)(8), (b)(9)(i), (c), (e)(3), and (h)(1) are revised, paragraph (g)(2) is removed, paragraphs (g)(1) introductory text, (g)(1)(i), (g)(1)(ii) and (g)(1)(iii) are redesignated as paragraphs (g) introductory text, (g)(1), (g)(2) and (g)(3), respectively, and newly redesignated paragraph (g)(1) is revised to read as follows:

§ 385.206 Complaints (Rule 206).

* * * * *

(b) * * *

(7) State the specific relief or remedy requested, including any request for stay or extension of time, and the basis for that relief;

(8) Include all documents that support the facts in the complaint in possession of, or otherwise attainable by, the complainant, including, but not limited to, contracts and affidavits;

(9) * * *

(i) Whether the Enforcement Hotline, Dispute Resolution Service, tariff-based dispute resolution mechanisms, or other informal dispute resolution procedures were used, or why these procedures were not used;

* * * * *

(c) *Service.* Any person filing a complaint must serve a copy of the complaint on the respondent, affected regulatory agencies, and others the complainant reasonably knows may be expected to be affected by the complaint. Service must be simultaneous with filing at the Commission for respondents. Simultaneous or overnight service is permissible for other affected entities. Simultaneous service can be accomplished by electronic mail in accordance with § 385.2010(f)(3), facsimile, express delivery, or messenger.

* * * * *

(e) * * *

(3) The respondent and any interested person who has filed a motion to intervene in the complaint proceeding may make a written request to the complainant for a copy of the complete complaint. The request must include an executed copy of the protective agreement and, for persons other than the respondent, a copy of the motion to intervene. Any person may file an objection to the proposed form of protective agreement.

* * * * *

(g) * * *

(1) The Commission may assign a case to be resolved through alternative dispute resolution procedures in accordance with §§ 385.604–385.606, in cases where the affected parties consent, or the Commission may order the appointment of a settlement judge in accordance with § 385.603;

* * * * *

(h) *Fast Track Processing.* (1) The Commission may resolve complaints using Fast Track procedures if the complaint requires expeditious resolution. Fast Track procedures may include expedited action on the pleadings by the Commission, expedited hearing before an ALJ, or expedited action on requests for stay, extension of time, or other relief by the Commission or an ALJ.

* * * * *

3. In § 385.213, paragraphs (c)(4), (c)(5)(ii), (c)(5)(iii) and (d)(2) introductory text are revised to read as follows:

§ 385.213 Answer (Rule 213).

* * * * *

(c) * * *

(4) An answer to a complaint must include documents that support the facts in the answer in possession of, or otherwise attainable by, the respondent, including, but not limited to, contracts and affidavits. An answer is also required to describe the formal or consensual process it proposes for resolving the complaint.

(5) * * *

(ii) A respondent must provide a copy of its answer without the privileged information and its proposed form of protective agreement to each entity that has either been served pursuant to § 385.206 (c) or whose name is on the official service list for the proceeding compiled by the Secretary.

(iii) The complainant and any interested person who has filed a motion to intervene may make a written request to the respondent for a copy of the complete answer. The request must include an executed copy of the protective agreement and, for persons other than the complainant, a copy of the motion to intervene. Any person may file an objection to the proposed form of protective agreement.

* * * * *

(d) * * *

(2) Any answer to a pleading or amendment to a pleading, other than a complaint or an answer to a motion under paragraph (d)(1) of this section, must be made:

* * * * *

[FR Doc. 99–19885 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 151, 174, 178

[T.D. 99–65]

RIN 1515–AB75

Detention of Merchandise

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide for procedures regarding the detention of merchandise that is undergoing extended Customs examination. The changes promulgated accurately reflect amendments to the underlying statutory

authority, enacted as part of the Customs modernization portion of the North American Free Trade Agreement Implementation Act. The regulations provide importers with an accelerated method to receive administrative or judicial review of any decision to exclude merchandise from the United States. Certain other conforming amendments are also made.

EFFECTIVE DATE: September 10, 1999.

FOR FURTHER INFORMATION CONTACT: Jeremy Baskin, Penalties Branch, Office of Regulations and Rulings, 202–927–2344.

SUPPLEMENTARY INFORMATION:

Background

In a notice of proposed rulemaking (NPRM) published in the **Federal Register** (61 FR 28522) on June 5, 1996, Customs proposed to amend the provisions of part 151 of the Customs Regulations (19 CFR part 151), relating to the examination, sampling and testing of merchandise, to provide for procedures to be followed with regard to the detention of merchandise. Section 613 of the North American Free Trade Agreement Implementation Act, Pub. L. 103–182, Title VI of which is popularly known as the Customs Modernization Act (Mod Act), amended the provisions of section 499 of the Tariff Act of 1930, as amended (19 U.S.C. 1499), to provide for the detention of merchandise in any case where Customs is unable, upon initial examination, to make a determination as to whether that imported merchandise may be released into commerce or seized or denied entry because of some sort of defect regarding its admissibility into the United States. This legislation brought the law into conformity with existing Customs practice with regard to the examination and detention of merchandise.

Prior to this amendment, Customs, while having extensive examination and broad detention authority, had no specific statutory or regulatory procedures for detaining merchandise whose admissibility had not yet been determined. The Mod Act codified Customs current detention practices and provided importers with an accelerated method to receive administrative or judicial review of any decision to exclude or a deemed exclusion.

Under the provisions of section 613, Customs has five working days after merchandise is presented for examination to determine whether such merchandise should be detained or can be released. The NPRM provided that merchandise shall be considered to be presented for Customs examination when it is in a condition to be viewed and examined by a Customs officer. Mere presentation to the examining officer of a cargo van, container, or instrument of international traffic in which the merchandise to be examined is contained was not to be considered to be presentation of the merchandise for Customs examination purposes so as to start the five-day period in which the decision to detain or release must be made. Further, consistent with the provisions of § 151.7 of the Customs Regulations (19 CFR 151.7), relating to the examination of merchandise at a place other than the public stores, the importer shall bear any expense involved in preparing or transporting the merchandise for Customs examination.

The NPRM required Customs to issue a written notice of detention to the importer or other party having an interest in the merchandise. The notice of detention must advise the importer or other interested party of the initiation of the detention, the specific reason for, and the anticipated length of, the detention, the nature of the tests or inquiries to be conducted and the nature of any information which, if supplied to the Customs Service, may accelerate the disposition of the detention. After 30 days, or such longer period authorized by law, if Customs has not made a determination to release or seize, the goods are deemed to be excluded for purposes of 19 U.S.C. 1514. Under the proposed rule, the 30-day limitation could be extended when the importer or interested party requests in writing an extension of the detention period, in order to comply with Customs requirements. Barring that, the importer or interested party may file a protest as to the exclusion. If, within 30 days after filing of the protest, Customs fails to act, the importer or interested party may seek judicial review in the Court of International Trade. The proposed regulations also permitted Customs to allow exportation of the goods in lieu of seizure with all costs of exportation being borne by the importer.

The statute compels Customs to make timely decisions, provide timely notices, disclose available testing results and descriptions of procedures and methodologies that are not proprietary to Customs or the holder of any copyright or patent, and process any exclusion protests within a prescribed statutory time period. If a notice to exclude is not issued within such time period and a court action is commenced, the burden of proof is on Customs, by a preponderance of the evidence, to show good cause as to why an admissibility decision had not been made prior to the time the importer commenced suit. If Customs makes the decision to exclude, an importer wishing to challenge the decision shall bear the burden of proof. These procedures are applicable to those cases where Customs has the responsibility and authority to determine the admissibility of the merchandise. They do not apply to those situations where the decision of admissibility is vested with another Federal agency.

One party responded to the NPRM, making various comments. A description of each comment made, followed by Customs response to the comment, is set forth below.

Discussion of Comments

Comment

The commenter suggests that the statute did not contemplate that all detentions arising from laws administered by other government agencies would be exempt from the new detention and seizure provisions. The commenter notes that the legislative history to the Mod Act simply recognized that Customs often detains merchandise on behalf of other agencies, but specifically stated that the law would not preclude application of this new procedure to those situations if agreed to by the other agency. As such, the commenter avers that Congress clearly provided authority for all imports to be governed by the same time restraints and notice procedures.

Customs Response

The legislative history to which the commenter refers expressly states that nothing in the statute is intended to change the procedures or relationship between Customs and other Federal agencies. This would not preclude application of this new procedure and remedy in those cases where Customs has the responsibility and authority to determine the admissibility of the merchandise, and such procedure and remedy are agreed to by the other agency. However, it does not authorize application of the new procedure to detentions made by Customs on behalf of another agency that retains the authority to make its own admissibility determinations.

A full reading of the legislative history makes it clear that Congress had no intention of unilaterally applying Customs detention procedures in instances where longstanding procedures of other agencies are in place. Nor would the new detention provisions apply in any situation where the determination as to admissibility of merchandise rests with the other agency. For example, the newly

legislated procedures would not be applicable to determinations of admissibility of imported merchandise as required by the Food, Drug and Cosmetic Act (see 21 U.S.C. 381). The Food and Drug Administration (FDA), and not Customs, is responsible for determinations of admissibility of importations that fall under that Act. A full complement of regulations providing for a well-established detention and hearing program for such merchandise is already in place. Customs detention procedures promulgated in this final rule are clearly inapplicable in such a setting.

Comment

The commenter asks for clarification as to whether copyright and trademark requirements are governed by the proposed regulations.

Customs Response

The regulations governing the detention of possibly piratical (copyright violations) merchandise are specifically enumerated in part 133, subpart E, Customs Regulations (19 CFR part 133, subpart E), and find their statutory origins in 17 U.S.C. 603. The regulations governing the detention of confusingly similar trademark-violative merchandise are specifically enumerated in part 133, subpart C, Customs Regulations (19 CFR part 133, subpart C) and find their statutory origins in 15 U.S.C. 1124. Section 151.16 is changed to confirm the inapplicability of its detention notice requirements to those situations involving suspected piratical or confusingly similar merchandise. It should be noted that regulatory changes have recently been issued in a separate document (T.D. 98–21, 63 FR 11825, dated March 11, 1998), which clarify detention procedures with regard to suspected copyright and trademark violations.

Comment

The commenter states that the proposed rule does not assure that the importer is aware of the date that triggers the five-working day period for decision-making by the Customs Service. It is averred that the regulation should require that Customs provide notice to the importer or broker of the date of availability of the merchandise for examination so that the importer is aware of its rights and can exercise those rights without making *ad hoc* inquiries to the Customs Service. Additionally, the commenter suggests that the notice of detention should indicate the date on which the merchandise was presented for examination.

Customs Response

Customs agrees that the date the merchandise was presented for examination should appear on the notice of detention and § 151.16(c)(1) has been amended to provide for this. It is also Customs view that it would be an unnecessary burden to send an additional notification to the importer of the date that presentation actually occurred. When intensive examination of a shipment is to be undertaken, the importer or agent of the importer (generally the Customs broker) is apprised of the fact and is instructed to arrange to present the merchandise for examination. Once the importer or his agent has arranged for the examination, it would be wasteful of resources to require the Government to send an additional notice that the merchandise for which examination has been arranged was actually presented for examination on a date certain.

Comment

The commenter proposes that Customs should be required to issue a notice of detention when it fails to act to release the goods within the initial 5-working day period, but does not make a formal decision to detain the merchandise.

Customs Response

Section 151.16(b) states that merchandise that is not released within the 5-working day period shall be considered to be detained merchandise. As such, Customs is required to send a notice of detention on this merchandise. Section 151.16(c) is amended to make this clear.

Comment

The commenter suggests, in reference to proposed § 151.16(i), that Customs retain authority to approve any protest and release or seize the merchandise up to and after a summons is filed in the Court of International Trade. The commenter states that it would be counterproductive to require an importer to go to court for a favorable decision where Customs intends to act favorably but merely misses the 30-day deadline. The commenter notes that the legislative history to the statute recognizes the continuing authority of Customs to release the merchandise where a protest is ''deemed'' denied.

Customs Response

Customs agrees that if an action concerning a deemed denial of a protest with respect to a detention has not been commenced in the Court of International Trade, Customs has the authority to act favorably on the protest and release the merchandise; however, if an action is commenced, Customs is of the view that the matter is within the jurisdiction of the Court and release could only be ordered by the Court. Also, Customs is of the view that it has the authority officially to deny the protest in accordance with § 174.30 of the Customs Regulations.

Consequently, § 151.16 is changed by adding a new paragraph (h) to reflect Customs authority to grant protests that have been deemed denied and to release detained goods or to deny protests in accordance with § 174.30 of the Customs Regulations at any time prior to initiation of a court action pursuant to 28 U.S.C. 1581.

Comment

The commenter indicates that no sensitive import information should be released to a third party based upon ''suspicion'' or without first providing a reasonable opportunity for the importer to resolve the questions concerning the detention directly with Customs. The commenter states that if Customs adopts the subject proposed rule in concert with a second separate proposed rule (58 FR 44476, dated August 23, 1993) which involves the release of sensitive information to trademark owners where merchandise is detained under suspicion that it bears an infringing trademark or copyright, then the possibility will be created that information will be provided to third persons because merchandise was ''deemed'' detained or seized. The commenter indicates that the subject proposed rule must be modified to assure that the release of information only occurs where there is an affirmative decision by Customs that there is a violation and the importer has not directly resolved the issue with Customs.

Customs Response

In Customs view, the rule as proposed and as adopted here does not provide for the release of confidential or proprietary business information to any parties. Further, the commenter does not suggest how the rule is suspect with regard to the release of this sensitive information.

Merchandise will be detained when a question as to admissibility arises and further examination or testing is required. Indeed, the final rule is careful to exempt specifically from release any information on testing procedures or methodologies that are proprietary to holders of copyrights or patents

(§ 151.16(d)). Customs believes that this final rule does not serve to assist in the illegal dissemination of trade sensitive information in violation of any law or regulation.

It is noted that the other proposed rule referred to by the commenter, which was published in the **Federal Register** (58 FR 44476) on August 23, 1993, and did address certain disclosure matters, has recently been adopted as a final rule (T.D. 98–21, *supra*).

Conclusion

In view of the foregoing, and following careful consideration of the issues raised by the commenter and further review of the matter, Customs has concluded that the proposed amendments with the modifications discussed above should be adopted.

Additional Changes

In addition, Customs has determined to change § 151.16(c) to make clear that issuance of a notice of detention is not a final determination so as to permit the filing of a protest pursuant to 19 U.S.C. 1514(a)(4). Proposed § 151.16(e), redesignated as § 151.16(j) for editorial clarity, is revised regarding seizure and forfeiture to allow Customs to deny entry or allow exportation of detained merchandise where authorized by law, with the importer responsible for paying all expenses of exportation. Proposed paragraphs (f) and (g) of § 151.16, redesignated as paragraphs (e) and (f) in this document, respectively, are changed to remove any references that would have allowed the importer or interested party to extend the time Customs has to issue a final determination with respect to detained merchandise. Customs has determined that the importer may, without the necessity of asking for an extension of time, bring the merchandise into compliance thereby lifting the detention or file a protest based upon Customs failure to issue a final determination. In this latter regard, the term ''decision'' in proposed § 151.16(f), redesignated as § 151.16(e) is changed to ''determination'', for purposes of editorial consistency with redesignated § 151.16(f). Section 151.16(e) is further revised to provide that a final determination thereunder may be the subject of a protest.

In order to bring consistency to the regulations with regard to the disallowance of any extension of time which Customs has to issue a final determination to exclude merchandise, § 174.21(b), Customs Regulations (19 CFR 174.21(b)) is amended by removing the provision which allowed for delay in issuance of a decision on a protest relating to the deemed exclusion of merchandise (at the protestant's request) insofar as that provision of the regulations is inconsistent with the provisions of 19 U.S.C. 1499(c)(5)(B).

In order to clarify the time period in which a protestant has to commence a civil action in the Court of International Trade in response to a deemed denial of a protest, Customs has amended § 174.31 by adding a new paragraph (c) to indicate that a civil action must be filed within 180 days after the date that a protest is deemed denied under proposed § 151.16(h), which is redesignated as § 151.16(g). Customs has also added the phrase ''for purposes of 28 U.S.C. 1581'' to §§ 151.16(g) and 174.21(b) to further clarify this change.

Regulatory Flexibility Act and Executive Order 12866

This final rule document accurately reflects recent amendments to statutory law, enacted as part of the Mod Act. These amendments essentially constitute a codification of existing and longstanding Customs practice with regard to the examination and detention of imported merchandise. As such, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that this rule does not have a significant economic impact on a substantial number of small entities. Thus, the rule is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 or 604. Nor does the rule result in a ''significant regulatory action'' under E.O. 12866.

Paperwork Reduction Act

The collection of information contained in this final rule has been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1515–0210. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

The collection of information in this final rule is contained in § 151.16(d). This information is necessary and will be used to determine the admissibility of imported merchandise and to otherwise comply with the requirements of the Mod Act and protect the revenue. The likely respondents and/or recordkeepers are businesses or other for-profit institutions.

The estimated average annual burden associated with this collection is 2 hours per respondent or recordkeeper.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, D.C. 20229.

List of Subjects

19 CFR Part 151

Customs duties and inspection, Examination, Sampling and testing, Imports, Laboratories, Penalties, Reporting and recordkeeping requirements.

19 CFR Part 174

Administrative practice and procedure, Customs duties and inspection, Reporting and recordkeeping requirements.

19 CFR Part 178

Administrative practice and procedure, Collections of information, Paperwork requirements, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, parts 151, 174, and 178, Customs Regulations (19 CFR parts 151, 174, and 178), are amended as set forth below.

PART 151—EXAMINATION, SAMPLING AND TESTING OF MERCHANDISE

1. The general authority citation for part 151, and the specific authority for subpart A, continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Notes 20 and 21, Harmonized Tariff Schedule of the United States), 1624. Subpart A also issued under 19 U.S.C. 1499. * * *

2. Part 151 is amended by adding a new § 151.16 to read as follows:

§ 151.16 Detention of merchandise.

(a) *Exemptions from applicability.* The provisions of this section are not applicable to detentions effected by Customs on behalf of other agencies of the U.S. Government in whom the determination of admissibility is vested and to detentions arising from possibly piratical copies (see part 133, subpart E, of this chapter) or import of goods bearing marks which are confusingly similar to recorded trademarks or restricted gray market merchandise (see part 133, subpart C, of this chapter.)

(b) *Decision to detain or release.* Within the 5-day period (excluding weekends and holidays) following the date on which merchandise is presented

for Customs examination, Customs shall decide whether to release or detain merchandise. Merchandise which is not released within such 5-day period shall be considered to be detained merchandise. For purposes of this section, merchandise shall be considered to be presented for Customs examination when it is in a condition to be viewed and examined by a Customs officer. Mere presentation to the examining officer of a cargo van, container or instrument of international traffic in which the merchandise to be examined is contained will not be considered to be presentation of merchandise for Customs examination for purposes of this section. Except when merchandise is examined at the public stores, the importer shall pay all costs relating to the preparation and transportation of merchandise for examination.

(c) *Notice of detention.* If a decision to detain merchandise is made, or the merchandise is not released within the 5-day period, Customs shall issue a notice to the importer or other party having an interest in such merchandise no later than 5 days (excluding weekends and holidays) after such decision or failure to release (see paragraph (b) of this section). Issuance of a notice of detention is not to be construed as a final determination as to admissibility of the merchandise. The notice shall be prepared by the Customs officer detaining the merchandise and shall advise the importer or other interested party of the:

(1) Initiation of the detention, including the date the merchandise was presented for examination;

(2) Specific reason for the detention;

(3) Anticipated length of the detention;

(4) Nature of the tests or inquiries to be conducted; and

(5) Nature of any information which, if supplied to the Customs Service, may accelerate the disposition of the detention.

(d) *Providing testing results.* Upon written request by the importer or other party having an interest in detained merchandise, Customs shall provide copies of the results of any testing conducted on the merchandise together with a description of the testing procedures and methodologies used (unless such procedures or methodologies are proprietary to the holder of a copyright or patent or were developed by Customs for enforcement purposes). The results and test description shall be in sufficient detail to permit the duplication and analysis of the testing and the results.

(e) *Final determinations.* A final determination with respect to admissibility of detained merchandise will be made within 30 days from the date the merchandise is presented for Customs examination. Such a determination may be the subject of a protest.

(f) *Effect of failure to make a determination.* The failure by Customs to make a final determination with respect to the admissibility of detained merchandise within 30 days after the merchandise has been presented for Customs examination, or such longer period if specifically authorized by law, shall be treated as a decision by Customs to exclude the merchandise for purposes of section 514(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1514(a)(4)). Such a deemed exclusion may be the subject of a protest.

(g) *Failure to decide protest.* If a protest which is filed as a result of a final determination or a deemed exclusion of detained merchandise is not allowed or denied in whole or in part before the 30th day after the day on which the protest was filed, it shall be treated as having been denied on such 30th day for purposes of 28 U.S.C. 1581.

(h) *Decision before commencement of court action.* Customs may at any time after a deemed denial of a protest as provided in paragraph (g) of this section, but before commencement of a court action as provided in paragraph (i) of this section, grant a protest and permit release of detained merchandise, or deny a protest in accordance with § 174.30 of this chapter.

(i) *Commencement of court action; burden of proof and decisions of the court.* Once a court action respecting a detention is commenced, unless Customs establishes by a preponderance of the evidence that an admissibility decision has not been reached for good cause, the court shall grant the appropriate relief which may include, but is not limited to, an order to cancel the detention and release the merchandise.

(j) *Seizure and forfeiture; denial of entry or exportation.* If otherwise provided by law, detained merchandise may be seized and forfeited. In lieu of seizure and forfeiture, where authorized by law, Customs may deny entry and permit the merchandise to be exported, with the importer responsible for paying all expenses of exportation.

PART 174—PROTESTS

1. The general authority citation for part 174 continues to read as follows, and a specific sectional authority citation for § 174.21 is added to read as follows:

Authority: 19 U.S.C. 66, 1514, 1515, 1624.

Section 174.21 also issued under 19 U.S.C. 1499.

2. Section 174.21 is amended by revising paragraph (b) to read as follows:

§ 174.21 Time for review of protests.

* * * * *

(b) *Protests relating to exclusion of merchandise.* If the protest relates to an administrative action involving exclusion of merchandise from entry or delivery under any provision of the Customs laws, the port director shall review and act on a protest filed in accordance with section 514(a)(4), Tariff Act of 1930, as amended (19 U.S.C. 1514(a)(4)), within 30 days from the date the protest was filed. Any protest filed pursuant to this paragraph shall clearly so state on its face. Any protest filed pursuant to this paragraph which is not allowed or denied in whole or in part before the 30th day after the day on which the protest was filed shall be treated as having been denied on such 30th day for purposes of 28 U.S.C. 1581.

3. Section 174.31 is amended by removing the word ''or'' following the comma at the end of paragraph (a); by removing the period at the end of paragraph (b), and adding a comma in its place, followed by the word ''or'; and by adding a new paragraph (c) thereafter to read as follows:

§ 174.31 Judicial review of denial of protest.

* * * * *

(c) The date that a protest is deemed denied in accordance with § 174.21(b), or § 151.16(g) of this chapter.

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by adding a new listing to the table in numerical order to read as follows:

§ 178.2 Listing of OMB control numbers.

19 CFR Section	Description	OMB control No.
*	*	*
151.16(d)) ..	Detention of merchandise.	1515–0210

19 CFR Section	Description	OMB control No.
* * *	* *	*

Commissioner of Customs,

Raymond W. Kelly.

Approved: July 8, 1999.

Deputy Assistant Secretary of the Treasury

John P. Simpson

[FR Doc. 99–20606 Filed 8–10–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 982

[Docket No. FR–4428–N–02]

RIN 2577–AB91

Section 8 Tenant-Based Assistance; Statutory Merger of Section 8 Certificate and Voucher Programs: Change in Effective Date

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Interim rule; change in effective date.

SUMMARY: This document advises the public that the interim rule published on May 14, 1999, which provides for the complete merger of HUD's Section 8 tenant-based Certificate and Voucher programs into a new Housing Choice Voucher Program, will take effect on October 1, 1999.

DATES: The effective date of the rule published at 64 FR 26632 (May 14, 1999) is delayed until October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4210, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–0477, extension 4069 (this is not a toll-free number). Hearing or speech impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On May 14, 1999 (64 FR 26632), HUD published an interim rule to implement most of the Section 8 tenant-based program provisions contained in the Quality Housing and Work Responsibility Act of 1998 (Title V of the FY 1999 HUD Appropriations Act; Pub. L. 105–276, approved October 21, 1998; 112 Stat. 2461) (the ''1998 Act''). Section 502 of the 1998 Act states that a purpose of the legislation is ''consolidating the voucher and certificate programs for rental assistance under Section 8 of the United States Housing Act of 1937 (the ''USH Act'' (42 U.S.C. 1437f)) into a single market-driven program that will assist in making tenant-based rental assistance under such section more successful at helping low-income families obtain affordable housing and will increase housing choice for low-income families.'' Accordingly, the May 14, 1999 interim rule provides for the complete merger of the Section 8 tenant-based certificate and voucher programs (section 545 of the 1998 Act, amending 42 U.S.C. 1437f(o)) into the new Housing Choice Voucher Program.

The May 14, 1999 interim rule provides for the rule to take effect on August 12, 1999. HUD has decided to delay the effective date until October 1, 1999, to allow public housing agencies (PHAs) more time to prepare for implementation of the Housing Choice Voucher Program and to allow PHAs to revise their computer software to accommodate the new subsidy formula.

The purpose of this document is to give notice that the effective date of the May 14, 1999 interim rule has been changed to October 1, 1999. Any reference in the regulatory text to an effective date or merger date earlier than October 1, 1999 will be amended at the final rule stage.

Accordingly, HUD's interim rule published on May 14, 1999 at 64 FR 26632 (Docket No. FR–4428–I–01, FR Doc. 99–12082) will take effect on October 1, 1999.

Dated: August 6, 1999.

Deborah Vincent,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–20837 Filed 8–9–99; 11:04 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8833]

RIN 1545–AW08

Consolidated Returns—Consolidated Overall Foreign Losses and Separate Limitation Losses

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final consolidated return regulations relating to the treatment of overall foreign losses and separate limitation losses in the computation of the foreign tax credit limitation. The regulations replace existing guidance with respect to overall foreign losses and provide guidance with respect to separate limitation losses. These regulations affect consolidated groups that compute the foreign tax credit limitation or that dispose of property used in a foreign trade or business.

DATES: *Effective Date:* These regulations are effective August 11, 1999.

Applicability Dates: For dates of applicability of these regulations, see §§ 1.1502–9A(a)(1) and (b)(1) and 1.1502–9(e).

FOR FURTHER INFORMATION CONTACT: Trina Dang of the Office of Associate Chief Counsel (International), (202) 622–3850 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under the control number 1545–1634. Responses to this collection of information are mandatory.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number.

The estimated annual burden per respondent is 1.5 hours.

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

Books or records relating to a collection of information must be retained so long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

On December 29, 1998, the IRS and Treasury published in the **Federal Register** (REG–106902–98, 63 FR 71589) a notice of proposed rulemaking modifying the rules relating to the

treatment of overall foreign loss (OFL) accounts, and providing new rules relating to the treatment of separate limitation loss (SLL) accounts. The regulations proposed to replace the notional account method for allocating a group's consolidated OFL (COFL) account to a departing member of a group with an asset-based method for allocating both OFLs and SLLs. The regulations also proposed to modify the section 904(f)(3) and (5)(F) disposition rules in the case of intercompany transactions, and to provide computational rules and nomenclature for SLLs as well as OFLs.

A public hearing was held on February 17, 1999, and two written comments were received. One commentator recommended the retention of the notional account method because the asset-based method can result in the allocation of a portion of the COFL account to a departing member that did not contribute to the COFL account, a result that the commentator views as arbitrary. To alleviate the tension between the interest allocation and COFL rules, the commentator suggested amending the interest allocation rules instead of the COFL rules.

Treasury and the IRS recognize that, under the asset-based method, a portion of a COFL account can under certain circumstances be allocated to a member that did not directly contribute to the COFL account (because, for example, it was not a member of the group at the time the OFL arose). However, as noted in the preamble to regulations issued in January 1998 that eliminated the limitation on OFL recapture and foreign tax credit utilization with respect to separate return limitation years, any single member's economic ''contribution'' to a COFL account is difficult to measure since the expense allocation rules require interest and certain other expenses to be allocated to a member's income in separate limitation categories on the basis of the group's assets.

An asset-based method is not arbitrary because it associates a COFL account with assets that will produce income subject to recapture, thereby ensuring the recapture of the COFL account. As explained in the preamble to the proposed regulations, Treasury and the IRS believe that the asset-based method for allocating a COFL account harmonizes the COFL rules with the interest allocation provisions. Those provisions, as required by statute, are designed to prevent corporations from borrowing in ways that inappropriately minimize the amount of interest expense allocated against foreign-source income (thereby inflating the amount of foreign-source income that can be sheltered from U.S. tax by foreign tax credits).

The commentator also criticized the asset-based method for allocating COFL accounts as creating uncertainty and administrative burdens in determining the proper amount of a selling group's COFL account to be apportioned to a departing member at the time a member is acquired. Treasury and the IRS recognize that the asset-based method may result in greater uncertainty under certain circumstances. It is anticipated that a taxpayer acquiring a member of a consolidated group may address any uncertainties as to the proper allocation of a COFL account by entering into a tax indemnity or similar agreement. It is also noted that, even under the notional account method, a COFL account apportioned to a departing member cannot be determined with certainty at the time of the acquisition because the apportionment is made at the end of the taxable year during which the member departs the group. Treasury and the IRS recognize that the new rules may result in an increased burden for certain taxpayers, but have concluded that the possibility of an increased burden is not sufficient to warrant the retention of the notional account method in light of severe distortions created by the interaction of the notional account method and the interest expense allocation provisions.

Another commentator requested a transition rule under which the notional account method would continue to apply to a group's existing COFL account that would not be a part of the group's account had the asset-based allocation method been in effect in prior years. The commentator argued that a transition rule is necessary because taxpayers can be adversely affected by the transition from the old rules to the new rules.

The final regulations do not adopt this transition rule because of administrative and equity concerns. The rule would be difficult to administer because a taxpayer would be required to ascertain asset values of all members that departed the group (on the date that the member departed) going back a number of years in order to apply the asset-based allocation method. Additionally, keeping track of the grandfathered account on a prospective basis and distinguishing it from non-grandfathered accounts could add significant complexity.

Furthermore, it is not clear whether the commentator's suggested transition rule generally produces equitable results. Under the suggested transition rule, no portion of the group's COFL account that would not be a part of the group's account had the new rules applied in earlier years would be allocated to a departing member that has foreign assets but that does not have a notional account. Treasury and the IRS are not convinced that it would be more equitable for the group to bear the burden of the COFL account under these circumstances.

A question has been raised regarding whether the asset-based method for allocating COFL accounts to a departing member also applies to an affiliated group that does not file a consolidated return. Because the interest expense allocation rules apply to affiliated groups, these rules can result under certain circumstances in the creation of OFL accounts in members with no foreign assets. Section 904(i) is an anti-abuse rule intended to prevent an affiliated group from circumventing the consolidated return rules to avoid the foreign tax credit limitation provisions. Under § 1.904(i)–1, each member of an affiliated group determines its taxable income for each separate limitation income category under section 904(d) and then combines those amounts to determine one amount of income for the group in each income category. The consolidated return regulations that apply the principles of sections 904(f) and 907(c)(4) will then be applied to the combined amounts in each separate category as if all affiliates were members of a single consolidated group. By reason of the section 904(i) regulations, the asset-based method for allocating the appropriate portion of a group's COFL account to a departing member applies to an affiliated group of corporations that does not file returns on a consolidated basis.

A question has also been raised as to whether the tax book value of assets is affected for purposes of COFL apportionment if a member's departure from a group causes the group to take into account in computing consolidated taxable income gain or loss on assets transferred in intercompany transactions. To prevent apportionment of a disproportionate amount of the COFL account to a departing member, § 1.1502–9(c)(2)(ii) of the final regulations clarifies that the computation of the tax book value of assets for purposes of such apportionment shall be determined without regard to previously deferred gain or loss that is taken into account as a result of the member's departure from the group (because, for example, of the acceleration rule under § 1.1502–13(d)).

After full consideration of all questions and comments, the proposed

regulations published in the **Federal Register** on December 29, 1998 (REG–106902–98, 63 FR 71589) are adopted by this Treasury decision without substantive amendment.

Special Analyses

It has been determined that this regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory impact analysis is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations principally affect corporations filing consolidated federal income tax returns that have overall foreign losses or separate limitation losses. Available data indicates that many consolidated return filers are large companies (not small businesses). In addition, the data indicates that an insubstantial number of consolidated return filers that are smaller companies have overall foreign losses or separate limitation losses. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Drafting Information

The principal author of this regulation is Trina Dang of the Office of Associate Chief Counsel (International), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entry for § 1.1502–9T and by adding entries in numerical order to read in part as follows:

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

Section 1.1502–9 also issued under 26 U.S.C. 1502. * * *

Section 1.1502–9A also issued under 26 U.S.C. 1502. * * *

Par. 2. In § 1.1502–3T, paragraph (c)(4), the first sentence is amended by removing the language ''1.1502–9T(b)(1)(v)'' and adding ''1.1502–9A(b)(1)(v)'' in its place, and revising the last sentence to read as follows:

§ 1.1502–3T Consolidated investment credit (temporary).

* * * * *

(c) * * *

(4) * * * However, a consolidated group making the election provided in § 1.1502–9A(b)(1)(vi) (electing not to apply § 1.1502–9A(b)(1)(v) to years beginning before January 1, 1998) may nevertheless choose to apply all such paragraphs other than § 1.1502–9A(b)(1)(v) for all relevant years.

* * * * *

Par. 3. Immediately following § 1.1504–4 an undesignated center heading is added to read as follows:

Regulations Applicable for Tax Years for Which a Return Is Due on or Before August 11, 1999.

Par. 4. Section 1.1502–9 is redesignated as § 1.1502–9A and transferred under the new undesignated center heading set out in Par. 3. above.

Par. 5. Newly designated § 1.1502–9A is amended by:

1. Revising the section heading.
2. Redesignating the paragraph heading and text of paragraph (a) as the paragraph heading and text of paragraph (a)(2).
3. Adding a new paragraph heading for paragraph (a), and new paragraphs (a)(1), (b)(1)(v) and (b)(1)(vi).

The revisions and additions read as follows:

§ 1.1502–9A Application of overall foreign loss recapture rules to corporations filing consolidated returns due on or before August 11, 1999.

(a) *Scope*—(1) *Effective date.* This section applies only to consolidated return years for which the due date of the income tax return (without extensions) is on or before August 11, 1999.

(2) *In general.* * * *

(b) * * *

(1) * * *

(v) *Special effective date for SRLY limitation.* Except as provided in paragraph (b)(1)(vi) of this section, paragraphs (b)(1)(iii) and (iv) of this section apply only to consolidated return years for which the due date of the income tax return (without extensions) is on or before March 13, 1998. For consolidated return years for which the due date of the income tax return (without extensions) is after March 13, 1998, the rules of paragraph (b)(1)(ii) of this section shall apply to overall foreign losses from separate return years that are separate return limitation years. For purposes of applying paragraph (b)(1)(ii) of this section in such years, the group treats a member with a balance in an overall foreign loss account from a separate return limitation year on the first day of the first consolidated return year for which the due date of the income tax return (without extensions) is after March 13, 1998, as a corporation joining the group on such first day. An overall foreign loss that is part of a net operating loss or net capital loss carryover from a separate return limitation year of a member that is absorbed in a consolidated return year for which the due date of the income tax return (without extensions) is after March 13, 1998, shall be added to the appropriate consolidated overall foreign loss account in the year that it is absorbed. For consolidated return years for which the due date of the income tax return (without extensions) is after March 13, 1998, similar principles apply to overall foreign losses when there has been a consolidated return change of ownership (regardless of when the change of ownership occurred). See also § 1.1502–3T(c)(4) for an optional effective date rule (generally making this paragraph (b)(1)(v) applicable to a consolidated return year beginning after December 31, 1996, if the due date of the income tax return (without extensions) for such year is on or before March 13, 1998).

(vi) *Election to defer application of special effective date.* A consolidated group may elect not to apply paragraph (b)(1)(v) of this section to consolidated return years beginning before January 1, 1998. To make this election, a consolidated group must write ''Election Pursuant to Notice 98–40'' across the top of page 1 of an original or amended tax return for each consolidated return year subject to the election. For the first consolidated return year to which the overall foreign loss provisions of paragraph (b)(1)(v) of this section apply (i.e., the first year beginning on or after January 1, 1998), such consolidated group must write ''Notice 98–40 Election in Effect in Prior Years'' across the top of page 1 of the consolidated tax return for that year. For purposes of applying paragraph (b)(1)(ii) of this section with respect to such year, any member with a balance in an overall foreign loss account from a separate return limitation year on the first day of

such year shall be treated as joining the group on such first day.

* * * * *

Par. 6. New § 1.1502–9 is added to read as follows:

§ 1.1502–9 Consolidated overall foreign losses and separate limitation losses.

(a) *In general.* This section provides rules for applying section 904(f) (including its definitions and nomenclature) to a group and its members. Generally, section 904(f) concerns rules relating to overall foreign losses (OFLs) and separate limitation losses (SLLs) and the consequences of such losses. As provided in section 904(f)(5), losses are computed separately in each category of income described in section 904(d)(1) (basket). Paragraph (b) of this section defines terms and provides computational and accounting rules, including rules regarding recapture. Paragraph (c) of this section provides rules that apply to OFLs and SLLs when a member becomes or ceases to be a member of a group. Paragraph (d) of this section provides a predecessor and successor rule. Paragraph (e) of this section provides effective dates.

(b) *Consolidated application of section 904(f).* A group applies section 904(f) for a consolidated return year in accordance with that section, subject to the following rules:

(1) *Computation of CSLI or CSLL and consolidated U.S. source income or loss.* The group computes its consolidated separate limitation income (CSLI) or consolidated separate limitation loss (CSLL) for each basket under the principles of § 1.1502–11 by aggregating each member's foreign-source taxable income or loss in such basket computed under the principles of § 1.1502–12, and taking into account the foreign portion of the consolidated items described in § 1.1502–11(a)(2) through (8) for such basket. The group computes its consolidated U.S.-source taxable income or loss under similar principles.

(2) *Netting CSLLs, CSLIs, and consolidated U.S. source taxable income or loss.* The group applies section 904(f)(5) to determine the extent to which a CSLL for a basket reduces CSLI for another basket or consolidated U.S.-source taxable income.

(3) *CSLL and COFL accounts.* To the extent provided in section 904(f), the amount by which a CSLL for a basket (the loss basket) reduces CSLI for another basket (the income basket) shall result in the creation of (or addition to) a CSLL account for the loss basket with respect to the income basket. Likewise, the amount by which a CSLL for a loss basket reduces consolidated U.S.-source income will create (or add to) a consolidated overall foreign loss account (a COFL account).

(4) *Recapture of COFL and CSLL accounts.* In the case of a COFL account for a loss basket, section 904(f)(1) and (3) recharacterizes some or all of the foreign-source income in the loss basket as U.S.-source income. In the case of a CSLL account for a loss basket with respect to an income basket, section 904(f)(5)(C) and (F) recharacterizes some or all of the foreign-source income in the loss basket as foreign-source income in the income basket. The COFL account or CSLL account is reduced to the extent amounts are recharacterized with respect to such account.

(5) *Intercompany transactions*—(i) *Nonapplication of section 904(f) disposition rules.* Neither section 904(f)(3) (in the case of a COFL account) nor (5)(F) (in the case of a CSLL account) applies at the time of a disposition that is an intercompany transaction to which § 1.1502–13 applies. Instead, section 904(f)(3) and (5)(F) applies only at such time and only to the extent that the group is required under § 1.1502–13 (without regard to section 904(f)(3) and (5)(F)) to take into account any intercompany items resulting from the disposition, based on the COFL or CSLL account existing at the end of the consolidated return year during which the group takes the intercompany items into account.

(ii) *Example.* Paragraph (b)(5)(i) of this section is illustrated by the following examples. The identity of the parties and the basic assumptions set forth in § 1.1502–13(c)(7)(i) apply to the examples. Except as otherwise stated, assume further that the consolidated group recognizes no foreign-source income other than as a result of the transactions described. The examples are as follows:

Example 1. (i) On June 10, Year 1, S transfers nondepreciable property with a basis of $100 and a fair market value of $250 to B in a transaction to which section 351 applies. The property was predominantly used without the United States in a trade or business, within the meaning of section 904(f)(3). B continues to use the property without the United States. The group has a COFL account in the relevant loss basket of $120 as of December 31, Year 1.

(ii) Because the contribution from S to B is an intercompany transaction, section 904(f)(3) does not apply to result in any gain recognition in Year 1. See paragraph (b)(5)(i) of this section.

(iii) On January 10, Year 4, B ceases to be a member of the group. Because S did not recognize gain in Year 1 under section 351, no gain is taken into account in Year 4 under § 1.1502–13(d). Thus, no portion of the group's COFL account is recaptured in Year 4. For rules requiring apportionment of a portion of the COFL account to B, see paragraph (c)(2) of this section.

Example 2. (i) The facts are the same as in paragraph (i) of *Example 1.* On January 10, Year 4, B sells the property to X for $300. As of December 31, Year 4, the group's COFL account is $40. (The COFL account was reduced between Year 1 and Year 4 due to unrelated foreign-source income taken into account by the group.)

(ii) B takes into account gain of $200 in Year 4. The $40 COFL account in Year 4 recharacterizes $40 of the gain as U.S. source. See section 904(f)(3).

Example 3. (i) On June 10, Year 1, S sells nondepreciable property with a basis of $100 and a fair market value of $250 to B for $250 cash. The property was predominantly used without the United States in a trade or business, within the meaning of section 904(f)(3). The group has a COFL account in the relevant loss basket of $120 as of December 31, Year 1. B predominately uses the property in a trade or business without the United States.

(ii) Because the sale is an intercompany transaction, section 904(f)(3) does not require the group to take into account any gain in Year 1. Thus, under paragraph (b)(5)(i) of this section, the COFL account is not reduced in Year 1.

(iii) On January 10, Year 4, B sells the property to X for $300. As of December 31, Year 4, the group's COFL account is $60. (The COFL account was reduced between Year 1 and Year 4 due to unrelated foreign-source income taken into account by the group.)

(iv) In Year 4, S's $150 intercompany gain and B's $50 corresponding gain are taken into account to produce the same effect on consolidated taxable income as if S and B were divisions of a single corporation. See § 1.1502–13(c). All of B's $50 corresponding gain is recharacterized under section 904(f)(3). If S and B were divisions of a single corporation and the intercompany sale were a transfer between the divisions, B would succeed to S's $100 basis in the property and would have $200 of gain ($60 of which would be recharacterized under section 904(f)(3)), instead of a $50 gain. Consequently, S's $150 intercompany gain and B's $50 corresponding gain are taken into account, and $10 of S's gain is recharacterized under section 904(f)(3) as U.S. source to reflect the $10 difference between B's $50 recharacterized gain and the $60 recomputed gain that would have been recharacterized.

(c) *Becoming or ceasing to be a member of a group—(1) Adding separate accounts on becoming a member.* At the time that a corporation becomes a member of a group (a new member), the group adds to the balance of its COFL or CSLL account the balance of the new member's corresponding OFL account or SLL account. A new member's OFL account corresponds to a COFL account if the account is for the same loss basket. A new member's SLL account corresponds to a CSLL account if the account is for the same loss basket

and with respect to the same income basket. If the group does not have a COFL or CSLL account corresponding to the new member's account, it creates a COFL or CSLL account with a balance equal to the balance of the member's account.

(2) *Apportionment of consolidated account to departing member*—(i) *In general.* A group apportions to a member that ceases to be a member (a departing member) a portion of each COFL and CSLL account as of the end of the year during which the member ceases to be a member and after the group makes the additions or reductions to such account required under paragraphs (b)(3), (b)(4) and (c)(1) of this section (other than an addition under paragraph (c)(1) of this section attributable to a member becoming a member after the departing member ceases to be a member). The group computes such portion under paragraph (c)(2)(ii) of this section, as limited by paragraph (c)(2)(iii) of this section. The departing member carries such portion to its first separate return year after it ceases to be a member. Also, the group reduces each account by such portion and carries such reduced amount to its first consolidated return year beginning after the year in which the member ceases to be a member. If two or more members cease to be members in the same year, the group computes the portion allocable to each such member (and reduces its accounts by such portion) in the order that the members cease to be members.

(ii) *Departing member's portion of group's account.* A departing member's portion of a group's COFL or CSLL account for a loss basket is computed based upon the member's share of the group's assets that generate income subject to recapture at the time that the member ceases to be a member. Under the characterization principles of §§ 1.861–9T(g)(3) and 1.861–12T, the group identifies the assets of the departing member and the remaining members that generate foreign-source income (foreign assets) in each basket. The assets are characterized based upon the income that the assets are reasonably expected to generate after the member ceases to be a member. The member's portion of a group's COFL or CSLL account for a loss basket is the group's COFL or CSLL account, respectively, multiplied by a fraction, the numerator of which is the value of the member's foreign assets for the loss basket and the denominator of which is the value of the foreign assets of the group (including the departing member) for the loss basket. The value of the foreign assets is determined under the asset valuation rules of § 1.861–9T(g)(1) and (2) using either tax book value or fair market value under the method chosen by the group for purposes of interest apportionment as provided in § 1.861–9T(g)(1)(ii). For purposes of this paragraph (c)(2)(ii), § 1.861–9T(g)(2)(iv) (assets in intercompany transactions) shall apply, but § 1.861–9T(g)(2)(iii) (adjustments for directly allocated interest) shall not apply. If the group uses the tax book value method, the member's portions of COFL and CSLL accounts are limited by paragraph (c)(2)(iii) of this section. In addition, for purposes of this paragraph (c)(2)(ii), the tax book value of assets transferred in intercompany transactions shall be determined without regard to previously deferred gain or loss that is taken into account by the group as a result of the transaction in which the member ceases to be a member. The assets should be valued at the time the member ceases to be a member, but values on other dates may be used unless this creates substantial distortions. For example, if a member ceases to be a member in the middle of the group's consolidated return year, an average of the values of assets at the beginning and end of the year (as provided in § 1.861–9T(g)(2)) may be used or, if a member ceases to be a member in the early part of the group's consolidated return year, values at the beginning of the year may be used, unless this creates substantial distortions.

(iii) *Limitation on member's portion for groups using tax book value method.* If a group uses the tax book value method of valuing assets for purposes of paragraph (c)(2)(ii) of this section and the aggregate of a member's portions of COFL and CSLL accounts for a loss basket (with respect to one or more income baskets) determined under paragraph (c)(2)(ii) of this section exceeds 150 percent of the actual fair market value of the member's foreign assets in the loss basket, the member's portion of the COFL or CSLL accounts for the loss basket shall be reduced (proportionately, in the case of multiple accounts) by such excess. This rule does not apply if the departing member and all other members that cease to be members as part of the same transaction own all (or substantially all) the foreign assets in the loss basket.

(iv) *Determination of values of foreign assets binding on departing member.* The group's determination of the value of the member's and the group's foreign assets for a loss basket is binding on the member, unless the Commissioner concludes that the determination is not appropriate. The common parent of the group must attach a statement to the return for the taxable year that the departing member ceases to be a member of the group that sets forth the name and taxpayer identification number of the departing member, the amount of each COFL or CSLL for each loss basket that is apportioned to the departing member under this paragraph (c)(2), the method used to determine the value of the member's and the group's foreign assets in each such loss basket, and the value of the member's and the group's foreign assets in each such loss basket. The common parent must also furnish a copy of the statement to the departing member.

(v) *Anti-abuse rule.* If a corporation becomes a member and ceases to be a member, and a principal purpose of the corporation becoming and ceasing to be a member is to transfer the corporation's OFL account or SLL account to the group or to transfer the group's COFL or CSLL account to the corporation, appropriate adjustments will be made to eliminate the benefit of such a transfer of accounts. Similarly, if any member acquires assets or disposes of assets (including a transfer of assets between members of the group and the departing member) with a principal purpose of affecting the apportionment of accounts under paragraph (c)(2)(i) of this section, appropriate adjustments will be made to eliminate the benefit of such acquisition or disposition.

(vi) *Examples.* The following examples illustrate this paragraph (c):

Example 1. (i) On November 6, Year 1, S, a member of the P group, a consolidated group with a calendar consolidated return year, ceases to be a member of the group. On December 31, Year 1, the P group has a $40 COFL account for the general limitation basket, a $20 CSLL account for the general limitation basket (i.e., the loss basket) with respect to the passive basket (i.e., the income basket), and a $10 CSLL account for the shipping income basket (i.e., the loss basket) with respect to the passive basket (i.e., the income basket). No member of the group has foreign-source income or loss in Year 1. The group apportions its interest expense according to the tax book value method.

(ii) On November 6, Year 1, the group identifies S's assets and its own assets (including S's assets) expected to produce foreign general limitation income. Use of end-of-the-year values will not create substantial distortions in determining the relative values of S's and the group's relevant assets on November 6, Year 1. The group determines that S's relevant assets have a tax book value of $2,000 and a fair market value of $2,200. Also, the group's relevant assets (including S's assets) have a tax book value of $8,000. On November 6, Year 1, S has no assets expected to produce foreign shipping income.

(iii) Under paragraph (c)(2)(ii) of this section, S takes a $10 COFL account for the general limitation basket ($40 × $2000/$8000)

and a $5 CSLL account for the general limitation basket with respect to the passive basket ($20 × $2000/$8000). S does not take any portion of the shipping income basket CSLL account. The limitation described in paragraph (c)(2)(iii) of this section does not apply because the aggregate of the COFL and CSLL accounts for the general limitation basket that are apportioned to S ($15) is less than 150 percent of the actual fair market value of S's general limitation foreign assets ($2,200 × 150%).

Example 2. (i) Assume the same facts as in *Example 1,* except that the fair market value of S's general limitation foreign assets is $4 as of November 6, Year 1.

(ii) Under paragraph (c)(2)(iii) of this section, S's COFL and CSLL accounts for the general limitation basket must be reduced by $9, which is the excess of $15 (the aggregate amount of the accounts apportioned under paragraph (c)(2)(ii) of this section) over $6 (150 percent of the $4 actual fair market value of S's general limitation foreign assets). S thus takes a $4 COFL account for the general limitation basket ($10 − ($9 × $10/$15)) and a $2 CSLL account for the general limitation basket with respect to the passive basket ($5 − ($9 × $5/$15)).

(d) *Predecessor and successor.* A reference to a member includes, as the context may require, a reference to a predecessor or successor of the member. See § 1.1502–1(f).

(e) *Effective dates.* This section applies to consolidated return years for which the due date of the income tax return (without extensions) is after August 11, 1999. However, paragraph (b)(5) of this section (intercompany transactions) is not applicable for intercompany transactions that occur before January 28, 1999. A group applies the principles of § 1.1502–9A(e) to a disposition which is an intercompany transaction to which § 1.1502–13 applies and that occurs before January 28, 1999. Also, paragraph (c)(2) of this section (apportionment of consolidated account to departing member) is not applicable for members ceasing to be members of a group before January 28, 1999. A group applies the principles of § 1.1502–9A (rather than paragraph (c)(2) of this section) to determine the amount of a consolidated account that is apportioned to a member that ceases to be a member of the group before January 28, 1999 (and reduces its consolidated account by such apportioned amount) before applying paragraph (c)(2) of this section to members that cease to be members on or after January 28, 1999.

§ 1.1502–9T [Removed]

Par. 7. Section 1.1502–9T is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 8. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par 9. In § 602.101, paragraph (b) is amended in the table by removing the current entry for 1.1502–9 and adding new entries for 1.1502–9 and 1.1502–9A to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.1502–9	1545–1634
* * * * *	
1.1502–9A	1545–0121
* * * * *	

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: July 16, 1999.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 99–20242 Filed 8–10–99; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 43, 63, and 64

[IB Docket Nos. 98–148, 98–22, CC Docket No. 90–337 (Phase II), FCC 99–73]

Biennial Review of the Reform of the International Settlements Policy and Associated Filing Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Commission amended its rules regarding the International Settlements Policy. The rules contained information collection requirements. These rules became effective on July 29, 1999.

EFFECTIVE DATE: The amendments to 47 CFR 0.457, 43.51, 63.14, 63.16, 63.22, 63.23, 64.1001, and 64.1002 published at 64 FR 34734 (June 29, 1999) became effective on July 29, 1997.

FOR FURTHER INFORMATION CONTACT: Lisa Choi or Jackie Ruff, Attorney-Advisors, Telecommunications Division, International Bureau, (202) 418–1470.

SUPPLEMENTARY INFORMATION: On April 15, 1999, the Commission adopted an order removing and modifying rules that govern the manner in which U.S. international telecommunications carriers provide service in correspondence with foreign carriers that operate in competitive markets, a summary of which was published in the **Federal Register**. See 64 FR 34734, June 29, 1999. All of the rules contained information collection requirements. We stated that the ''rules contain information collections that have not been approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of these rules.'' The information collections were approved by OMB on July 29, 1999. See OMB Nos. 3060–0454 and 3060–0901. This publication satisfies our statement that the Commission would publish a document announcing the effective date of the rules.

List of Subjects in 47 CFR Parts 0, 43, 63 and 64

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–20694 Filed 8–10–99; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF STATE

48 CFR Parts 601, 602, 603, 604, 605, 606, 608, 609, 610, 611, 613, 614, 615, 616, 617, 619, 622, 623, 625, 626, 628, 629, 630, 631, 632, 633, 634, 636, 637, 639, 641, 642, 643, 644, 645, 646, 647, 649, 652 and 653

[Public Notice #3025]

RIN 1400–AA71

Office of the Procurement Executive; Department of State Acquisition Regulation (DOSAR)

AGENCY: Office of the Procurement Executive, Department of State.

ACTION: Final rule.

SUMMARY: This rule makes final a proposed rule published for comment on November 30, 1998 (63 FR 65728) amending the Department of State Acquisition Regulation (DOSAR). The final rule also contains several miscellaneous amendments and corrections not published on November 30, 1998, as outlined below.

EFFECTIVE DATE: August 11, 1999.

FOR FURTHER INFORMATION CONTACT: Gladys Gines, Procurement Analyst, Department of State, Office of the Procurement Executive, 2201 C Street NW, Suite 603, State Annex Number 6, Washington, DC 20522–0602; telephone (703) 516–1691; e-mail address: ginesgg@state.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 30, 1998 (63 FR 65728), the Department of State proposed amendments to the DOSAR to reflect numerous miscellaneous changes, additions, and deletions dealing with internal or administrative matters. The proposed rule also eliminated certification requirements that were not specifically imposed by statute, and added one new certification required by statute and one new certification not required by statute but justified in accordance with section 29 of Public Law 104–106 (the Federal Acquisition Reform Act of 1996). Finally, the proposed rule eliminated internal coverage from the codified section of the DOSAR.

No comments were received during the public comment period, which ended on January 29, 1999. This rule makes final the amendments, as revised, proposed on November 30, 1998.

II. Amendments Not Contained in Proposed Rule

The final rule also contains several amendments and corrections to the proposed rule. These amendments are the result of several changes which have taken place during the comment period. They are as follows:

- DOSAR section 604.502 is revised to conform to FAR numbering changes made in FAC 97–9.
- DOSAR section 609.406–3(a)(1) is revised to reflect coordination through the Office of the Procurement Executive of Office of the Inspector General investigation reports that involve possible criminal or fraudulent activities by contractors.
- DOSAR sections 614.201–6, 614.201–6–70, 615.209, and 615.209–70 are being removed. These sections contained the prescription for the provision at 652.214–71, Authorization to Perform. The Department has determined that this provision should be a contract clause, since it contains requirements that the successful offeror must adhere to following contract award, i.e., having the appropriate licenses, permits, etc. Since it is a contract clause, the prescription is moved to 642.271(b). The clause is renamed as ''Authorization and Performance'', revised slightly, and renumbered as 652.242–73.
- DOSAR section 617.105–1(d) is being revised to better reflect current Administration policy as set forth in OMB Circulars A–11 and A–34. This section contained language regarding three options to finance cancellation costs of multiyear contracts. However, the current policy as stated in OMB Circulars A–11 and A–34 is to allow only the first option (cancellation costs incurred shall be paid from appropriations originally available for the performance of the contract). The policy is to fully fund usable segments and to obligate cancellation costs as part of the original contract, as currently stated in FAR 17.104(c). Therefore, DOSAR 617.105–1(d) is revised to state that every multiyear contract must comply with FAR 17.104(c) unless an exception is approved through the budget process in coordination with the cognizant comptroller.
- DOSAR 617.502 is removed, and a new section 617.503 is added, as the determination and findings requirements for Economy Act interagency agreements are now located in FAR 17.503.
- DOSAR 633.214–70(c)(4), (c)(5), and (c)(6)(iii) are revised to delete references to the Army Corps of Engineers IWR pamphlets and the Administrative Conference of the U.S. publication on mediation. These documents are no longer available in hard copy. Reference to an Internet site for obtaining information on alternative disputes resolution is provided instead.
- DOSAR 633.270–1, 633.270–2, and 633.270–3 are revised to reflect the transfer of certain appellate and review functions from the Armed Services Board of Contract Appeals to the General Services Board of Contract Appeals. Related reference changes are made to 633.214–70(c) and (c)(2).
- DOSAR 637.104–70 is revised to add a new paragraph (i) describing the authority for the Bureau of Diplomatic Security to issue personal services contracts in accordance with section 206 of Pub. L. 99–399, as amended by the Emergency Supplemental Appropriations Act of 1998.
- DOSAR 642 is revised to correct the headings of Part 642 and Subpart 642.2. A new paragraph (b) is added to 642.271, as discussed above.

These amendments and corrections do not affect the public, and therefore good cause exists to publish the amendments for effect without first soliciting public comment because prior public comment is unnecessary. The amendments are for the purpose of implementing internal changes and making minor corrections.

III. Regulatory Flexibility Act

The Department of State certifies that this regulation will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A Regulatory Flexibility Analysis has, therefore, not been performed.

IV. Unfunded Mandates Act of 1995

The Unfunded Mandates Act of 1995 requires agencies to prepare several analytical statements before proposing any rule that may result in annual expenditures of $100 million of State, local, and Indian tribal governments or the private sector. Since this final rule will not result in expenditures of this magnitude, the Department certifies that such statements are not necessary.

V. Executive Order 12866

This final rule has been reviewed under Executive Order 12866 by the Office of Management and Budget.

VI. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved under the Paperwork Reduction Act of 1980 by OMB, and were assigned control number 1405–0050.

List of Subjects in 48 CFR Parts 601, 602, 603, 604, 605, 606, 608, 609, 610, 611, 613, 614, 615, 616, 617, 619, 622, 623, 625, 626, 628, 629, 630, 631, 632, 633, 634, 636, 637, 639, 641, 642, 643, 644, 645, 646, 647, 649, 652 and 653

Government procurement.

Accordingly, title 48, chapter 6 of the Code of Federal Regulations is amended as follows:

1. The authority citation for 48 CFR Parts 601, 602, 603, 604, 605, 606, 608, 609, 610, 614, 616, 617, 619, 620, 622, 623, 625, 626, 628, 629, 630, 631, 632, 633, 634, 636, 637, 639, 642, 643, 645, 646, 647, 649, 652, 653 continues to read as follows:

Authority: 40 U.S.C. 486(c); 22 U.S.C. 2658.

SUBCHAPTER A—GENERAL

PART 601—DEPARTMENT OF STATE ACQUISITION REGULATION

2. Section 601.105 is redesignated as section 601.106. New sections 601.105 and 601.105–3, are added to read as follows:

601.105 Issuance.

601.105–3 Copies.

The DOSAR is available on CD–ROM disks through the Department's INFOEXPRESS program, or through the Internet from A/OPE's Acquisition Website. The Internet address is: http://www.statebuy.gov/home.htm

3. Newly designated section 601.106 is revised to read as follows:

601.106 OMB Approval under the Paperwork Reduction Act.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) requires that Federal agencies obtain approval from the Office of Management and Budget before collecting information from ten (10) or more members of the public. Individuals are not required to respond to information collection unless the OMB number and burden estimate information is provided. Accordingly, the information and recordkeeping requirements contained in this regulation have been approved by OMB under OMB Control Number 1405–0050. The burden estimate is 225,302 hours.

601.301 [Amended]

4. Section 601.301 is amended by redesignating paragraph (a)(1) as paragraph (a) and by removing paragraph (a)(2) in its entirety.

601.302 [Amended]

5. Section 601.302 is amended in the first sentence of paragraph (a) by removing the words ''and leases of real and personal property''.

601.303 [Amended]

6. Section 601.303 is amended by correcting the citation at the end of paragraph (c) to read ''FAR 1.105–2(c)''.

601.471 [Removed]

7. Section 601.471 is removed.

8. The heading of Subpart 601.6 is revised to read as follows:

Subpart 601.6—Career Development, Contracting Authority, and Responsibilities

601.602–3 and 601.602–3–70 [Removed]

9. Section 601.602–3, and section 601.602–3–70, are removed.

10. Section 601.603–3 is amended by adding a title to paragraph (a); by revising the second sentence of paragraph (a); by revising paragraph (b) in its entirety; and, by adding a new paragraph (d), to read as follows:

601.603–3 Appointment.

(a) *General.* * * * The Procurement Executive appoints all DOS contracting officers, in conformance with FAR 1.603–3, with the one exception as noted in paragraph (b) of this section. * * *

(b) *Temporary warrants.* The Chief of Mission is delegated the authority by the Procurement Executive to issue temporary contracting officer warrants for periods up to 90 calendar days in order to cover emergency, post-specific operational requirements (e.g., staffing gaps, medical evacuations, extended leave, etc.). These temporary appointments shall be executed on the Standard Form 1402, and a copy shall be furnished to A/OPE. The warrant shall contain both a dollar limitation of no more than $100,000 and a specific time period (not to exceed 90 days) during which the warrant is effective.

* * * * *

(d) Personal services agreements. Individuals who may sign personal services agreements (PSAs) are limited to the following:

(1) An individual, or class of individuals, granted authority by the Director, PER/OE; or

(2) Individuals with contracting officer certificates of appointment.

601.603–70 Amended

11. Section 601.603–70 is amended—

(a) By adding a period after the words ''and services'' and removing the words ''; to sell personal property; and to lease real property.'' in the first sentence of paragraph (a)(1) introductory text;

(b) By adding a period after the words ''Deputy Assistant Secretary of State for Foreign Buildings'' and removing the words ''and to the Director for Acquisitions as the HCA.'' in paragraph (a)(2);

(c) By removing the heading ''Office of Acquisition'' and inserting ''Office of Logistics Management; Office of Acquisition Management (A/LM/AQM)'' in its place; and by removing the words ''and Deputy Director as the HCA'' and inserting ''or designee as the HCA'' in their place in paragraph (a)(3);

(d) By removing the word ''and'' before the word ''construction'' and removing the word ''of'' after ''construction'' and by adding the words ''and supplies for'' after the word ''construction'' in paragraph (a)(7);

(e) By adding the word ''supplies,'' after the word ''subsystems,'' in paragraph (a)(8);

(f) By revising paragraph (a)(9) to read as indicated below;

(g) By removing the words ''Office of Acquisition'' and inserting the acronym ''A/LM/AQM'' in their place in the second sentence of paragraph (b) introductory text;

(h) By removing the words ''schedule contracts'' and inserting the words ''existing contracts up to the maximum ordering threshold or limitation'' in their place in paragraphs (b)(1) through (b)(6); and

(i) By adding a new paragraph (b)(7), to read as follows:

601.603–70 Delegations of authority.

(a) * * *

(9) *Regional Procurement Support Offices.* The authority to enter into and administer contracts for the expenditure of funds involved in the acquisition of supplies, equipment, publications, and services on behalf of overseas posts is delegated to each Director, Regional Procurement Support Office (RPSO) as the HCA at the following locations:

(i) RPSO Germany in conjunction with Embassy Bonn and Consulate General Frankfurt;

(ii) RPSO Tokyo in conjunction with Embassy Tokyo;

(iii) RPSO Singapore in conjunction with Embassy Singapore; and,

(iv) RPSO Florida in conjunction with the Florida Regional Center.

(b) * * *

(7) *Office of Small and Disadvantaged Business Utilization.* The authority to enter into and administer 8(a) purchase orders and contracts as a third party pursuant to the Memorandum of Understanding signed with the Small Business Administration.

601.670 [Removed]

12. Section 601.670 is removed.

PART 602—DEFINITIONS OF WORDS AND TERMS

13. Section 602.101–70 is amended by removing the definition of ''local procurement''; and by adding, in alphabetical order, a definition of ''major system'' to read as follows:

602.101–70 DOSAR definitions.

* * * * *

Major system has the same definition as described in FAR 2.101; however, the Department of State's dollar threshold as defined in paragraph (b) is $30 million. The Under Secretary for Management is the head of the agency for the purposes of paragraph (c).

* * * * *

PART 603—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

14. Subpart 603.1 is revised to read as follows:

Subpart 603.1—Safeguards

Sec.
603.104 Procurement integrity.
603.104–5 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

603.104–10 Violations or possible violations.

Subpart 603.1—Safeguards

603.104 Procurement integrity.

603.104–5 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

(a) The following classes of persons may be authorized to receive contractor bid or proposal information or source selection information by the contracting officer or head of the contracting activity, who is the agency head's designee, when such access is necessary to the conduct of an acquisition:

(1) Individuals involved in the selection process, such as the Contracting Officer's Representative, technical evaluators, advisors, consultants, and the Source Selection Official;

(2) Clerical personnel directly involved in the acquisition;

(3) Supervisors in the contracting officer's chain of command;

(4) Contracting personnel involved in reviewing or approving the solicitation, contract, or contract modification;

(5) Individuals from offices who may be required to perform pre-award audits, such as DCAA; and,

(6) Personnel in the following offices: Office of Small and Disadvantaged Business Utilization (A/SDBU), Office of the Legal Adviser, Office of Legislative Affairs, Office of the Inspector General, Office of the Procurement Executive, the Small Business Administration, and the Office of Federal Contract Compliance Programs (Department of Labor).

(c) All information which is considered proprietary or source selection information shall be marked to prevent its unauthorized disclosure before award. This may be performed by marking each page of proprietary or source selection material with the statement ''Source Selection Information—See FAR 3.104'' or ''Proprietary Information—See FAR 3.104'', as applicable. Alternatively, this requirement may be met by attaching Forms DS–1926, Proprietary Information (Cover Page), and DS–1927, Source Selection Information (Cover Page), to any proprietary and source selection information. Individuals responsible for preparing derivative documents which reference, cite, or paraphrase proprietary or source selection information, are responsible for marking such documents as indicated in this paragraph. The required marking or cover page shall be included when technical proposals are submitted for evaluation and when an audit is requested. After award, the procedures governing the Freedom of Information Act and related laws/regulations shall be followed regarding release of proprietary or source selection information.

603.104–10 Violations or possible violations.

(a)(1) The contracting officer shall report any violation or possible violation to the head of the contracting activity after he or she has reviewed the documentation and has concluded that there is no impact on the acquisition.

(d)(2)(ii)(B) The Procurement Executive is the agency head's designee for the purposes of FAR 3.104–10(d)(2)(ii)(B).

603.203 [Removed]

15. Section 603.203 is removed.

Subpart 603.3—[Removed]

16. Subpart 603.3, consisting of section 603.303, is removed.

17. Section 603.405 is added to read as follows:

603.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

(a) The contracting officer may request the Office of the Inspector General to develop further information if the facts available are deemed insufficient to determine whether an actual violation has occurred. The contracting officer may also obtain the advice of the Office of the Legal Adviser as to the legality and general propriety of any information disclosed.

603.408 and 603.408–1 [Removed]

18. Section 603.408, and section 603.408–1, are removed.

603.670 [Removed]

19. Section 603.670 is removed.

20. Subpart 603.9 is added to read as follows:

Subpart 603.9—Whistleblower Protections for Contractor Employees

Sec.
603.905 Procedures for investigating complaints.
603.906 Remedies.

Subpart 603.9—Whistleblower Protections for Contractor Employees

603.905 Procedures for investigating complaints.

The Procurement Executive is the agency head's designee for the purposes of FAR 3.905.

603.906 Remedies.

The Procurement Executive is the agency head's designee for the purposes of FAR 3.906.

PART 604—ADMINISTRATIVE MATTERS

Subpart 604.2—[Removed]

21. Subpart 604.2, consisting of section 604.202, is removed.

Subpart 604.4—[Removed]

22. Subpart 604.4, consisting of sections 604.404 and 604.404–70, is removed.

23. Subpart 604.5 is added to read as follows:

Subpart 604.5—Electronic Commerce in Contracting

604.502 Policy.

The Assistant Secretary of State for Administration is the agency head for the purposes of FAR 4.502.

Subpart 604.70—[Removed]

24. Subpart 604.70, consisting of sections 604.7001 and 604.7002, is removed.

SUBCHAPTER B—COMPETITION AND ACQUISITION PLANNING

PART 605—PUBLICIZING CONTRACT ACTIONS

605.202–70 [Amended]

25. Section 605.202–70 is amended by removing the date ''June 15, 1998'' and inserting the date ''May 19, 2001'' in its place in the last sentence of paragraph (a).

605.207 [Removed]

26. Section 605.207 is removed.

605.303 [Amended]

27. Section 605.303 is amended by inserting a comma and by adding the words ''upon request,'' after the word ''Affairs'' in the first sentence of paragraph (a).

PART 606—COMPETITION REQUIREMENTS

Subpart 606.1—[Removed]

28. Subpart 606.1, consisting of sections 606.101 and 606.101–70, is removed.

606.302–6 [Amended]

29. Section 606.302–6 is amended by removing ''E.O. 12356'' and ''Executive Order 12356'' and inserting ''Executive Order 12958'' in its place wherever it appears in paragraphs (c)(1) introductory text and (c)(1)(vi).

606.304 [Amended]

30. Section 606.304 is amended in paragraph (a)(2) by removing the

amounts ''$100,000'' and ''$1,000,000'' and inserting ''$500,000'' and ''$10,000,000'' in their place, respectively.

31. Section 606.501 is amended by revising the first sentence of paragraph (b) to read as follows:

606.501 Requirement.

* * * * *

(b) A contracting activity competition advocate has been designated for A/LM/AQM. * * *

32. Section 606.570 is revised to read as follows:

606.570 Solicitation provision.

The contracting officer shall insert the provision at 652.206–70, Competition Advocate/Ombudsman, in all solicitations exceeding the simplified acquisition threshold.

PART 608—REQUIRED SOURCES OF SUPPLIES AND SERVICES

33. Part 608, consisting of subpart 608.3 and section 608.302, is removed.

PART 609—CONTRACTOR QUALIFICATIONS

34. Section 609.206, and section 609.206–1, are added to read as follows:

609.206 Acquisitions subject to qualification requirements.

609.206–1 General.

(b) The authority prescribed in FAR 9.206–1(b) is delegated, without power of redelegation, to the head of the contracting activity.

35. Section 609.404 is amended by revising the section heading to read as follows:

§609.404 List of parties excluded from federal procurement and nonprocurement programs.

36. Section 609.405 is amended by revising paragraphs (d)(4)(i) and (d)(4)(ii) to read as follows:

§ 609.405 Effect of listing.

* * * * *

(d) * * *

(4)(i) For procurement actions (both domestic and overseas) that do not exceed the simplified acquisition threshold, contracting officers need not consult the ''List of Parties Excluded from Federal Procurement and Nonprocurement Programs'' prior to award. The list should be consulted whenever the contracting officer has reason to believe that a proposed contractor may appear on the list.

(ii) Contracting officers at domestic contracting activities shall review the ''List of Parties Excluded from Federal Procurement and Nonprocurement Programs'', either in hard copy or electronic form, prior to awarding a procurement action exceeding the simplified acquisition threshold.

37. Section 609.406–3 is amended in paragraph (a)(1) by adding the following two sentences to the end of the paragraph; and, in paragraph (b)(7) by removing the number ''10'' and inserting the number ''30'' in its place:

§609.406–3 Procedures.

(a)(1) * * * The Office of the Inspector General shall provide to the Procurement Executive a copy of its investigation report. The contracting officer shall provide to the Procurement Executive a copy of his or her intended actions in response to the Office of the Inspector General report.

* * * * *

38. Subpart 609.5 is amended by revising the heading to read as follows:

Subpart 609.5—Organizational and Consultant Conflicts of Interests

PART 610—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

39. Part 610, consisting of sections 610.002 and 610.002–70, is removed.

40. Part 611 is added to subchapter B to read as follows:

PART 611—DESCRIBING AGENCY NEEDS

Sec.
611.002 Policy.
611.002–70 Metric system implementation.

Subpart 611.1—Selecting and Developing Requirements Documents

611.103 Market acceptance.

Subpart 611.5—Liquidated Damages

611.502 Policy.

Authority: 40 U.S.C. 486(c); 22 U.S.C. 2658.

611.002 Policy.

611.002–70 Metric system implementation.

(a) *Policy.* The Metric Conversion Act of 1975, as amended by the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 205a, *et seq.*), requires Federal agencies to establish implementing guidelines pursuant to metric policy to adopt the metric system as the preferred system of weights and measurements for United States trade and commerce. This section establishes the Department of State's metric conversion guidelines.

(b) *Applicability.* This section applies to all DOS acquisitions, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to U.S. firms.

(c) *Definitions.*

Dual system means the use of both traditional and metric systems. For example, an item is designated, produced and described in inch-pound values with soft metric values also shown for information or comparison.

Hard metric means the use of only standard metric (SI) measurements in specifications, standards, supplies and services.

Hybrid system means the use of both traditional and hard metric values in specifications, standards, supplies and services.

Measurement sensitive means any item having an application or meaning depending substantially on some measured quantity. For example, measurement sensitive items include product or performance criteria and standards binding on others, such as emission levels, size and weight limitations, etc.

Metric system means the International System of Units (Le System International d'Unites (SI)) of the International Bureau of Weights and Measures.

Metrication means any act that increases metric system use, including metric training and initiation or conversion of measurement sensitive processes and systems to the metric system.

Soft metric means the result of mathematical conversion of inch-pound measurements to metric equivalents. The physical dimensions, however, are not changed.

Traditional system of weights and measurements means the predominant weight and measurement system currently used in the United States, also referred to as the ''inch-pound system.'' The traditional system includes such commonly used units as inch, foot, yard, mile, pint, quart, gallon, bushel, ounce (fluid and avoirdupois), pound, degree Fahrenheit, ampere, candela, and second.

(d) *Procedures.* (1) DOS contracting activities shall implement the metric system in a manner consistent with 15 U.S.C. 205a, *et seq.*

(2) All DOS contracting activities shall use the metric system in acquisition consistent with security, operations, economic, technical, logistical, training and safety requirements.

(3) The Department shall encourage industry to adopt the metric system by acquiring commercially available metric products and services that meet the Department's needs whenever practical.

Toward this end, solicitations for DOS acquisitions shall:

(i) State all measurement sensitive requirements in metric terms whenever possible. Alternatives to hard metric are soft, dual and hybrid metric terms. The Metric Handbook for Federal Officials regarding the selection of proper metric units and symbols is available from the National Technical Information Service; and

(ii) For contracts expected to exceed $500,000 contracting officers shall return to the requirements office all specifications and statements of work that are not expressed in some form of metric terms unless the requirements office has prepared a justification, for the approval of the contracting officer, for the use of non-metric specifications or statements of work. The justification shall be in a format as prescribed by the head of the contracting activity. Option year prices shall be considered when computing the $500,000 threshold.

(4) Waivers are not required when ordering from Federal Supply Schedules.

(5) Valid justifications for non-metric specifications or statements of work include, but are not limited to:

(i) Existing specifications or standards are in inch-pound units, unless conversion of the existing specifications or standards is necessary or advantageous to the Government. Unnecessary retrofit of existing systems with new metric components should be avoided if the total cost of the retrofit, including redesign costs, exceeds $50,000;

(ii) Metric is not the accepted industry system with respect to a business-related activity; however, soft, hybrid, or dual systems may be used during the transition to hard metric;

(iii) The use of metric is impractical or is likely to cause significant inefficiencies or loss of markets to U.S. firms.

(6) The contracting officer shall review and, if acceptable, approve the waiver prior to the release of the solicitation. The waiver shall be placed in the contract file. If the waiver is not approved, the contracting officer shall return it to the requirements office with an explanation for the disapproval.

(7) The in-house operating metric costs shall be identified. Identification includes, but is not limited to, the cost of metric aids, tools, equipment, training and increased cost to develop metric specifications. All contracting activities and requirements offices shall maintain a record of any costs and/or savings brought about by metric conversion.

(8) Bulk (loose, unpacked) materials shall be specified and purchased in metric or dual units.

(9) Measuring devices, shop and laboratory equipment shall be purchased in metric or dual units.

(10) Shipping allowances, bills of lading and other shipping documents shall be expressed in metric or dual units.

Subpart 611.1—Selecting and Developing Requirements Documents

611.103 Market acceptance.

(a) The head of the contracting activity is the agency head for the purpose of FAR 11.103(a).

Subpart 611.5—Liquidated Damages

611.502 Policy.

(d) The head of the contracting activity is the agency head for the purpose of FAR 11.502(d).

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

41. Part 613 is revised to read as follows:

PART 613—SIMPLIFIED ACQUISITION PROCEDURES

Sec.

Subpart 613.3—Simplified Acquisition Methods

613.303 Blanket purchase agreements (BPAs).
613.303–5 Purchases under BPAs.
613.305 Imprest funds and third party drafts.
613.305–3 Conditions for use.

Authority: 40 U.S.C. 486(c); 22 U.S.C. 2658.

Subpart 613.3—Simplified Acquisition Methods

613.303 Blanket purchase agreements (BPAs).

613.303–5 Purchases under BPAs.

(c) In accordance with FAR 13.303–5(c), BPAs shall be awarded to small businesses to the maximum extent practicable.

613.305 Imprest funds and third party drafts.

613.305–3 Conditions for use.

The Procurement Executive is the agency head's designee for the purposes of FAR 13.305–3(a).

PART 614—SEALED BIDDING

42. Subpart 614.2 is revised to read as follows:

Subpart 614.2—Solicitation of Bids

614.201 Preparation of Invitation for Bids (IFB).

614.201–70 Use of English language.

Use of English language solicitations and contracts is mandatory unless a deviation has been approved by the Procurement Executive in accordance with 601.470. If any part of a contract is not written in the English language, the contracting officer shall attach an accurate English language translation of such part to the original and each copy of the contract, unless the contracting officer determines such action is infeasible.

43. Section 614.404–1 is amended by adding a new paragraph (f) to read as follows:

614.404–1 Cancellation of invitations after opening.

* * * * *

(f) The head of the contracting activity is the agency head for the purpose of FAR 14.404–1(f). This authority is not redelegable.

614.406, 614.406–3, and 614.406–4 [Redesignated as 614.407, 614.407–3, and 614.407–4]

44. Sections 614.406, 614.406–3 and 614.406–4, are re-designated as ''614.407'', ''614.407–3'', and ''614.407–4'', respectively.

614.407–3 [Amended]

45. Newly designated section 614.407–3 is amended by correcting ''FAR 14.406'' to read ''FAR 14.407'' where it appears in the first sentence; and, by correcting ''FAR 14.406–3(f)'' to read ''FAR 14.407–3(f)'' where it appears in the second sentence.

614.407–4 [Amended]

46. Newly designated section 614.407–4 is amended by correcting ''FAR 14.406–4'' to read ''FAR 14.407–4'' where it appears in the first sentence; and, by correcting ''FAR 14.406–4(d)'' to read ''FAR 14.407–4(d)'' where it appears in the second sentence.

47. Part 615 is revised to read as follows:

PART 615—CONTRACTING BY NEGOTIATION

Sec.

Subpart 615.2—Solicitation and Receipt of Proposals and Information

615.204 Contract format.
615.205 Issuing solicitations.
615.205–70 Use of English language.

Subpart 615.3—Source Selection

615.303 Responsibilities.

Subpart 615.6—Unsolicited Proposals

615.604 Agency points of contact.

Authority: 40 U.S.C. 486(c); 22 U.S.C. 2658.

Subpart 615.2—Solicitation and Receipt of Proposals and Information

615.204 Contract format.

(e) The Procurement Executive is the agency head's designee for the purposes of FAR 15.204(e).

615.205 Issuing solicitations.

(a) Contracting officers shall release copies of solicitation mailing lists in accordance with FAR 14.205–5(a). However, the list of those firms which actually submit proposals is not releasable. Requests for information other than solicitation mailing lists shall be handled under the Freedom of Information Act.

615.205–70 Use of English language.

The requirements of DOSAR 614.201–70 also apply when contracting by negotiation.

Subpart 615.3—Source Selection

615.303 Responsibilities.

(a) The Procurement Executive is the agency head for the purposes of FAR 15.303(a).

Subpart 615.6—Unsolicited Proposals

615.604 Agency points of contact.

(a)(4) The contact points for unsolicited proposals are the heads of the contracting activities.

PART 616—TYPES OF CONTRACTS

Subpart 616.1—[Removed]

48. Subpart 616.1, consisting of sections 616.102 and 616.102–70, is removed.

Subpart 616.3—[Removed]

49. Subpart 616.3, consisting of sections 616.301–3 and 616.306, is removed.

50. Section 616.505 is re-designated as section 616.506, and the section heading is revised to read as follows:

616.506 Solicitation provisions and contract clauses.

616.505–70 [Redesignated as 616.506–70]

51. Section 616.505–70 is re-designated as section 616.506–70.

52. A new section 616.505 is added to read as follows:

616.505 Ordering.

(b)(4) The Departmental Competition Advocate is designated the task and delivery order contract ombudsman.

Subpart 616.6—[Removed]

53. Subpart 616.6, consisting of sections 616.603 and 616.603–2, is removed.

PART 617—SPECIAL CONTRACTING METHODS

54. Subpart 617.1 is revised to read as follows:

Sec.

Subpart 617.1—Multiyear Contracting

617.104 General.
617.105 Policy.
617.105–1 Uses.
617.108 Congressional notification.

Subpart 617.1—Multiyear Contracting

617.104 General.

(b) The Procurement Executive is the agency head for the purpose of FAR 17.104(b).

617.105 Policy.

617.105–1 Uses.

(d) Every multiyear contract shall comply with FAR 17.104(c), unless an exception is approved through the budget process in coordination with the cognizant financial management office/comptroller.

617.108 Congressional notification.

(a) The Procurement Executive is the agency head for the purposes of FAR 17.108(a).

617.502 [Removed]

55. Section 617.502 is removed.

56. Section 617.503 is added to read as follows:

617.503 Determination and findings requirements.

The authority to make the determination prescribed in FAR 17.503 is delegated to the head of the contracting activity.

617.504–70 [Amended]

57. Section 617.504–70 is amended in paragraph (a) by adding the words ''or their equivalents'' after the words ''Department deputy assistant secretaries.''

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 619—SMALL BUSINESS PROGRAMS

58. Part 619 is amended by revising the heading to read as set forth above.

59. Section 619.201 is amended in paragraph (d)(5) by removing the word ''limitation'' and adding the words ''threshold, including commercial items using the simplified procedures of FAR subpart 13.5,'' in its place; and, by revising paragraph (d)(18) to read as follows:

619.201 General policy.

* * * * *

(d) * * *

(18) Participating in interagency programs relating to small and small disadvantaged business matters as authorized by the A/SDBU Operations Director.

619.501 [Amended]

60. Section 619.501 is amended by deleting the phrase ''/Labor Surplus Area'' from the title of the Form DS–1910.

61. Section 619.505 is amended by revising the section heading to read as follows:

619.505 Rejecting Small Business Administration recommendations.

62. Subpart 619.7 is amended by revising the subpart heading to read as follows:

Subpart 619.7—Subcontracting with Small Business, Small Disadvantaged Business and Women-Owned Small Business Concerns

63. Section 619.705–3 is revised to read as follows:

619.705–3 Preparing the solicitation.

To further promote the use of small, disadvantaged, and women-owned firms by large prime contractors, contracting officers are encouraged to consider the adequacy of the subcontracting plans, and/or past performance in achieving negotiated subcontract goals, as part of the overall evaluation of the technical proposals.

64. Subpart 619.8 is revised to read as follows:

Subpart 619.8—Contracting with the Small Business Administration (The 8(a) Program)

Sec.
619.800 General.
619.801 Definitions.
619.803 Selecting acquisitions for the 8(a) program.
619.803–70 Responsibilities of the Office of Small and Disadvantaged Business Utilization (A/SDBU).
619.803–71 Simplified procedures for 8(a) acquisitions under MOUs.
619.804 Evaluation, offering, and acceptance.
619.804–2 Agency offering.
619.804–3 SBA acceptance.
619.804–3–70 SBA acceptance under MOUs for acquisitions exceeding $100,000.
619.805 Competitive 8(a).
619.805–2 Procedures.
619.806 Pricing the 8(a) contract.
619.808 Contract negotiation.
619.808–1 Sole source.
619.810 SBA appeals.

619.811 Preparing the contracts.
619.811–1 Sole source.
619.811–2 Competitive.
619.811–3 Contract clauses.
619.812 Contract administration.

Subpart 619.8—Contracting with the Small Business Administration (The 8(a) Program)

619.800 General.

(d) Utilizing Memoranda of Understanding (MOUs), the SBA has delegated its authority to contract directly with program participants under Section 8(a) of the Small Business Act to the Senior Procurement Executives of various Federal contracting activities. The Department of State has signed an MOU with SBA, effective May 6, 1998. Under the MOU, a contract may be awarded directly to an 8(a) firm on either a sole source or competitive basis. The SBA reserves the right to withdraw any delegation issued as a result of an MOU; however, any such withdrawal shall have no effect on contracts currently awarded under the MOU.

619.801 Definitions.

National buy requirements includes all 8(a) contracts performed outside the United States and processed by the Small Business Administration.

619.803 Selecting acquisitions for the 8(a) program.

619.803–70 Responsibilities of the Office of Small and Disadvantaged Business Utilization (A/SDBU).

A/SDBU shall review the capabilities of 8(a) concerns and disseminate that information to DOS program and contracting personnel. As necessary, A/SDBU shall obtain from the SBA or 8(a) concerns supplemental information for DOS program and contracting personnel.

619.803–71 Simplified procedures for 8(a) acquisitions under MOUs.

Contracting activities may use the simplified acquisition procedures of FAR part 13 and DOSAR part 613 to issue purchase orders or contracts, not exceeding $100,000, to 8(a) participants. The $100,000 limitation for use of FAR part 13 simplified acquisition procedures applies to the acquisition of both commercial and non-commercial items. The following applies to such acquisitions:

(a) Neither offering letters to, nor acceptance letters from, the SBA are required.

(b) The contracting activity shall use the SBA's PRO-Net database on the Internet (http://www.sba.gov) to establish that the selected 8(a) firm is a current program participant.

(c) Once an 8(a) contractor has been identified, the agency contracting officer shall establish the price with the selected 8(a) contractor.

(d) The contracting officer shall issue the purchase order or contract directly to the 8(a) firm in accordance with the provisions of FAR part 13 and DOSAR part 613. The contracting officer shall insert FAR clause 52.219–14, Limitations on Subcontracting, and DOSAR clause 652.219–71, Section 8(a) Direct Award, in all purchase orders and contracts awarded under this subsection. The contracting officer's title shall include the contracting activity, as follows: Contracting Officer for the Department of State [insert contracting activity]. In addition, in accordance with the MOU, A/SDBU staff who have been issued limited contracting officer warrants for this purpose, shall sign the purchase order or contract as a third party.

(e) The contracting officer shall forward to the SBA District Office serving the 8(a) firm a copy of the purchase order or contract within five days after the order is issued.

619.804 Evaluation, offering, and acceptance.

619.804–2 Agency offering.

(a) When applicable, this notification shall identify that the offering is in accordance with the MOU identified in 619.800.

619.804–3 SBA acceptance.

619.804–3–70 SBA acceptance under MOUs for acquisitions exceeding $100,000.

(a) The SBA's decision whether to accept the requirement shall be transmitted to the contracting agency in writing within five working days of receipt of the offer.

(b) The SBA may request, and the contracting agency may grant, an extension beyond the five-day limit.

(c) SBA's acceptance letter should be faxed or e-mailed to the offering contracting agency.

(d) If the offering contracting agency has not received an acceptance or rejection of the offering from SBA within five days of SBA's receipt of the offering letter, the contracting agency may assume that the requirement has been accepted and proceed with the acquisition.

(e) The contents of the acceptance letter shall be limited to the eligibility of the recommended 8(a) contractor.

619.805 Competitive 8(a).

619.805–2 Procedures.

(a) 8(a) acquisitions may also be conducted using simplified acquisition procedures (see FAR part 13). The award process is significantly streamlined where an MOU is in place.

(c)(3) For requirements exceeding $100,000 processed under the MOU cited in 619.800, the contracting officer shall submit the name, address, and telephone number of the low offeror (in sealed bid acquisitions) or the apparent successful offeror (in negotiated acquisitions) to the SBA Business Opportunity Specialist at the field office servicing the identified 8(a) firm. The SBA shall determine the eligibility of the firm(s) and advise the contracting officer within two working days of the receipt of the request. If the firm is determined to be ineligible, the contracting officer shall submit information on the next low offeror or next apparent successful offeror, as applicable, to the cognizant SBA field office.

619.806 Pricing the 8(a) contract.

(a) When required by FAR subpart 15.4, the contracting officer shall obtain certified cost or pricing data directly from the 8(a) contractor if the contract is being awarded under the MOU cited in 619.800.

619.808 Contract negotiation.

619.808–1 Sole source.

(a) If the acquisition is conducted under an MOU cited in 619.800, the 8(a) contractor is responsible for negotiating with the agency within the time established by the agency. If the 8(a) contractor does not negotiate within the established time and the agency cannot allow additional time, the agency may, after notification and approval by SBA, proceed with the acquisition from other sources.

(b) If the acquisition is conducted under an MOU cited in 619.800, the agency is delegated the authority to negotiate directly with the 8(a) participant; however, if requested by the 8(a) participant, the SBA may participate in the negotiations.

619.810 SBA appeals.

(d) The Procurement Executive is the agency head for the purposes of FAR 19.812(d).

619.811 Preparing the contracts.

619.811–1 Sole source.

(d) If the award is to be made under an MOU cited in 619.800, the contract to be awarded by the contracting activity to the 8(a) firm shall be

prepared in accordance with the contracting activity's normal procedures, given contract type and dollar amount, that the contracting activity would use for a similar, non-8(a) acquisition, except for the following:

(1) The award form shall cite 41 U.S.C. 253(c)(5) or 10 U.S.C. 2304(c)(5), as appropriate, and 15 U.S.C. 637(a) as the authority for use of other than full and open competition.

(2) The contracting officer shall insert FAR 52.219–14, Limitations on Subcontracting, and DOSAR 652.219–71, Section 8(a) Direct Awards.

(3) For acquisitions exceeding $100,000, the contracting activity shall include SBA's requirement number on the award document.

(4) A single award document shall be used between the agency and the 8(a) contractor, i.e., an SBA signature will not be required. The title of the agency contracting officer shall include the contracting activity, as follows: Contracting Officer for the Department of State [insert contracting activity]. In addition, in accordance with the MOU, A/SDBU staff who have been issued limited contracting officer warrants for this purpose shall sign the contract as a third party. The 8(a) contractor's signature shall be placed on the award document as the prime contractor. The 8(a) contractor's name and address shall be placed in the ''Awarded to'' or ''Contractor name'' block on the appropriate form.

619.811–2 Competitive.

(a) If the award is made under the delegation of 8(a) contracting authority, competitive contracts for 8(a) firms shall be prepared in accordance with the same standards as 8(a) sole source contracts. See 619.811–1.

(b) If the acquisition is conducted under the MOU cited in 619.800, the process for obtaining signatures shall be as specified in 619.811–1(d)(4).

619.811–3 Contract clauses.

(d)(3) The contracting officer shall insert the clause at FAR 52.219–18, Notification of Competition Limited to Eligible 8(a) Concerns, with its Alternate III (Deviation), in competitive solicitations and contracts exceeding $100,000 when the acquisition is processed under the MOU cited in 619.800.

(f) The contracting officer shall insert the clause at FAR 52.219–14, Limitations on Subcontracting, and DOSAR 652.219–71, Section 8(a) Direct Awards, in all solicitations and contracts that are processed under the MOU cited at 619.800. The clauses at FAR 52.219–11, Special 8(a) Contract Conditions; 52.219–12, Special 8(a) Subcontract Conditions; and, 52.219–17, Section 8(a) Award, shall not be used.

619.812 Contract administration.

(d) The head of the contracting activity is the agency head for the purposes of FAR 19.812(d). Awards under the MOU cited in 619.800 are subject to 15 U.S.C. 637(a)(21). These contracts contain the clause at DOSAR 652.219–71, Section 8(a) Direct Awards, that requires the 8(a) contractor to notify the SBA and the contracting officer when ownership of the firm is being transferred.

PART 622—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

622.401 [Removed]

65. Section 622.401 is removed.

622.406–3 [Removed]

66. Section 622.406–3 is removed.

67. Section 622.803 is added to read as follows:

622.803 Responsibilities.

(c) The Procurement Executive is the agency head for the purpose of FAR 22.803(c).

68. The heading of subpart 622.13 is revised to read as follows:

Subpart 622.13—Disabled Veterans and Veterans of the Vietnam Era

69. The heading of subpart 622.14 is revised to read as follows:

Subpart 622.14—Employment of Workers With Disabilities

PART 623—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

70. Subpart 623.4 is revised to read as follows:

Subpart 623.4—Use of Recovered Materials

Sec.
623.400 Scope of subpart.
623.404 Procedures.

Subpart 623.4—Use of Recovered Materials

623.400 Scope of subpart.

The affirmative procurement program is applicable to all domestic acquisitions of items currently designated by an EPA guideline or by future guidelines promulgated by EPA. The requirements of this section are not applicable to acquisitions made and/or performed outside the United States or its possessions.

623.404 Procedures.

(b)(2) The requirements office initiating an acquisition is responsible for determining whether recovered materials should be included in the specifications. Requirements offices may purchase EPA designated items containing other than recovered materials only if one of the exemptions listed in FAR 23.404(b)(3) applies. If the requirements office determines to acquire EPA designated items that do not contain recovered materials, a written justification must be submitted to the head of the contracting activity.

(i) Contracts for the purchase of, or requiring the supply of, any EPA designated item shall require that the item conform to the EPA guidelines, unless an exception has been approved by the head of the contracting activity in accordance with FAR 23.404(b)(3) and DOSAR 623.404(b)(3).

(ii) Contracting officers shall promote the fact that the Department is seeking to buy items containing recovered materials at pre-bid and pre-proposal conferences, when appropriate. Other means of promotion may include a specific notice on a solicitation's cover letter, calling attention to the requirement for recovered materials.

(iii) Contracting officers shall include FAR clause 52.223–9 to ensure that contractors estimate, certify, and verify the amount of recovered material used in the performance of the contract.

(iv) The effectiveness of the program shall be reviewed annually by A/OPE. An assessment will be made to determine if greater use of recovered materials is possible for the existing requirements or if recovered materials are causing undue delay, lack of competition, unreasonable prices, or an unacceptable level of performance.

(3) The head of the contracting activity is the agency head for the purpose of FAR 23.404(b)(3).

PART 625—FOREIGN ACQUISITION

Subpart 625.9 [Removed]

71. Subpart 625.9, consisting of sections 625.901 and 625.903, is removed.

72. Subpart 625.70 is added to read as follows:

Subpart 625.70—Arab League Boycott and Related Provisions

Sec.
625.7001 Policy.
625.7002 Solicitation provision and contract clause.

Subpart 625.70—Arab League Boycott and Related Provisions

625.7001 Policy.

(a) Section 565 of the Fiscal Year 94/95 Foreign Relations Authorizations Act (Public Law 103–236) prohibits the Department of State from entering into any contract that expends funds appropriated to the Department of State:

(1) With a foreign person that complies with the Arab League Boycott of Israel; or,

(2) With any foreign or United States person that discriminates in the award of subcontracts on the basis of religion.

(b) This authority has continuing effect. Section 565 requires specific language to be included in all Invitations for Bids and Requests for Proposals with respect to a contract subject to Section 565's prohibitions.

(c) Section 565 may be waived on a country-by-country basis if such a waiver is in the national interest and necessary to carry on diplomatic functions and is approved by the Secretary of State or his/her designee.

625.7002 Solicitation provision and contract clause.

Contracting officers shall include the following provision and clause in all solicitations and contracts exceeding the simplified acquisition threshold, unless a waiver has been granted in accordance with DOSAR 625.7001(c):

(a) 652.225–70, Arab League Boycott of Israel; and.

(b) 652.225–71, Section 8(a) of the Export Administration Act, as amended.

73. Part 626 is added to subchapter D to read as follows:

PART 626—OTHER SOCIOECONOMIC PROGRAMS

Subpart 626.2—Minority Business Enterprise

626.200–70 Solicitation provision.

The contracting officer shall insert the provision at 652.226–70, Certification of Status as a Minority Business Enterprise, in all solicitations issued by domestic contracting activities. If the solicitation is being issued using electronic commerce, the contracting officer shall use the provision with its Alternate I.

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 628—BONDS AND INSURANCE

74. Section 628.305 is amended by revising the second and third sentences of paragraph (b) introductory text and adding a fourth sentence to read as follows; and by removing paragraphs (b)(1), (b)(2), and (b)(3):

628.305 Overseas workers' compensation and war-hazard insurance.

* * * * *

(b) * * * In countries where local nationals and/or third country nationals will be employed to perform the contract, such countries have been waived by the Secretary of Labor. Whenever such insurance is required under the contract, the contracting officer shall insert the clause at 652.228–71, Worker's Compensation Insurance (Defense Base Act)—Services. If the contract is for construction, the contracting officer shall insert the clause with its Alternate I.

* * * * *

75. Section 628.306 is revised to read as follows:

628.306 Insurance under fixed-price contracts.

The contracting officer shall insert the provision at 652.228–74, Defense Base Act Insurance Rates—Limitation—Fixed-Price, in solicitations for fixed-price or construction contracts to be performed outside the United States by United States citizens, residents, and/or those hired in the United States.

76. Section 628.307 is revised to read as follows:

628.307 Insurance under cost-reimbursement contracts.

The contracting officer shall insert the provision at 652.228–76, Defense Base Act Insurance Rates—Limitation—Cost-Reimbursement, Labor-Hour, and Time-and-Materials, in solicitations for cost-reimbursement, labor-hour, or time-and-materials type contracts to be performed outside the United States by United States citizens, residents, and/or those hired in the United States.

628.307–70 [Removed]

77. Section 628.307–70 is removed.

PART 629—TAXES

78. Sections 629.402, 629.402–1 and 629.402–1–70 are added to read as follows:

629.402 Foreign contracts.

629.402–1 Foreign fixed-price contracts.

629.402–1–70 DOSAR contract clause.

The contracting officer shall insert the clause at 652.229–71, Personal Property Disposition at Posts Abroad, in all solicitations and contracts performed overseas.

PART 630—COST ACCOUNTING STANDARDS

79. Part 630 is removed.

PART 631—CONTRACT COST PRINCIPLES AND PROCEDURES

80. Subpart 631.2 is added to read as follows:

Subpart 631.2—Contracts with Commercial Organizations

631.205 Selected costs.

631.205–6 Compensation for personal services.

(g)(3) The head of the contracting activity is the agency head's designee for the purpose of FAR 31.205–6(g)(3).

PART 632—CONTRACT FINANCING

81. Sections 632.006, 632.006–1, 632.006–2, and 632.006–4 are added to read as follows:

632.006 Reduction or suspension of contract payments upon finding of fraud.

632.006–1 General.

The Procurement Executive is the agency head for the purpose of FAR 32.006–1.

632.006–2 Definitions.

Remedy coordination official means the Assistant Inspector General for Investigations.

632.006–4 Procedures.

The Procurement Executive is the agency head for the purposes of FAR 32.006–4.

82. Subpart 632.1 is added to read as follows:

Subpart 632.1—Non-Commercial Item Purchase Financing

632.114 Unusual contract financing.

The Procurement Executive is the agency head for the purpose of FAR 32.114.

83. Subpart 632.2 is added to read as follows:

Subpart 632.2—Commercial Item Purchase Financing

632.201 Statutory authority.

The head of the contracting activity is the agency head for the purpose of FAR 32.201.

84. Section 632.404 is added to read as follows:

632.404 Exclusions.

(a) Total advance payments may be authorized for the items listed in FAR 32.404(a), notwithstanding their designation as a commercial item and

acquisition under FAR part 12 procedures.

85. Subpart 632.7 is revised to read as follows:

Subpart 632.7—Contract Funding

Sec.
632.702 Policy.
632.702–70 DOS policy.
632.703 Contract funding requirements.
632.703–3 Contracts crossing fiscal years.
632.705 Contract clauses.
632.705–70 DOSAR contract clause.

Subpart 632.7—Contract Funding

632.702 Policy.

632.702–70 DOS policy.

The Department's policy is to provide full funding for all contracts, to the maximum extent practicable. FAR 32.704 and 32.705–2 provide for incremental funding of cost-reimbursement contracts. Fixed-price, labor-hour, and time-and-materials contracts for severable services may also be incrementally funded if full funding is not available at the time of contract award and the contracting officer executes a determination and findings, approved by the requirements office, justifying the need for incremental funding due to the unavailability of funds.

632.703 Contract funding requirements.

632.703–3 Contracts crossing fiscal years.

(b) The head of the contracting activity is the agency head for the purpose of FAR 32.703–3(b).

632.705 Contract clauses.

632.705–70 DOSAR contract clause.

The contracting officer shall insert the clause at 652.232–72, Limitation of Funds, in incrementally funded fixed-price, labor-hour, and time-and-materials solicitations and contracts for severable services.

86. Section 632.803 is amended by adding the following sentence to the end of paragraph (b):

632.803 Policies.

(b) * * * The Directors, Regional Procurement Support Offices may approve the assignment of claims for contracts under their administration after obtaining legal consultation.

PART 633—PROTESTS, DISPUTES AND APPEALS

633.102 [Amended]

87. Section 633.102 is amended by removing the words ''or the General Services Administration Board of Contract Appeals (GSBCA)''.

88. Section 633.103 is revised to read as follows:

633.103 Protests to the agency.

(d)(4) The independent review as described in FAR 33.103(d)(4) shall be performed by the Departmental Competition Advocate.

89. Section 633.104 is revised to read as follows:

633.104 Protests to GAO.

(a) General procedures. The Office of the Assistant Legal Adviser for Buildings and Acquisitions (L/BA) coordinates the response of the Department of State to protests filed at the GAO. Contracting activities shall consult L/BA for guidance before taking any actions in response to a protest to GAO.

633.105 [Removed]

90. Section 633.105 is removed.

633.211 [Removed]

91. Section 633.211 is removed.

92. Section 633.214–70 is amended in paragraph (c) introductory text and paragraph (c)(2) by removing the acronym ''ASBCA'' and inserting the acronym ''GSBCA'' in its place in the second sentence and first sentence, respectively; and, in paragraphs (c)(4), (c)(5), and (c)(6)(iii) by deleting the last sentence of each paragraph, and by inserting the following sentence in each paragraph in its place:

633.214–70 Alternative dispute resolution.

* * * * *

(c) * * *

(4) * * * Additional information on alternative dispute resolution and mediation resources is available at the following address on the Internet: *http://www.adrr.com*

(5) * * * Additional information on alternative dispute resolution and mediation resources is available at the following address on the Internet: *http://www.adrr.com*

(6) * * *

(iii) * * * Additional information on alternative dispute resolution and mediation resources is available at the following address on the Internet: *http://www.adrr.com*

* * * * *

633.270–1 [Amended]

93. Section 633.270–1 is amended by removing the words ''Armed Services Board of Contract Appeals'' and inserting the words ''General Services Board of Contract Appeals'' in their place.

633.270–2 [Amended]

94. Section 633.270–2 is amended by removing the words ''Armed Services Board of Contract Appeals (ASBCA)'' and inserting the words ''General Services Board of Contract Appeals (GSBCA)'' in their place in the first sentence; and, by removing the acronym ''ASBCA'' and inserting the acronym ''GSBCA'' in its place in the second sentence.

633.270–3 [Amended]

95. Section 633.270–3 is amended by removing the acronym ''ASBCA'' and inserting the acronym ''GSBCA'' in its place at the end of the first sentence.

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

PART 634—MAJOR SYSTEM ACQUISITION

634.001, 634.001–70, and 634.002 [Removed]

96. Sections 634.001, 634.001–70, and 634.002 are removed.

634.003 [Amended]

97. Section 634.003 is amended in paragraph (a) by removing the second sentence.

634.005–6 [Amended]

98. Section 634.005–6 is amended by removing the period at the end of the sentence and adding the following words to the end of the sentence ''with power of redelegation to the Under Secretary for Management.''

PART 636—CONSTRUCTION AND ARCHITECT-ENGINEERING CONTRACTS

99. Section 636.101–70 is amended by adding the following sentence:

636.101–70 Exception.

* * * The Deputy Assistant Secretary for Foreign Buildings Operations is authorized to waive the provisions of the FAR.

100. Subpart 636.5 is added to read as follows:

Subpart 636.5—Contract Clauses

636.513 Accident prevention.

(a) In accordance with a class deviation approved by the Procurement Executive, contracting officers at overseas contracting activities shall insert DOSAR 652.236–70, Accident Prevention, in lieu of FAR clause 52.236–13 when awarding construction contracts.

101. Section 636.602–1 is added to read as follows:

636.602–1 Selection criteria.

(b) The head of the contracting activity is the agency head's designee for the purpose of FAR 36.602–1(b).

PART 637—SERVICE CONTRACTING

102. Section 637.104–70 is amended by revising the heading; by removing the word ''and'' at the end of paragraph (g); by removing the period and adding a semicolon and the word ''and'' to the end of paragraph (h); and by adding a new paragraph (i) to read as follows:

637.104–70 Personal services contracts.

* * * * *

(i) For the Bureau of Diplomatic Security, section 206 of Public Law 99–399, as amended by the Emergency Supplemental Appropriations Act of 1998.

637.106 [Removed]

103. Section 637.106 is removed.

104. Section 637.110 is amended by adding the following sentence to the end of paragraph (c):

637.110 Solicitation provisions and contract clauses.

* * * * *

(c) * * * Overseas contracting activities may add local holidays to the list included in paragraph (a) of the clause.

105. Subpart 637.2 is added to read as follows:

Subpart 637.2—Advisory and Assistance Services

637.204 Guidelines for determining availability of personnel.

The head of the contracting activity is the agency head for the purposes of FAR 37.204.

PART 639—ACQUISITION OF INFORMATION RESOURCES

106. Part 639, consisting of section 639.001–70, is removed.

107. Part 641 is added to subchapter F to read as follows:

PART 641—ACQUISITION OF UTILITY SERVICES

Authority: 40 U.S.C. 486(c); 22 U.S.C. 2658.

Subpart 641.2—Acquiring Utility Services 641.201 Policy.

(d) The Procurement Executive is the agency head for the purposes of FAR 41.201(d)(2)(i) and FAR 41.201(d)(3).

SUBCHAPTER G—CONTRACT MANAGEMENT

PART 642—CONTRACT ADMINISTRATION AND AUDIT SERVICES

108. Part 642 is amended by revising the heading to read as set forth above.

109. The heading of subpart 642.2 is revised to read as follows:

Subpart 642.2—Contract Administration Services

110. Section 642.271 is revised to read as follows:

642.271 DOSAR contract clauses.

(a) The contracting officer shall insert a clause substantially the same as the clause at 652.242–70, Contracting Officer's Representative, in solicitations and contracts when appointment of a contracting officer's representative is anticipated.

(b) The contracting officer shall insert a clause substantially the same as the clause at 652.242–73, Authorization and Performance, in all solicitations and contracts to be awarded and/or performed overseas. For overseas local guard contracts, the contracting officer shall use the clause with its Alternate I.

111. Subpart 642.7 is added to read as follows:

Subpart 642.7—Indirect Cost Rates

642.703 General.

642.703–2 Certificate of indirect costs.

(b) The head of the contracting activity is the agency head's designee for the purpose of FAR 42.703–2(b).

PART 643—CONTRACT MODIFICATIONS

643.102–7 [Amended]

112. Section 643.102–70 is amended by removing paragraph (b) and by removing the paragraph designation in paragraph (a).

113. Sections 643.104 and 643.104–70 are added to read as follows:

643.104 Notification of contract changes.

643.104–70 DOSAR contract clause.

The contracting officer shall insert the clause at 652.243–70, Notices, in all solicitations and contracts exceeding the micro-purchase threshold which are awarded and/or performed overseas.

114. Part 644 is added to subchapter G to read as follows:

PART 644—SUBCONTRACTING POLICIES AND PROCEDURES

Authority: 40 U.S.C. 486(c); 22 U.S.C. 2658.

Subpart 644.3—Contractor's Purchasing System Reviews

644.302 Requirements.

(a) The Procurement Executive is the head of the agency for the purpose of FAR 44.302(a).

PART 645—GOVERNMENT PROPERTY

115. Subpart 645.4 is added to read as follows:

Subpart 645.4—Contractor Use and Rental of Government Property

645.403 Rental—Use and Charges clause.

(a) The head of the contracting activity is the agency head's designee for the purpose of FAR 45.403(a).

PART 646—QUALITY ASSURANCE

116. Part 646 is removed.

PART 647—TRANSPORTATION

117. Subpart 647.2 is added to read as follows:

Subpart 647.2—Contracts for Transportation or for Transportation-Related Services

647.207 Solicitation provisions, contract clauses, and special requirements.

647.207–7 Liability and insurance.

(e) The Procurement Executive has approved a class deviation for paragraph (c) of FAR clause 52.247–23, Contractor Liability for Loss of and/or Damage to Household Goods. The contracting officer shall indicate that the contractor shall indemnify the owner of the goods at a rate of $5.00 per pound (or metric equivalent in local currency) based on the total net weight. The rate conforms with liability calculations found in International Through Government Bills of Lading (ITGBL).

PART 649—TERMINATION OF CONTRACTS

649.111 [Removed]

118. Section 649.111 is removed.

SUBCHAPTER H—CLAUSES AND FORMS

PART 652—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

652.203–70 [Removed]

119. Section 652.203–70 is removed.

652.203–71 [Removed]

120. Section 652.203–71 is removed.

652.204–70 [Removed]

121. Section 652.204–70 is removed.

652.204–71 [Removed]

122. Section 652.204–71 is removed.

123. Section 652.206–70 is revised to read as follows:

652.206–70 Competition Advocate/Ombudsman.

As prescribed in 606.570, insert the following provision:

Competition Advocate/Ombudsman (Aug 1999)

(a) The Department of State's Competition Advocate is responsible for assisting industry in removing restrictive requirements from Department of State solicitations and removing barriers to full and open competition and use of commercial items. If such a solicitation is considered competitively restrictive or does not appear properly conducive to competition and commercial practices, potential offerors are encouraged to first contact the contracting officer for the respective solicitation. If concerns remain unresolved, contact the Department of State Competition Advocate on (703) 516–1680, by fax at (703) 875–6155, or write to: Department of State, Competition Advocate, Office of the Procurement Executive (A/OPE), Suite 603, SA–6, Washington, DC 20522–0602.

(b) The Department of State's Acquisition Ombudsman has been appointed to hear concerns from potential offerors and contractors during the preaward and postaward phases of this acquisition. The role of the ombudsman is not to diminish the authority of the contracting officer, the Technical Evaluation Panel or Source Evaluation Board, or the selection official. The purpose of the ombudsman is to facilitate the communication of concerns, issues, disagreements, and recommendations of interested parties to the appropriate Government personnel, and work to resolve them. When requested and appropriate, the ombudsman will maintain strict confidentiality as to the source of the concern. The ombudsman does not participate in the evaluation of proposals, the source selection process, or the adjudication of formal contract disputes. Interested parties are invited to contact the contracting activity ombudsman, [insert name], at [insert telephone and fax numbers]. For an American Embassy or overseas post, refer to the numbers below for the Department Acquisition Ombudsman. Concerns, issues, disagreements, and recommendations which cannot be resolved at a contracting activity level may be referred to the Department of State Acquisition Ombudsman at (703) 516–1680, by fax at (703) 875–6155, or write to: Department of State, Acquisition Ombudsman, Office of the Procurement Executive (A/OPE), Suite 603, SA–6, Washington, DC 20522–0602.

(End of provision)

652.214–70 [Removed]

124. Section 652.214–70 is removed.

652.214–71 [Removed]

125. Section 652.214–71 is removed.

126. Section 652.216–70 is amended by revising the introductory text to read as follows:

652.216–70 Ordering—Indefinite-delivery contract.

As prescribed in 616.506–70, insert the following clause:

* * * * *

127. Section 652.216–71 is revised to read as follows:

652.216–71 Price adjustment.

As prescribed in 616.203–4, insert a clause substantially the same as follows:

Price Adjustment (Aug 1999)

(a) The contract price may be increased or decreased in actual costs of direct service labor which result directly from laws enacted and effective during the term of this contract by the [insert name of country] Government. Direct service labor costs include only the costs of wages and direct benefits (such as social security, health insurance, unemployment compensation insurance) paid to or incurred for the direct benefit of personnel performing services under one of the categories listed in Section [identify section number] of this contract. Price adjustments will include only changes in direct service labor costs incurred in order to comply with the requirements of the law. No adjustment will be made under this clause with respect to labor costs of personnel not performing direct service labor under the categories of Section [identify section], nor for overhead, profit, general and administrative (G&A) costs, taxes or any other costs whatsoever.

(b) For the contracting officer to consider any request for adjustment, the contractor shall demonstrate in writing:

(1) That the change in the law occurred during the term of this contract and subsequent to the award date of this contract; and,

(2) That the change in the law could not have been reasonably anticipated prior to contract award; and,

(3) How the change in the law directly affects the contractor's costs under this contract.

(c) The contractor shall present data that clearly supports any request for adjustment. This data shall be submitted no later than 30 calendar days after the changes in the law have been made public. This data shall include, but not be limited to, the following:

(1) The calculation of the amount of adjustment requested; and,

(2) Documentation which identifies and provides the appropriate portions of the text of the particular law from which the request is derived.

(d) In order to establish the change between the requested adjusted rate and the original rate, the contractor shall support the appropriate data and composition of the original rate and the requested adjusted rate. This shall include details regarding specific hourly rates paid to individual employees. For contracts paid in U.S. dollars, the contractor's request for price adjustment shall present data reflecting:

(1) The exchange rate in effect on the date of the contractor's proposal that was accepted for the basic contract; and

(2) The current exchange rate and its effect on payment of workers in local currency. The allowable adjustment shall be limited to the extent to which increases in direct service labor costs due to host country law changes are not offset by exchange rate gains.

(e) Only direct cost changes mandated by enacted laws shall be considered for adjustment under this contract. Changes for purposes of maintaining parity of pay between employees at the minimum mandated levels and employees already paid at levels above the newly mandated minimums shall not be considered. Therefore, if the contractor elects to increase payments to employees who are already being paid at or above the mandated amounts, such increased costs shall be borne solely by the contractor and shall not be justification for an increase in the hourly and monthly rates under this contract.

(f) Any request for adjustment shall be presented by signature of an officer or general partner of the contractor having overall responsibility for the conduct of the contractor's affairs.

(g) No adjustment shall be made to the contract price that relates to any indirect, overhead, or fixed costs, profit or fee. Only the changes in direct service labor wages (and any benefits based directly on wages) shall be considered by the U.S. Government as basis for contract price changes.

(h) No request by the contractor for an adjustment under this clause shall be allowed if asserted after final payment has been made under this contract.

(i) This clause shall only apply to laws enacted by the [insert name of country] Government meeting the criterion set forth above in paragraph (b). No adjustments shall be made due to currency fluctuations in exchange rates.

(End of clause)

128. Section 652.219–71 is added to read as follows:

652.219–71 Section 8(a) direct awards.

As prescribed in 619.811–3(f), insert the following clause:

Section 8(a) Direct Awards (Aug 1999)

(a) This purchase order or contract is issued as a direct award between the contracting activity and the 8(a) contractor pursuant to the Memorandum of Understanding between the Small Business Administration (SBA) and the Department of State (DOS). SBA retains responsibility for 8(a) certification, 8(a) eligibility determinations and related issues, and provides counseling and assistance to the 8(a) contractor under the 8(a) program. The cognizant SBA district office is: [To be completed by the contracting officer at the time of award]

(b) The DOS contracting officer is responsible for administering the purchase order or contract and taking any action on behalf of the Government under the terms and conditions of the purchase order or contract. However, the DOS contracting officer shall give advance notice to the SBA before it issues a final notice terminating performance, either in whole or in part, under the purchase order or contract. The DOS contracting officer shall also coordinate with SBA prior to processing any novation agreement. The DOS contracting officer may assign contract administration functions to a contract administration office.

(c) The contractor agrees:

(1) to notify the DOS contracting officer, simultaneous with its notification to SBA (as required by SBA's 8(a) regulations), when the

owner or owners upon whom 8(a) eligibility is based, plan to relinquish ownership or control of the concern. Consistent with 15 U.S.C. 637(a)(21), transfer of ownership or control shall result in termination of the contract for convenience, unless SBA waives the requirement for termination prior to the actual relinquishing of ownership and control; and,

(2) to adhere to the requirements of FAR 52.219–14, Limitations on Subcontracting.

(End of clause)

652.223–70 [Removed]

129. Section 652.223–70 is removed.

652.223–71 [Removed]

130. Section 652.223–71 is removed.

652.223–72 [Removed]

131. Section 652.223–72 is removed.

652.223–73 [Removed]

132. Section 652.223–73 is removed.

652.223–74 [Removed]

133. Section 652.223–74 is removed.

652.223–75 [Removed]

134. Section 652.223–75 is removed.

652.223–76 [Removed]

135. Section 652.223–76 is removed.

652.223–77 [Removed]

136. Section 652.223–77 is removed.

652.223–78 [Removed]

137. Section 652.223–78 is removed.

138. Section 652.225–70 is added to read as follows:

652.225–70 Arab League Boycott of Israel.

As prescribed in 625.7002(a), insert the following provision:

Arab League Boycott of Israel (Aug 1999)

(a) Definitions. As used in this provision:

Foreign person means any person other than a United States person as defined below.

United States person means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as provided under the Export Administration Act of 1979, as amended.

(b) Certification. By submitting this offer, the offeror certifies that it is not:

(1) Taking or knowingly agreeing to take any action, with respect to the boycott of Israel by Arab League countries, which Section 8(a) of the Export Administration Act of 1979, as amended (50 U.S.C. 2407(a)) prohibits a United States person from taking; or,

(2) Discriminating in the award of subcontracts on the basis of religion.

(End of provision)

139. Section 652.225–71 is added to read as follows:

652.225–71 Section 8(a) of the Export Administration Act of 1979, as amended.

As prescribed in 625.7002(b), insert the following clause:

Section 8(a) of the Export Administration Act of 1979, as Amended (Aug 1999)

(a) Section 8(a) of the U.S. Export Administration Act of 1979, as amended (50 U.S.C. 2407(a)), prohibits compliance by U.S. persons with any boycott fostered by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation. The Boycott of Israel by Arab League countries is such a boycott, and therefore, the following actions, if taken with intent to comply with, further, or support the Arab League Boycott of Israel, are prohibited activities under the Export Administration Act:

(1) Refusing, or requiring any U.S. person to refuse to do business with or in Israel, with any Israeli business concern, or with any national or resident of Israel, or with any other person, pursuant to an agreement of, or a request from or on behalf of a boycotting country;

(2) Refusing, or requiring any U.S. person to refuse to employ or otherwise discriminating against any person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person;

(3) Furnishing information with respect to the race, religion, or national origin of any U.S. person or of any owner, officer, director, or employee of such U.S. person;

(4) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the State of Israel, with any business concern organized under the laws of the State of Israel, with any Israeli national or resident, or with any person which is known or believed to be restricted from having any business relationship with or in Israel;

(5) Furnishing information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the State of Israel; and,

(6) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement against doing business with the State of Israel.

(b) Under Section 8(a), the following types of activities are not forbidden ''compliance with the boycott,'' and are therefore exempted from Section 8(a)'s prohibitions listed in paragraphs (a)(1)–(6) above:

(1) Complying or agreeing to comply with requirements:

(i) Prohibiting the import of goods or services from Israel or goods produced or services provided by any business concern organized under the laws of Israel or by nationals or residents of Israel; or,

(ii) Prohibiting the shipment of goods to Israel on a carrier of Israel, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(2) Complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms, other than with respect to carriers or route of shipments as may be permitted by such regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(3) Complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycotting country, or national or resident thereof, of carriers, insurance, suppliers of services to be performed within the boycotting country or specific goods which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(4) Complying or agreeing to comply with the export requirements of the boycotting country relating to shipments or transshipments of exports to Israel, to any business concern of or organized under the laws of Israel, or to any national or resident of Israel;

(5) Compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and,

(6) Compliance by a U.S. person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his or her activities exclusively therein, and such regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, trade named, or similarly specifically identifiable products, or components of products for his or her own use, including the performance of contractual services within that country, as may be defined by such regulations.

(End of clause)

140. Section 652.226–70 is added to read as follows:

652.226–70 Certification of status as a minority business enterprise.

As prescribed in 626.200–70, insert the following provision:

Certification of Status as a Minority Business Enterprise (Aug 1999)

The Bidder/Offeror/Supplier certifies that it [ ] is [ ] is not [check one] a minority business enterprise which is defined as a business which is at least 51 percent owned

by one or more minority individuals or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority individuals, and whose management and daily operations are controlled by one or more such individuals. For purposes of this definition, minority individuals are:

[Check the applicable block]

[ ] Black Americans
[ ] Hispanic Americans
[ ] Native Americans
[ ] Asian-Pacific Americans
[ ] Other groups whose members are U.S. citizens and are found to be disadvantaged by the Small Business Administration pursuant to Section 8(d) of the Small Business Act, as amended (15 U.S.C. 637(d)), or the Secretary of Commerce.

(End of provision)

Alternate I (Aug 1999).

Certification of Status as a Minority Business Enterprise (Alternate I) (Aug 1999)

(a) If you are a minority-owned business, please indicate in the comments section of your quote/response the applicable minority designation from those listed below. If no comments are received, it shall be assumed that you are not a minority-owned business. This request for information is to assist the Department collect statistics on awards to minority-owned businesses and will not influence the award decision.

(b) A minority business enterprise is defined as a business which is at least 51 percent owned by one or more minority individuals or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority individuals, and whose management and daily operations are controlled by one or more such individuals. For purposes of this definition, minority individuals are: Black Americans; Hispanic Americans; Native Americans; Asian-Pacific Americans; and, other groups whose members are U.S. citizens and are found to be disadvantaged by the Small Business Administration pursuant to Section 8(d) of the Small Business Act, as amended (15 U.S.C. 637(d)), or the Secretary of Commerce.

(End of provision)

141. Section 652.228–70 is amended by revising the introductory text to read as follows:

652.228–70 Indemnification.

As prescribed in 628.7001(b), insert the following clause:

* * * * *

142. Section 652.228–71 is revised to read as follows:

652.228–71 Worker's compensation insurance (Defense Base Act)—Services

As prescribed in 628.305(b), insert the following clause:

Worker's Compensation Insurance (Defense Base Act)—Services (Aug 1999)

(a) This clause supplements FAR 52.228–3.

(b) The contractor agrees to procure Defense Base Act (DBA) insurance pursuant to the terms of the contract between the Department of State and the Department's DBA insurance carrier unless the contractor has a DBA self-insurance program approved by the Department of Labor. The contractor shall submit a copy of the Department of Labor's approval to the contracting officer upon contract award. The current rate under the Department of State contract is [contracting officer insert rate] of compensation for services.

(c) Since the Department of State has obtained a waiver of DBA coverage for contractor employees who are not citizens of, residents of, or hired in the United States, the contractor agrees to provide such employees with worker's compensation benefits as required by the laws of the country in which the employees are working, or by the laws of the employee's native country, whichever offers greater benefits.

(d) The contractor agrees to insert a clause substantially the same as this one in all subcontracts to which the DBA is applicable. Subcontractors shall be required to insert a similar clause in any of their subcontracts subject to the DBA.

(e) Should the rates for DBA insurance coverage increase or decrease during the performance of this contract, the Department shall modify this contract accordingly.

(f) The contractor shall demonstrate to the satisfaction of the contracting officer that the equitable adjustment as a result of the insurance increase or decrease does not include any reserve for such insurance. Adjustment shall not include any overhead, profit, general and administrative expenses, etc.

(End of clause)

Alternate I (Aug 1999). If the contract is for construction, as prescribed in 628.305 (b), substitute the last sentence of paragraph (b) to read as follows: ''The current rate under the Department of State contract is [contracting officer insert rate] of compensation for construction.''

652.228–72 [Removed and reserved]

143. Section 652.228–72 is removed and reserved.

652.228–73 [Removed and reserved]

144. Section 652.228–73 is removed and reserved.

145. Section 652.228–74 is revised to read as follows:

652.228–74 Defense Base Act insurance rates—Limitation—Fixed-price.

As prescribed in 628.306, insert the following provision:

Defense Base Act Insurance Rates—Limitation—Fixed-Price (Aug 1999)

(a) The Department of State has entered into a contract with an insurance carrier to provide DBA insurance to Department of State contractors at a contracted rate. The rates for this insurance are as follows:

Services @ [contracting officer insert current rate] of compensation; or

Construction @ [contracting officer insert current rate] of compensation.

(b) Bidders/Offerors should compute the total compensation (direct salary plus differential, but excluding per diem, housing allowance and other miscellaneous post allowances) to be paid to employees who will be covered by DBA insurance and the cost of DBA insurance in their bid/proposal using the foregoing rate, and insert the totals in the spaces provided for the base year and each year thereafter, if applicable. The DBA insurance cost shall be included in the total fixed price. The DBA insurance costs shall be reimbursed directly to the contractor.

(1) Compensation of Covered Employees: _____

(2) Defense Base Act Insurance Costs: _____

(3) Total Cost: _____

(c) Bidders/offerors shall include a statement as to whether or not local nationals or third country nationals will be employed on the resultant contract.

(End of provision)

652.228–75 [Removed and reserved]

146. Section 652.228–75 is removed and reserved.

147. Section 652.228–76 is revised to read as follows:

652.228–76 Defense Base Act insurance rates—Limitation—Cost-reimbursement, labor-hour, and time-and-materials.

As prescribed in 628.307, insert the following provision:

Defense Base Act Insurance Rates—Limitation—Cost-Reimbursement, Labor-Hour, and Time-and-Materials (Aug 1999)

(a) The Department of State has entered into a contract with an insurance carrier to provide DBA insurance to Department of State contractors at a contracted rate. In preparing the cost proposal, the offeror shall use the following rates in computing the cost for DBA insurance:

Services @ [contracting officer insert current rate] of compensation (direct salary plus differential, but excluding per diem, housing allowance, education allowance, and miscellaneous allowances); or

Construction @ [contracting officer insert current rate] of compensation.

(b) These rates apply to all job classifications in those particular categories. The successful offeror shall be advised of the name and address of the insurance broker who will process the DBA insurance coverage.

(c) Should an offeror compute or include higher DBA insurance rates, the rates shall be disallowed.

(d) Offerors shall include a statement as to whether or not local nationals or third country nationals will be employed on the resultant contract.

(End of provision)

652.228–77 [Removed]

148. Section 652.228–77 is removed.

149. Section 652.229–70 is amended by revising the introductory text to read as follows:

652.229–70 Excise tax exemption statement for contractors within the United States.

As prescribed in 629.401–70, insert the following clause:

* * * * *

150. Section 652.229–71 is added to read as follows:

652.229–71 Personal property disposition at posts abroad.

As prescribed in 629.402–1–70, insert the following clause:

Personal Property Disposition at Posts Abroad (Aug 1999)

Regulations at 22 CFR Part 136 require that U.S. Government employees and their families do not profit personally from sales or other transactions with persons who are not themselves entitled to exemption from import restrictions, duties, or taxes. Should the contractor experience importation or tax privileges in a foreign country because of its contractual relationship to the United States Government, the contractor shall observe the requirements of 22 CFR Part 136 and all policies, rules, and procedures issued by the chief of mission in that foreign country.

(End of clause)

151. Section 652.232–70 is amended by revising the clause heading and by revising the first sentence of paragraph (c) of the clause to read as follows:

652.232–70 Payment schedule and invoice submission—(Fixed-price)

* * * * *

Payment Schedule and Invoice Submission (Fixed-Price) (Aug 1999)

* * * * *

(c) Invoice Submission. Invoices shall be submitted in an original and [contracting officer insert appropriate number of copies] to the office identified in Block 10 of the SF–26, Block 23 of the SF–33, or Block 18b of the SF–1449. * * *

* * * * *

152. Section 652.232–71 is amended by revising the clause heading and by revising the last sentence of paragraph (a) of the clause to read as follows:

652.232–71 Voucher submission (Cost-reimbursement).

* * * * *

Voucher Submission (Cost-Reimbursement) (Aug 1999)

(a) * * * All vouchers shall be submitted to the office identified in Block 10 of the SF–26, Block 23 of the SF–33, or Block 18b of the SF–1449.

* * * * *

153. Section 652.232–72 is added to read as follows:

652.232–72 Limitation of funds.

As prescribed in 632.705–70, insert the following clause:

Limitation of Funds (Aug 1999)

(a) Of the total price in Section B (or the ''Prices'' section), only the amount stated on the contract award document or subsequent modifications is now available for payment and obligated under this contract. It is anticipated that from time to time, additional funds will be obligated under the contract until the total price of the contract is obligated.

(b) The Government is not obligated to pay or reimburse the contractor more than the amount obligated pursuant to this clause. The contractor agrees to perform the contract up to the point at which the total amount paid and payable by the Government (including amounts payable for subcontracts and settlement costs if this contract is terminated for convenience) approximates but does not exceed the total amount obligated.

(c)(1) It is contemplated that funds now obligated under this contract will cover the work to be performed until [contracting officer insert date].

(2) If the contractor considers the funds obligated under this contract to be insufficient to cover the work to be performed until that date, or another date agreed to by the parties, the contractor shall notify the contracting officer in writing and indicate the date on which it expects expended funds to approximate 75 percent of the total amount obligated. The notice shall state the estimated amount of additional funds required to continue performance through the date specified in paragraph (c)(1) of this clause or another date agreed to by the parties.

(3) If, after notification is provided pursuant to paragraph (c)(2) of this clause, additional funds are not obligated, or an earlier date than the date in paragraph (c)(1) of this clause is not agreed to, the contractor shall not be obligated to continue performance under this contract (including actions under the termination clause of this contract) beyond the funds obligated for contract performance.

(d) When additional funds are obligated from time to time for continued performance of this contract, the contract shall be modified to increase the funds obligated and to indicate the period of performance for which funds are applicable. The contractor may notify the contracting officer as provided in paragraph (c)(2) of this clause regarding any additional funds obligated.

(e) If the contractor incurs additional costs or is delayed in the performance of work under this contract, solely by reason of the Government's failure to obligate additional funds in amounts sufficient for the timely performance of this contract, an equitable adjustment may be made to the price, or time of delivery, or both.

(f) This clause shall become inoperative upon obligation of funds sufficient to cover the full price stated in the contract, except for rights and obligations then existing under this clause.

(g) Nothing in this clause shall affect the Government's right to terminate the contract for convenience or default.

(End of clause)

154. Section 652.236–70 is added to read as follows:

652.236–70 Accident prevention.

As prescribed in 636.513, insert the following clause:

Accident Prevention (Aug 1999)

(a) General. The contractor shall provide and maintain work environments and procedures which will safeguard the public and Government personnel, property, materials, supplies, and equipment exposed to contractor operations and activities; avoid interruptions of Government operations and delays in project completion dates; and, control costs in the performance of this contract. For these purposes, the contractor shall:

(1) Provide appropriate safety barricades, signs and signal lights;

(2) Comply with the standards issued by any local government authority having jurisdiction over occupational health and safety issues; and,

(3) Ensure that any additional measures the contracting officer determines to be reasonably necessary for this purpose are taken.

(4) [The contracting officer shall specify additional requirements regarding safety if the work involves scaffolding or other work at heights above 2 meters, trenches or other excavation greater than 1 meter, earth moving equipment, electrical hazards, work in confined spaces (limited exits, potential for oxygen less than 19.5%, toxic or combustible atmosphere, potential for solid or liquid engulfment, or other hazards considered to be immediately dangerous to life or health such as water tanks, transformer vaults, sewers, cisterns, etc.), or hazardous materials (especially those used indoors, e.g., paints, solvents, etc.).]

(b) Records. The contractor shall maintain an accurate record of exposure data on all accidents incident to work performed under this contract resulting in death, traumatic injury, occupational disease, or damage to or theft of property, materials, supplies, or equipment. The contractor shall report this data in the manner prescribed by the contracting officer.

(c) Subcontracts. The contractor shall be responsible for its subcontractors' compliance with this clause.

(d) Written program. Before commencing work, the contractor shall:

(1) Submit a written plan for implementing this clause; and,

(2) Meet with the contracting officer to discuss and develop a mutual understanding relative to administration of the overall safety program.

(e) Notification. The contracting officer shall notify the contractor of any non-compliance with these requirements and the corrective actions required. This notice, when delivered to the contractor or the contractor's representative on site, shall be deemed sufficient notice of the non-compliance and corrective action required. After receiving the notice, the contractor shall immediately take corrective action. If the contractor fails or refuses to promptly take corrective action, the contracting officer

may issue an order suspending all or part of the work until satisfactory corrective action has been taken. The contractor shall not be entitled to any equitable adjustment of the contract price or extension of the performance schedule on any suspension of work order issued under this clause.

(End of clause)

652.237–71 [Amended]

155. Section 652.237–71 is amended by revising the clause date to ''(Aug 1999)''; and, in paragraph (c) of the clause by removing the words ''Building Pass Application Unit, Room 309, State Annex Number 1, Columbia Plaza., 2401 E Street, NW, Washington, DC'' and inserting the words ''Building Pass Application Unit, Room B266, Department of State, 2201 C Street, NW, Washington, DC'' in their place.

652.237–72 [Amended]

156. Section 652.237–72 is amended by revising the clause date to ''(Aug 1999)''; and, in paragraph (a) of the clause by removing the words ''Presidents' Day'' from the list of designated holidays and inserting the words ''Washington's Birthday'' in their place.

652.242–70 [Amended]

157. Section 652.242–70 is amended by revising the clause date to ''(Aug 1999)''; and by deleting the parenthetical ''[insert name of COR]'' in paragraph (b) of the clause and inserting the words ''[insert job title of COR]'' in their place.

158. Section 652.242–71 is amended by revising the introductory text to read as follows:

652.242–71 Notice of shipments.

As prescribed in 642.1406–2–70(a), insert the following clause:

* * * * *

159. Section 652.242–72 is amended by revising the introductory text to read as follows:

652.242–72 Shipping instructions.

As prescribed in 642.1406–2–70(b), insert the following clause:

* * * * *

160. Section 652.242–73 is added to read as follows:

652.242–73 Authorization and performance.

As prescribed in 642.271(b), insert a clause substantially the same as follows:

Authorization and Performance (Aug 1999)

(a) The contractor warrants the following:

(1) That is has obtained authorization to operate and do business in the country or countries in which this contract will be performed;

(2) That is has obtained all necessary licenses and permits required to perform this contract; and,

(3) That it shall comply fully with all laws, decrees, labor standards, and regulations of said country or countries during the performance of this contract.

(b) If the party actually performing the work will be a subcontractor or joint venture partner, then such subcontractor or joint venture partner agrees to the requirements of paragraph (a) of this clause.

(End of clause)

Alternate I (Aug 1999). If the contract is for overseas local guard services, as prescribed in 642.271(b), substitute the following paragraphs (a)(1) and (a)(2) for paragraphs (a)(1) and (a)(2) of the basic clause:

''(a)(1) That it has obtained authorization to operate and do business in the country or countries in which this contract will be performed, or will obtain such authorization before performance of this contract begins;

''(a)(2) That it has obtained all necessary licenses and permits required to perform this contract, or will obtain such licenses and permits before performance of this contract begins;''

161. Section 652.243–70 is added to read as follows:

652.243–70 Notices.

As prescribed in 643.104–70, insert the following clause:

Notices (Aug 1999)

Any notice or request relating to this contract given by either party to the other shall be in writing. Said notice or request shall be mailed or delivered by hand to the other party at the address provided in the schedule of the contract. All modifications to the contract must be made in writing by the contracting officer.

(End of clause)

652.246–70 [Removed]

162. Section 652.246–70 is removed.

PART 653—FORMS

653.213–70 [Removed]

163. Section 653.213–70 is removed.

164. Section 653.219 is amended by revising the section heading to read as follows:

653.219 Small business programs.

165. Section 653.219–70 is revised to read as follows:

653.219–70 DOS form DS–1910, Small Business Agency Review—Actions Above the Simplified Acquisition Threshold.

As prescribed in 619.501(c), DS–1910 is prescribed for use in documenting set-aside decisions.

Dated: August 3, 1999.

Lloyd W. Pratsch,

Procurement Executive.

[FR Doc. 99–20556 Filed 8–10–99; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062–9062–01; I.D. 080599D]

Fisheries of the Exclusive Economic Zone Off Alaska; Thornyhead Rockfish in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of thornyhead rockfish in the Western Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catch of thornyhead rockfish in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the 1999 total allowable catch (TAC) of thornyhead rockfish in this area has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 6, 1999, until 2400 hrs, A.l.t., December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson 907–481–1780 or tom.pearson@noaa.gov.

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

The amount of the 1999 TAC of thornyhead rockfish in the Western Regulatory Area of the GOA was established as 260 metric tons by the Final 1999 Harvest Specifications of Groundfish for the GOA (64 FR 12094, March 11, 1999). See § 679.20(c)(3)(ii).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the amount of the 1999 TAC for thornyhead rockfish in the Western Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that further catches of thornyhead rockfish in the Western Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the amount of the 1999 TAC for thornyhead rockfish in the Western Regulatory Area of the GOA. A delay in the effective date is impracticable and contrary to the public interest. The fleet has taken the 1999 TAC for thornyhead rockfish in the Western Regulatory Area of the GOA. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: August 6, 1999.

Gary C. Matlock,

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

[FR Doc. 99–20732 Filed 8-6-99; 3:28 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 154
Wednesday, August 11, 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 120

Business Loan Program

AGENCY: Small Business Administration (SBA).

ACTION: Proposed rule.

SUMMARY: SBA proposes to implement changes in the microloan program required by the Small Business Reauthorization Act of 1997, enacted on December 2, 1997. The proposed rule would terminate the designation of the microloan program as a ''demonstration,'' add a welfare-to-work microloan initiative, allow a nonprofit child care business to qualify for the microloan program, and authorize a microloan intermediary to use up to 25 percent of grant funds for technical assistance to prospective microloan borrowers. The proposed rule would also establish procedures for SBA to suspend or revoke the status of an intermediary lender or non-lending technical assistance provider from the microloan program for its failure to meet certain minimum performance standards.

DATES: Submit comments on or before September 10, 1999.

ADDRESSES: Comments should be mailed to Small Business Administration, 409 Third Street, SW, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Jody Raskind, 202–205–6497.

SUPPLEMENTARY INFORMATION: Section 201 of Pub. L. 105–135, enacted on December 2, 1997, (1997 legislation) amends SBA's microloan program in section 7(m) of the Small Business Act (15 USC 636(m)) (Act). Section 202 of the 1997 legislation adds a welfare-to-work microloan initiative. These proposed rules would implement the statutory changes.

The 1997 legislation terminated the designation of the microloan program as a ''demonstration.'' This proposed rule deletes that designation wherever it was in SBA's rules, including the heading for subpart G of this part.

SBA proposes to amend § 120.706 of its regulations (13 CFR 120.706) to increase the aggregate amount which a microloan intermediary may borrow from SBA from the previous statutory limit of $2.5 million to the new statutory limit of $3.5 million.

Generally, microloan borrowers must engage in for profit activities. However, SBA proposes to amend § 120.707(a) of its regulations to implement the 1997 legislation authorizing microloan assistance to a borrower to establish a nonprofit child care business.

The 1997 legislation increases, from 15 percent to 25 percent, the amount of grant funds a microloan intermediary may use for technical assistance to prospective microloan borrowers. This proposed rule would amend § 120.712 to reflect the increased percentage. SBA will also implement a new provision in the 1997 legislation by amending § 120.712 to allow an intermediary to use up to 25 percent of the grant funds it receives from SBA to contract to enable third parties to provide technical assistance to microloan borrowers.

Under section 7(m) of the Act, SBA may give grants to a maximum of 25 non-lending technical assistance providers. Under prior rules, SBA could provide the 25 grants for a maximum of 5 annual terms. The proposed rule would amend § 120.714 of SBA's regulations to reflect the changes in the 1997 legislation that authorize SBA to provide the annual grants without any maximum term limits.

Section 7(m)(12) of the Act authorizes SBA, on a pilot basis, to guarantee loans made to microloan intermediaries. Currently, § 120.715 of SBA's regulations incorrectly places a limit on the number of loans to intermediaries which SBA may guarantee. SBA proposes to amend § 120.715 of its regulations to clarify that there is no statutorily prescribed limit on the number of loans which SBA is authorized to guarantee to microloan intermediaries.

SBA proposes to add § 120.716 to its regulations to implement the 1997 legislation's welfare-to-work initiative. The initiative will give supplemental technical assistance grants to existing program participants for low-income individuals who get assistance under a State program funded under part A of title IV of the Social Security Act, or under any comparable State funded means tested program (''State Program''). The supplemental grants would be used to help new small businesses eliminate their dependence on State Programs. SBA would obtain funds to provide these supplemental grants from other departments and agencies of the federal government. To get such funds, SBA would enter into memoranda of understanding with the departments and agencies specifying the terms and conditions of the supplemental grants and providing for monitoring of expenditures by each grantee and each recipient.

Under the welfare-to-work initiative, SBA would select from its participating intermediaries and non-lending technical assistance providers up to 20 grantees in fiscal year 1998, 25 grantees in fiscal year 1999, and 30 grantees in fiscal year 2000. Each selected intermediary and non-lending technical assistance provider would be eligible to receive a supplemental grant from SBA of up to $200,000 a year, which SBA has the sole authority to determine.

A grantee who gets a supplemental grant under this initiative would not have to match the grant. A grantee could use the supplemental grant to pay or reimburse a portion of child care and transportation costs of the recipients of State Programs if the recipients certify that they are not being paid for such costs under state block grants under the Child Care Development Block Grant Act of 1990 or under part A, title IV of the Social Security Act. A grantee also could use the supplemental grants for marketing, management, and technical assistance to recipients of State Programs. SBA may use up to 5 percent of the grant amounts it provides under the welfare-to-work microloan initiative in any fiscal year for technical assistance to the grantees to ensure that they have the knowledge, skills, and understanding of making microloans and operating a welfare-to-work microloan program.

SBA also proposes to add a new §120.717 to authorize the SBA Associate Administrator for Financial Assistance (AA/FA) to terminate or otherwise act regarding an intermediary lender or non-lending technical assistance provider that fails to meet certain minimum performance standards. This authority is similar to that held by the

AA/FA regarding the termination or suspension of lenders or pool assemblers in the agency's 7(a) business loan program. It is important for SBA to be able to terminate the services of, or impose other sanctions on, a microloan entity which operates to bring discredit on the program. SBA must be able to discipline an intermediary or non-lending technical assistance provider whose failure to operate properly may adversely affect microloan borrowers or imperil the safety and soundness of the microloan program.

Compliance With Executive Orders 12612, 12988, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), 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 and does not have significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612. It is not likely to have an annual economic effect of $100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the United States economy.

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch 35, SBA certifies that this proposed rule requires the microloan intermediaries and technical assistance providers to formally count, and account for, welfare clients and expenditures for those clients.

For purposes of Executive Order 12612, SBA certifies that this proposed rule has no federalism implications requiring a Federalism Assessment.

For purposes of Executive Order 12988, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 3 of that Order.

(Catalog of Federal Domestic Assistance Programs, Nos. 59.012 and 59.013)

List of Subjects in 13 CFR Part 120

Loan programs—business, Small businesses.

For the reasons stated in the preamble, SBA proposes to amend 13 CFR part 120 as follows:

PART 120—BUSINESS LOANS

1. The authority citation for part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636 (a) and (h).

2. Revise the heading for subpart G of part 120, title 13, Code of Federal Regulations to read as follows:

Subpart G—Microloan Program

3. In 120.700, revise the first sentence to read as follows:

§ 120.700 What is the Microloan Program?

The Microloan Program assists women, low income individuals, minority entrepreneurs, and other small businesses which need small amounts of financial assistance. * * *

4. In 120.706, revise the section heading and last sentence to read as follows:

§ 120.706 What are the terms and conditions of an SBA loan to an Intermediary?

(a) * * * In later years, the Intermediary's obligation to SBA may not exceed an aggregate of $3.5 million, subject to statutory limitations on the total amount of funds available per state.

* * * * *

5. In § 120.707(a), remove the first sentence and add two new sentences in its place to read as follows:

§ 120.707 What conditions apply to loans by Intermediaries to Microloan borrowers?

(a) *General.* An intermediary may make Microloans to any small business eligible to receive financial assistance under this part. A borrower may also use Microloan proceeds to establish a nonprofit child care business. * * *

* * * * *

6. In § 120.712, revise paragraphs (b)(1) and (e) to read as follows:

§ 120.712 How does an Intermediary get a grant to assist Microloan borrowers?

* * * * *

(b) * * *

(1) Up to 25 percent of the grant funds may be used to provide information and technical assistance to prospective Microloan borrowers; and

* * * * *

(e) *Third party contracts for technical assistance.* An Intermediary may use no more than 25 percent of the grant funds it receives from SBA for contracts with third parties for the latter to provide technical assistance to Microloan borrowers.

7. In § 120.714, revise the section heading, add an introductory text, and revise paragraph (b) to read as follows:

§ 120.714 How are grants made to non-lending technical assistance providers?

SBA selects non-lending technical assistance providers (NTAP) to receive grant funds for technical assistance to Microloan borrowers.

* * * * *

(b) *Number and amount of grants.* In each year of the Microloan Program, SBA may make no more than 25 grants to NTAPs. A grant may not exceed $125,000.

* * * * *

8. In § 120.715, revise paragraph (a) to read as follows:

§ 120.715 Does SBA guarantee any loans an Intermediary obtains from another source?

(a) SBA may guarantee not less than 90 percent of loans made by for-profit or nonprofit entities (or an alliance of such entities) to no more than 10 Intermediaries in urban areas and 10 Intermediaries in Rural Areas (as defined in section 120.10).

* * * * *

9. Add § 120.716 to read as follows:

§ 120.716 Welfare-to-work initiative.

(a) *Purpose.* The purpose of the welfare-to-work initiative is to supplement the technical assistance grants provided under the microloan program for the purpose of helping low-income individuals who receive assistance under a State program funded under Part A of title IV of the Social Security Act (42 U.S.C. 601), or under any comparable State funded means tested program of assistance (State Program). These supplemental grants are to be used to help the individuals to establish small businesses and eliminate their dependence on such State Programs.

(b) *Supplemental grant.* SBA may accept funds transferred to it from other agencies or departments of the Federal government to make the supplemental grants under the welfare-to-work initiative. SBA will make such grants to microloan Intermediaries and NTAPs (as defined in § 120.714) in order to provide technical assistance and related services to individuals receiving State Program aid at the time they initially apply for a microloan.

(c) *Number of Intermediaries and NTAPs.* SBA may give supplemental grants to no more than 20 participating microloan Intermediaries and NTAPs in fiscal year 1998, no more than 25 grantees in fiscal year 1999, and no more than 30 grantees in fiscal year 2000.

(d) *Amount of supplemental grant.* Each of the selected Intermediaries and NTAPs may receive a supplemental grant from SBA of no more than $200,000 a year.

(e) *Supplemental grant needs no matching.* A supplemental grant made by SBA under this initiative does not have to be matched by the grantee Intermediary or NTAP.

(f) *Use of supplemental grant.* A grantee may use the supplemental grant:

(1) To pay or reimburse a portion of child care and transportation costs of recipients of State Programs, if the recipients certify that they are not being paid for such costs under State block grants under the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858) or under part A, title IV of the Social Security Act (42 U.S.C. 601); and

(2) For marketing, management, and technical assistance to the recipients of State Programs.

(g) *Memorandum of understanding.* Before SBA accepts a transfer of funds from an agency or department of the Federal government, under this initiative, it must enter into a memorandum of understanding with the agency or department which will specify the terms and conditions of the supplemental grants, including monitoring of expenditures.

(h) *Additional condition for welfare-to-work supplemental grant.* SBA may use up to 5 percent of the grant amounts it provides under the welfare-to-work microloan initiative in any fiscal year for technical assistance to the grantees to ensure that the grantees have the knowledge, skills, and understanding of making microloans and operating a welfare-to-work microloan program.

10. Add § 120.717 to read as follows:

§ 120.717 Suspension or revocation of an Intermediary or NTAP.

(a) The AA/FA may suspend or revoke the participation status of an Intermediary or NTAP from the Microloan Program, or may impose other sanctions in the best interests of the program, if it fails to comply with the laws, regulations, and policies governing the program or if it fails to meet any one of the following minimum performance standards.

(1) For Intermediaries only—An Intermediary must:

(i) Close and fund a minimum of four microloans per year; and

(ii) Satisfactorily provide in-house technical assistance to microloan clients and prospective microloan clients.

(2) For NTAPs only—An NTAP must show that, for every thirty clients for which it provided technical assistance, one client received a loan from the private sector.

(3) For Intermediaries and NTAPs—An Intermediary and an NTAP must:

(i) Cover the service territory assigned by SBA, including honoring the SBA determined boundaries of neighboring Intermediaries and NTAPs;

(ii) Fulfill reporting requirements;

(iii) Manage program funds and matching funds in a satisfactory and financially sound manner;

(iv) Communicate and file reports via the internet within six months after beginning participation in the program;

(v) Maintain a currency rate of 85 percent or more (that is loans that are no more than 30 days late in scheduled payments);

(vi) Maintain a default rate of 15 percent or less of the cumulative dollars loaned under the program; and

(vii) Attend Microloan Program training conferences offered by SBA, or such substitute training as may be approved by SBA on a case-by-case basis.

(b) The AA/FA, on a case by case basis, may impose pre-suspension or revocation sanctions which may include, but are not limited to, the following:

(1) Accelerated reporting requirements;

(2) Accelerated loan repayment requirements for outstanding program debt to SBA; and

(3) Imposition of a temporary lending and/or training moratorium.

(c) Revocation from the Microloan Program will include:

(1) Removal from the program;

(2) Liquidation of MRF and LLRF accounts, by SBA, and application of liquidated funds to any outstanding balance owed to SBA;

(3) Payment of outstanding debt to SBA by the Intermediary;

(4) Forfeiture or repayment of any unused grant funds by the Intermediary or NTAP; and

(5) Debarment of the organization from receipt of Federal funds until loan and grant repayment requirements are met.

(d) An Intermediary or NTAP may appeal a suspension or revocation under procedures found in part 134 of this chapter. The action of the AA/FA remains in effect pending resolution of the appeal.

Dated: July 30, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99–20324 Filed 8–10–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–08–AD]

Airworthiness Directives; Robinson Helicopter Company (Robinson) Model R44 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) applicable to Robinson Model R44 helicopters. The AD would require inspecting the wire harness for contact with the fuel line assembly, removing and replacing the fuel line assembly if chafing has occurred, and installing spiral wrap tubing on the fuel line assembly. This proposal is prompted by four incidents of contact between the wire harness and the fuel line assembly. The actions specified by the proposed AD are intended to prevent contact between the wire harness and the fuel line, which could result in chafing of the wire harness and a potential fire hazard.

DATES: Comments must be received on or before October 12, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–08–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Elizabeth Bumann, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712–4137, telephone (562) 627–5265; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 99–SW–08–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–08–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion: This document proposes the adoption of a new AD applicable to Robinson Model R44 helicopters. The AD would require inspecting for chafing and installing spiral wrap tubing on the fuel line at the wire harness contact point. This proposal is prompted by four incidents of contact between the wire harness and the fuel line assembly above the fuel shutoff valve. In three of the incidents, the wire harness contacted the fuel line just above the fuel valve. In the fourth incident, the wire harness contacted the apex of the fuel line nut. The actions specified by the proposed AD are intended to prevent contact between the wire harness and the fuel line assembly, which could result in chafing of the wire harness and a potential fire hazard.

Since an unsafe condition has been identified that is likely to exist or develop on other Robinson Model R44 helicopters of the same type design, the proposed AD would require inspecting the wire harness, part number (P/N) C059, for contact with the fuel line assembly, P/N C726–2; removing and replacing the fuel line assembly if chafing has occurred; and installing spiral wrap tubing, P/N B161–8, on the fuel line.

Cost Impact

The FAA estimates that 200 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 0.3 work hour per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $0.22 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $3,644.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Robinson Helicopter Company: Docket No. 99–SW–08–AD.

Applicability: Model R44 helicopters, serial numbers 0002 through 0462, 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 (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within 100 hours time-in-service or 90 calendar days after the effective date of this AD, whichever occurs first, unless accomplished previously.

To prevent contact between the wire harness and the fuel line assembly, which could result in chafing of the wire harness and a potential fire hazard, accomplish the following:

(a) Remove the cover, part number (P/N) C474–1, from between the rear seatbacks.

(b) Inspect the wire harness, P/N C059, and the fuel line assembly, P/N C726–2, above the fuel shutoff valve for contact. If the wire harness contacts the fuel line assembly, inspect for chafing.

(c) If chafing has occurred between the wire harness and the fuel line assembly, replace the fuel line with an airworthy fuel line assembly. Torque the fuel line nuts to 110–130 in-lbs. Verify that clearance exists between the fuel line assembly and the wire harness.

(d) Install a 3-inch section of spiral wrap tubing, P/N B161–8, on the fuel line assembly as shown in Figure 1. Push the spiral wrap tubing down until it is against the fuel line fitting.

Note 2: Robinson Helicopter Company Service Bulletin SB–31, dated October 28, 1998, pertains to the subject of this AD.

BILLING CODE 4910–13–P

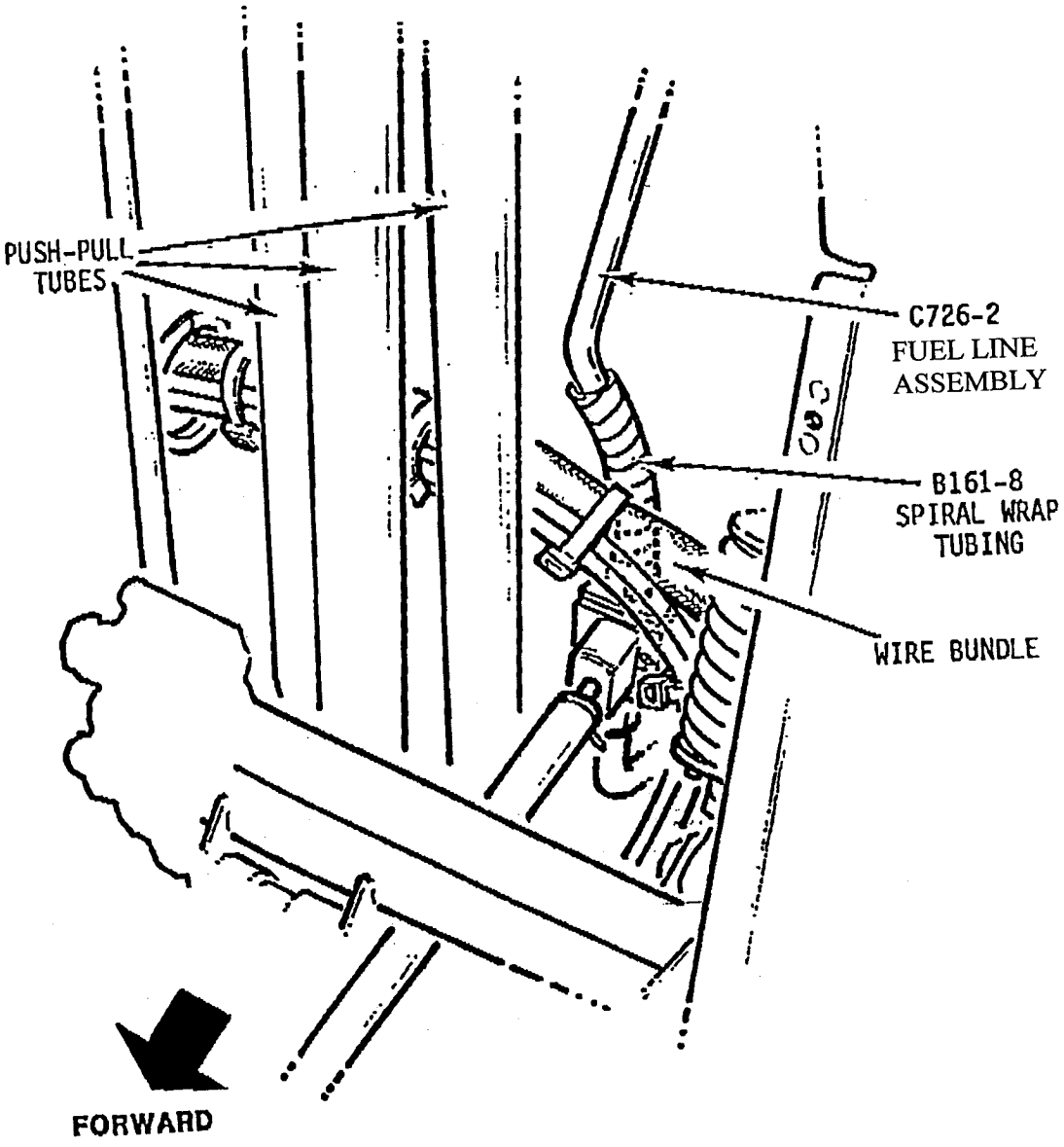
PUSH-PULL
TUBES
C726-2
FUEL LINE
ASSEMBLY
B161-8
SPIRAL WRAP
TUBING
WIRE BUNDLE
FORWARD

FIGURE 1

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

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

(f) 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.

Issued in Fort Worth, Texas, on August 4, 1999.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–20755 Filed 8–10–99; 8:45 am]

BILLING CODE 4910–13–C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 990

[Docket No. FR–4425–N–05]

Negotiated Rulemaking Committee on Operating Fund Allocation; Cancellation August Meeting and Announcement of September Meeting

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Negotiated Rulemaking Committee meetings.

SUMMARY: This document announces the cancellation of the meeting of the Negotiated Rulemaking Committee on Operating Fund Allocation, which had been scheduled to take place on August 11 and August 12, 1999. This document also announces the dates, time, and location of the September committee meeting. These ongoing meetings are sponsored by HUD for the purpose of discussing and negotiating a proposed rule that would change the current method of determining the payment of operating subsidies to public housing agencies (PHAs).

DATES: The committee meeting scheduled to take place on August 11 and August 12, 1999 has been cancelled.

The September committee meeting will be held on September 14 and September 15, 1999.

The first day of the September committee meeting will begin at approximately 9:30 am and end at approximately 5:00 pm. The second day of the September committee meeting will begin at approximately 9:00 am and end at approximately 4:00 pm.

ADDRESSES: The September committee meeting will take place at the Hilton Washington Dulles Hotel, 13869 Park Center Road, Herndon, VA 20171.

FOR FURTHER INFORMATION CONTACT: Joan DeWitt, Director, Funding and Financial Management Division, Public and Indian Housing, Room 4216, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500; telephone (202) 708–1872 ext. 4035 (this telephone number is not toll-free). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Secretary of HUD has established the Negotiated Rulemaking Committee on Operating Fund Allocation to negotiate and develop a proposal that would change the current method of determining the payment of operating subsidies to PHAs.

This document announces the cancellation of the meeting of the committee, which had been scheduled to take place on August 11 and August 12, 1999. The cancellation will allow HUD to more fully develop a subsidy allocation proposal for committee consideration.

This document also announces the dates, time, and location of the September committee meeting, which will take place as described in the **DATES** and **ADDRESSES** section of this document.

The agenda planned for the committee meeting includes: (1) Workgroup sessions to discuss various issues related to the implementation of an operating fund formula; (2) full committee discussions of the work-products developed by the workgroups; (3) development of draft regulatory language; and (4) the scheduling of future meetings, if necessary.

The meeting will be open to the public without advance registration. Public attendance may be limited to the space available. Members of the public may make statements during the meeting, to the extent time permits, and file written statements with the committee for its consideration. Written statements should be submitted to the address listed in the **FOR FURTHER INFORMATION** section of this notice. Summaries of committee meetings will be available for public inspection and copying at the address in the same section.

Dated: August 6, 1999.

Deborah Vincent,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–20836 Filed 8–9–99; 11:04 am]

BILLING CODE 4210–33–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6416–6]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Vestal Water Supply Well 4–2 Superfund Site from the National Priorities List: request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region II announces its intent to delete the Vestal Water Supply Well 4–2 (Vestal 4–2) Site from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of New York have determined that no further action is appropriate at the Vestal 4–2 Site under CERCLA. Moreover, EPA and the State have determined that the activities conducted at the Vestal 4–2 Site are protective of public health and the environment.

DATES: Comments concerning the deletion of the Vestal 4–2 Site from the NPL may be submitted on or before September 10, 1999.

ADDRESSES: Comments may be mailed to: Lorenzo Thantu, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway, 20th Floor, New York, NY 10007.

Comprehensive information on this Site is available through the EPA Region II public docket, which is located at EPA's Region II Office in New York City, and is available for viewing, by appointment only, from 9:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays. For further information or to request an appointment to review the public

docket, please contact Mr. Thantu at (212) 637–4240.

Background information from the EPA Region II public docket related to the Vestal 4–2 Site is also available for viewing at the information repositories noted below:

Vestal Town Hall, 605 Vestal Parkway West, Vestal, NY 13850; and Vestal Public Library, 320 Vestal Parkway East, Vestal, NY 13850.

FOR FURTHER INFORMATION CONTACT: Lorenzo Thantu, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway, 20th Floor, New York, NY 10007, (212) 637–4240.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

EPA Region II announces its intent to delete the Vestal Water Supply Well 4–2 Site (Site), located in Vestal, Broome County, New York, from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substances Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions, if conditions at such sites warrant such action.

The Vestal 4–2 Site is located on the west side of Prentice Road in the Town of Vestal, Broome County, New York. The Town of Vestal is about five miles southwest of Binghamton. Well 4–2 is about 1,000 feet south of the Susquehanna River and is one of four water supply wells in Water District Number 4 of the Town of Vestal.

EPA will accept comments concerning the Vestal 4–2 Site for thirty days after publication of this document in the **Federal Register**.

II. NPL Deletion Criteria

Section 300.425(e)(1) (i)–(iii) of the NCP provides that sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA, in consultation with the State of New York, considers whether any of the following criteria has been met:

(i) Responsible or other parties have implemented all appropriate response actions required; or,

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and no further cleanup by responsible parties is appropriate; or,

(iii) The remedial investigation has shown that the release poses no significant threat to human health or the environment and, therefore, taking remedial measures is not appropriate.

III. Deletion Procedures

The following procedures were used for the intended deletion of the Site:

(1) Two Reports, issued in 1980 and 1981, determined that the source of Vestal 4–2 contamination was the Monarch Chemical, Inc. facility.

(2) In 1993, the Town of Vestal had a former dry well and surrounding soils removed from the Monarch facility.

(3) In 1997, groundwater sampling confirmed the cleanup of the aquifer.

(4) The New York State Department of Environmental Conservation (NYSDEC) concurred with the deletion in a letter dated September 29, 1998.

(5) EPA Region II has recommended deletion and has prepared the relevant documents. EPA has also made all relevant documents available in the Regional office and local Vestal 4–2 Site information repositories.

(6) Concurrent with this national Notice of Intent to Delete, a notice has been published in a local newspaper and has been distributed to appropriate Federal, State and local officials and other interested parties announcing a thirty-day public comment period on the deletion.

Comments received during the comment period will be evaluated before any final decision is made. If necessary, EPA Region II will prepare a Responsiveness Summary which will address any significant comments received during the public comment period. A deletion occurs when the EPA Regional Administrator places a final Notice of Deletion in the **Federal Register**.

IV. Basis for Intended Site Deletion

In February 1980, Vestal Water Supply Well 4–2 was found to be contaminated with trichloroethene, 1,1,1-trichloroethane and tetrachloroethene. The Vestal 4–2 Site was listed on the NPL on September 1, 1983.

An October 1980 report entitled, ''Hydrogeologic Investigation of Organic Contamination at Monarch Chemicals, Inc.,'' and an April 7, 1981 draft report entitled, ''Hydrologic Study of a Portion of the Susquehanna River Valley in the Town of Vestal, Broome County, New York with Emphasis on Chemical Contamination of the Aquifer,'' together delineated the nature and extent of the suspected contamination at the Vestal 4–2 Site and documented that the Monarch facility was the source of contamination of Well 4–2.

The Monarch Chemicals is located approximately 200 feet south and hydraulically upgradient of Well 4–2. Monarch Chemicals began operations around 1970, repackaging chemicals including 1,1,1-trichloroethane, trichloroethene and other chlorinated solvents as part of a bulk chemical handling operation.

In April 1983, the ''Town of Vestal Water District No. 4, Groundwater Exploration'' report was released. The report found that the contamination in the vicinity of Well 4–2 was a localized condition. The report also indicated that although Monarch Chemicals vacated its premises in the Fall of 1982, the continued presence of contaminants in Well 4–2 indicated that the Monarch facility remained contaminated. The report recommended that Well 4–2 should continue to pump to waste unless another remedial action were taken to remove the contamination. These conclusions mapped out the remedial alternatives which were later incorporated in the New York State Enforcement Action, also known as the Settlement Agreements.

In 1985, the New York State Department of Law, Attorney General's Office along with the Town of Vestal and the Vestal Water Districts No. 3, 4 and 6 signed two Settlement Agreements with the responsible parties at the Site.

In September 1988, as a result of the Settlement Agreements, an air stripper and additional carbon filtration were installed at Well 4–2. The air stripping system reduced contaminant levels in groundwater to below detection limits.

On December 14, 1993, approximately 26 cubic yards (42 tons) of material were excavated including the former dry well and surrounding soils from the Monarch Chemicals facility.

In order to determine if groundwater contaminants had attenuated and if it were appropriate to begin the NPL delisting process for the Site, EPA sampled the groundwater in the vicinity of the Vestal 4–2 Site on May 8, 1997, June 11, 1997 and September 10, 1997. The results of the sampling showed that groundwater contamination in the vicinity of the former Monarch

Chemicals dry well had decreased, such that it was at or approaching drinking water standards.

EPA's 1997 sampling data are consistent with the Town's monthly monitoring results for samples collected prior to the air stripper. Therefore, the primary pathways associated with the Vestal 4–2 Site that threatened public health have been addressed. EPA summarized the actions taken at this Site in a Superfund Site Close Out Report dated September 30, 1998.

EPA and NYSDEC have determined that all appropriate responses under CERCLA at the Site have been completed, and that no further activities are necessary. Consequently, EPA is proposing deletion of this Site from the National Priorities List. Documents supporting this action are available in the docket.

Dated: July 27, 1999.

Herb Barrack,

Acting Regional Administrator, Region 2.

[FR Doc. 99–20464 Filed 8–10–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket 99–261; FCC 99–183]

50.2–71 GHz Realignment

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the United States Table of Frequency Allocations with respect to the 50.2–50.4 GHz and 51.4–71.0 GHz bands. The allocations proposed in this instant proceeding would provide additional spectrum to the inter-satellite service (''ISS'') and to the fixed and mobile services while continuing to provide an acceptable environment for passive spaceborne sensor measurements of atmospheric temperature.

DATES: Comments must be filed on or before September 7, 1999, and reply comments must be filed on or before September 22, 1999.

ADDRESSES: Address all comments concerning this proposed rule to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street S.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Tom Mooring, Office of Engineering and Technology, (202) 418–2450, TTY (202) 418–2989, e-mail: tmooring@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, ET Docket 99–261, FCC 99–183, adopted July 16, 1999, and released July 23, 1999. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center (Room TW–A306), 445 12th Street S.W., Washington, DC. The complete text of this document also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Summary of Notice of Proposed Rulemaking

1. We propose:

- To provide a net gain of 900 megahertz of spectrum allocated on a primary basis for non-Government ISS by allocating the 65–71 GHz band to that service and by deleting non-Government ISS allocations from the 56.9–57.0 GHz and 59–64 GHz bands;
- To allocate the 64–65 GHz band to the Government ISS on a primary basis;
- To require that the existing Government and non-Government ISS allocations in the 54.25–56.90 GHz and 57.0–58.2 GHz bands and the existing Government ISS allocation in the 59.0–59.3 GHz band be used exclusively for geostationary satellite-to-geostationary satellite communications, subject to a power flux-density (''p.f.d.'') limit designed to protect passive sensor operations;
- To provide a net gain of 2.27 gigahertz of spectrum allocated on a primary basis for Government and non-Government fixed and mobile services by allocating the 51.4–52.6 GHz, 58.2–59.0 GHz, and 64–65 GHz bands to these services, by deleting the unused fixed and mobile service allocations from the 50.2–50.4 GHz and 54.25–55.78 GHz bands, and by upgrading the allocation status of these services in the 65–66 GHz band from secondary to primary;
- To specify that the 57–59 GHz and 64–66 GHz bands will be available for use by Government and non-Government unlicensed devices; and
- To allocate the 59.0–59.3 GHz band to the Government and non-Government earth exploration-satellite (passive) and space research (passive) services and to delete unneeded passive sensor allocations from the 51.4–52.6 GHz and 64–65 GHz bands.

2. The proposals are part of the Commission's continuing effort to facilitate the commercialization of ''millimeter wave'' spectrum, and are consistent with the international allocation changes that the United States sought and obtained for this frequency range at the 1997 World Radiocommunication Conference (''WRC–97''). Adoption of these proposals would allocate the spectrum that Government and non-Government satellite users require to interconnect their satellites within their respective networks. More specifically, the ISS proposals are expected to provide a wide range of fixed-satellite service (''FSS'') and mobile-satellite service systems, including both geostationary orbit (''GSO'') and non-geostationary orbit (''NGSO'') systems, with the additional spectrum needed to complete their end-to-end communications service. For example, using the ISS allocations proposed, Ka-band FSS licensees could inter-link their broadband multimedia satellites, thereby permitting the provision of innovative high-speed Internet-like services on a regional and global basis. Our proposals also provide the spectrum that new licensed fixed and mobile services and unlicensed devices are anticipated to require. For example, Personal Communication Service (''PCS'') and cellular licensees could use unlicensed spectrum in the 57–59 GHz frequency range to connect nearby base stations to one another, which would be especially useful in high-density urban areas. We tentatively find that these additional allocations can be made while, at the same time, ongoing passive sensor operations—used to obtain weather and climate data in all weather conditions—are fully protected. We also tentatively find that these proposals would further our efforts towards achieving the overarching goal of section 706 of the Telecommunications Act of 1996, to ''encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans . . . by utilizing measures that promote competition in the local telecommunications market.''

Inter-Satellite Service

3. We propose, in accordance with international allocation decisions taken at WRC–97, to allocate the 64–71 GHz band to the ISS domestically. We tentatively find that the feasibility of ISS and existing services sharing the 64–71 GHz band has been clearly shown by various studies. At the request of NTIA, we further propose to delete the non-Government ISS allocation from the 56.9–57.0 GHz and 59–64 GHz bands and to allocate the 64–65 GHz segment for exclusive Government ISS use and the 65–71 GHz segment for exclusive non-Government ISS use. This domestic allocation split addresses two concerns.

First, there is a well-established and pressing demand for commercial inter-satellite link spectrum, which we believe necessitates a substantial ISS allocation that can be used by all commercial satellite systems. Furthermore, although commercial systems have requested spectrum below 65 GHz, NTIA asserts that Federal Government ISS operations in the 59–64 GHz band are not compatible with proposed commercial ISS uses of this band. Second, an allocation at 64–65 GHz for Government only use would compensate Federal users for the loss of flexibility in the 59–64 GHz ISS band that will occur as a result of the WRC–97 decision to limit the use of the 59.0–59.3 GHz band to geostationary satellite-to-geostationary satellite communications. The net result of these proposals is that commercial satellite operators would have exclusive use of 6 gigahertz of primary ISS spectrum at 65–71 GHz and Federal agencies would have exclusive use of 6.1 gigahertz of primary ISS spectrum at 56.9–57.0 GHz and 59–65 GHz. We observe that the shared and commercial exclusive ISS spectrum could be used, for example, by Ka-band licensees for satellite-to-satellite communications, making their systems more efficient and enabling them to provide some of the advanced telecommunications capabilities that section 706 of the Communications Act envisions.

4. We also propose to adopt international footnote S5.556A domestically. This footnote limits use of the 54.25–56.90 GHz, 57.0–58.2 GHz, and 59.0–59.3 GHz ISS bands to GSO satellite transmissions that comply with a maximum p.f.d. limit at altitudes of 1000 kilometers (approximately 621.4 miles) or less above the Earth's surface of −147 dBW per square meter per 100 megahertz for all angles of arrival. This proposal reflects the results of studies that have shown these technical restrictions to be necessary to prevent ISS transmissions in these bands from causing harmful interference to passive sensor reception in the 54.25–58.20 GHz band. We tentatively find that, although adoption of footnote S5.556A explicitly precludes NGSO networks from accessing this 4.15 gigahertz of ISS spectrum, the 6 gigahertz we are proposing to allocate at 65–71 GHz for exclusive commercial use is sufficient to accommodate all pending requests by NGSO licensees for ISS spectrum. We request comment on this tentative conclusion.

5. With regard to the 56.9–57.0 GHz band, we observe that WRC–97 limited ISS use of this spectrum through footnote S5.558A, which permits only GSO inter-satellite links and transmissions from NGSO satellites in high-Earth orbit to those in low-Earth orbit. However, Federal agencies, which currently operate in the band, have determined that these restrictions must be loosened slightly by also permitting transmissions between satellites in geostationary orbit and those in high-Earth orbit and between satellites in geostationary orbit and those in low-Earth orbit. Since we have previously proposed that the use of the ISS allocation in the 56.9–57.0 GHz band be limited exclusively to Federal agencies, this expanded use would be authorized under a new Government footnote. We request comment on all of the above proposals.

Fixed and Mobile Services/Unlicensed Devices

6. We propose to allocate the 51.4–52.6 GHz and 58.2–59.0 GHz bands to Government and non-Government fixed and mobile services on a primary basis. We also propose to make the 64–66 GHz band available to the Government and non-Government fixed and mobile (except aeronautical mobile) services on a primary basis by allocating the 64–65 GHz segment for these purposes and by upgrading the status of the secondary fixed and mobile services in the 65–66 GHz segment. In order to protect ongoing passive sensor reception in the 50.2–50.4 GHz and 54.25–55.78 GHz bands from future disruption, we propose to delete the unused Government and non-Government fixed and mobile service allocations from these bands. We also propose to delete the requirement that aeronautical mobile station transmissions not cause harmful interference to ISS operations in the 54.25–55.78 band and to add this requirement in the 66–71 GHz band. Finally, we observe that any future land mobile services in the 66–71 GHz band will be required to protect the new non-Government ISS service—as well as the existing space radiocommunication services—from harmful interference.

7. These fixed and mobile service proposals have been enabled by: (1) NTIA's finding that the 51.4–52.6 GHz and 64–65 GHz bands are no longer required for Government passive sensor operations, and (2) ITU–R studies that have shown that passive sensors can share with fixed and mobile services at frequencies above 55.78 GHz due to the high atmospheric attenuation that exists. These studies found that, at lower frequencies, undesirable constraints would be required on the fixed and mobile services and the meteorological community would still receive interference that could effect weather forecasts and give false results to measurements of warming of the Earth. Thus, our related proposal to delete the fixed and mobile service allocations from the 50.2–50.4 GHz and 54.25–55.78 GHz bands will provide exclusive spectrum for the measurement of atmospheric temperature using passive spaceborne sensors in bands where sharing with other services is not feasible. In sum, these proposals, if adopted, would result in a net gain of 2.27 gigahertz of primary spectrum for fixed and mobile services, while eliminating the need for constraints on the parameters of fixed and mobile systems since these services would not share allocations with the passive services below 55.78 GHz. We request comment on all of the above proposals.

8. We also observe that WRC–97 adopted new footnote S5.547, which makes the 51.4–52.6 GHz, 55.78–59.00 GHz and 64–66 GHz bands ''available for high-density applications in the fixed service'' (''HDFS''). We request comment on whether footnote S5.547 should be adopted domestically, what the ramifications of such an action would be, and whether, in order to assure spectrum availability for HDFS, the bands should not be allocated to the mobile service.

9. *Unlicensed Devices.* In 1996, we made the 59–64 GHz band available for unlicensed devices under part 15 of Commission's Rules. We observe that the 55.78–59 GHz and 64–66 GHz bands are adjacent to this unlicensed band, that both of these bands would, if our proposals are adopted, be allocated to the fixed and mobile services on a primary basis, and that, furthermore, both of these bands could be made available for use by HDFS.

10. We also observe that the European Radiocommunications Committee has adopted a Recommendation entitled ''Radio Frequency Channel Arrangement for Fixed Services Operating in the Band 57.0–59.0 GHz Which Do Not Require Frequency Planning,'' but that this Recommendation has not yet been implemented. This Recommendation states, *inter alia*, ''that the high frequency reuse achievable in the oxygen absorption band reduces the requirement for frequency planning techniques and offers the possibility of deregulated telecommunications environment within CEPT [the European Conference of Postal and Telecommunications Administrations] for various low power, low cost and short range radio-relays.'' In addition, it is our understanding that there are ongoing discussions in Europe concerning unlicensed broadband HDFS

use of the 57–59 GHz band. We anticipate a similar need in the United States. Specifically, we believe that PCS, cellular, and other mobile service licensees will require unlicensed spectrum in the 57–59 GHz frequency range to connect nearby base stations to one another, especially in high-density urban areas, i.e., ''hot spots.''

11. We tentatively find that the 57–59 GHz and 64–66 GHz bands are well suited for use by unlicensed devices, and accordingly, we propose to make these bands available for use by unlicensed devices under part 15 of Commission's Rules. We base this proposal on the propagation characteristics of the bands, and on the technical material previously presented by the Millimeter Wave Communications Working Group in the Above 40 GHz proceeding. We tentatively find that licensing is not necessary because of the limited potential for interference due to oxygen absorption and the narrow beamwidth of point-to-point antennas likely to be operating in this range. We also tentatively find that low-power unlicensed use of 57–59 GHz and 64–66 GHz bands is an ideal use of this Government/non-Government shared spectrum because this proposed use further reduces the chance of harmful interference to in-band sensors. We request comment on these proposals. We also request comment on whether the 55.78–57.00 GHz segment should be made available for use by unlicensed devices or whether this segment should be made available for licensed fixed and mobile services.

12. We are not proposing technical rules for unlicensed use of the 57–59 GHz and 64–66 GHz bands in this proceeding, except that operation in the 57–59 GHz band would not be permitted on aircraft or satellites. Instead, we intend to initiate a separate rulemaking to address appropriate technical rules. Nonetheless, we invite comment looking toward this further rulemaking on the technical rules needed for the spectrally efficient operation of unlicensed devices in these band. For example, should we simply employ the existing technical rules and etiquette from the 59–64 GHz band throughout an extended 57–66 GHz unlicensed band, or should we develop different technical rules for the 57–59 GHz and 64–66 GHz bands? If we adopt different technical rules, should either of the bands be channelized, and should the use of listen-before-transmit etiquette be required on all or some of these channels? We request comment on all of the above proposals.

Passive Sensors

13. Satellite-borne passive microwave sensors are used to obtain atmospheric temperature profiles that are of utmost importance to weather forecasting and to climate studies, and these sensor measurements can only be obtained in the vicinity of unique molecular oxygen resonance frequencies located between 50 GHz and 70 GHz. WRC–97 allocated the 59.0–59.3 GHz band to the earth exploration-satellite (passive) and space research (passive) services on a primary basis and deleted unneeded earth exploration-satellite (passive) and space research (passive) service allocations from the 51.4–52.6 GHz and 64–65 GHz bands. WRC–97 also modified the text of footnote 907 (re-numbered as footnote S5.340) in order to delete the prohibition on emissions from the 51.40–54.25 GHz, 58.2–59.0 GHz, and 64–65 GHz bands and to add the prohibition on emissions to the 50.2–50.4 GHz and 52.60–54.25 GHz bands. In order to implement domestically the WRC–97 revision of footnote S5.340, NTIA requests that the text of footnote US246 be modified to reflect these international rule changes. Similarly, NTIA requests that the text of footnote US263 be modified to specify that passive sensor operations in the 56.26–58.20 GHz band (rather than the 50.2–50.4 GHz and 54.25–58.20 GHz bands) will not receive protection from fixed and mobile services operating in accordance with the Table of Frequency Allocations. We agree that these WRC–97 amendments and the consequential changes to United States footnotes adequately provide for passive sensor operations and therefore propose to implement these changes domestically. We request comment on all of the above proposals.

Other Matters

14. Internationally, radio astronomy observations may be carried out under national arrangements in the 51.40–54.25 GHz, 58.2–59.0 GHz, and 64–65 GHz bands per footnote 906 (revised and re-numbered as footnote S5.556). In the United States, these bands are allocated to the Government and non-Government radio astronomy (''RA'') service on a primary basis. Recently, the coordinator for Task 2 of ITU–R Joint Rapporteurs Group 7D–9D stated that:

> there is no known usage of [the 51.4–52.6 GHz, 55.78–59.00 GHz, and 64–66 GHz bands] by the RA community (potentially due to atmospheric absorption) and no studies on potential sharing have been done to date. Even if radio astronomical use were to develop, there should not be any problems with radio astronomy stations sharing [these] band[s] with HDFS since RA use of these bands must already be coordinated with the fixed service within individual Administrations. Therefore, sharing between HDFS and RA is a domestic issue.

NTIA requests that the radio astronomy service allocation be deleted from the 51.40–54.25 GHz and 64–65 GHz bands and that international footnote S5.556 be added to these bands. NTIA did not propose any change to the radio astronomy service allocation at 58.2–59.0 GHz. We tentatively find that radio astronomy use of the 51.40–54.25 GHz and 64–65 GHz bands is a domestic issue that is best authorized under a national arrangement. Accordingly, we propose to delete radio astronomy service allocation from the 51.40–54.25 GHz and 64–65 GHz bands and to add international footnote S5.556 to these bands. We solicit comment on these proposals and on the specifics of such national arrangements. For example, should RA observatories that may need protection in the future be listed in a US footnote?

15. Finally, we propose to correct a typographical error in the Allocation Table by adding a reference to footnote S5.559 in the 59–64 GHz band. This reference has inadvertently been dropped from the Table.

16. *Initial Regulatory Flexibility Analysis.* Section 603 of the Regulatory Flexibility Act, as amended,[1] requires that the Commission prepare an Initial Regulatory Flexibility Analysis in notice and comment rulemaking proceedings, unless we certify that ''the rule will not, if promulgated, have a significant economic impact on a significant number of small entities.''[2] In this *Notice of Proposed Rule Making,* we propose, *inter alia,* to reallocate spectrum that will result in net gain of 2.27 gigahertz of primary spectrum for fixed and mobile services, and to also designate 4 gigahertz of spectrum at 57–59 GHz and 64–66 GHz for unlicensed devices. We believe that this net increase in fixed and mobile spectrum and the designation of new unlicensed bands will provide new opportunities for small entities, without any known harmful effects. Accordingly, we hereby certify that the proposed reallocations will not, if promulgated, have significant economic impact on a significant number of small entities. The Secretary shall send a copy of this *Notice of Proposed Rule Making,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance

[1] *See* 47 U.S.C. 603.

[2] *Id.* at § 605(b).

with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 603(a).

17. *Ex Parte Rules—Permit-But-Disclose Proceedings.* This is a permit-but-disclose notice and comment rule making proceeding. *Ex parte* presentations are permitted, except during any Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules. *See generally* 47 CFR 1.1202(a), 1.1203, and 1.1206.

List of Subjects in 47 CFR Part 2

Comunications equipment, radio.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–20692 Filed 8–10–99; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 64, No. 154
Wednesday, August 11, 1999

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

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Public Meetings of Advisory Committee on Beginning Farmers and Ranchers

AGENCY: Farm Service Agency, USDA.

ACTION: Notice of public meetings.

SUMMARY: The Farm Service Agency (FSA) is issuing this notice to advise the public that meetings of the Advisory Committee on Beginning Farmers and Ranchers (Committee) will be held to discuss ways to increase opportunities for these producers.

DATES: The public meetings will be held August 31–September 2, 1999. The first meeting on August 31, 1999, will start at 1:00 p.m. and end at 5:00 p.m.; on September 1, 1999, the meeting will begin at 8:30 a.m. and end at 5:00 p.m.; the September 2, 1999, meeting will begin at 8:30 a.m. and end at 12:00 noon. All meetings will be held at the Westin Hotel, 2350 M Street, N.W., Washington, D.C. All times noted are Eastern Daylight Time (EDT).

Attendance is open to all interested persons but limited to space available. Anyone wishing to make an oral statement should submit their request in writing (letter, fax, or e-mail) to Mark Falcone at the address listed below. Statements should be received no later than 12:00 noon EDT on Thursday, August 26, 1999. Requests should include the name and affiliation of the individual who will make the presentation and an outline of the issues to be addressed. The floor will be open to oral presentations beginning at 1:00 p.m. on September 1, 1999. Comments will be limited to 5 minutes, and presenters will be approved on a first-come, first-served basis.

ADDRESSES: Statements or comments should be sent to Mark Falcone, Designated Federal Official for the Advisory Committee on Beginning Farmers and Ranchers, Farm Service Agency, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 5438–S, STOP 0522, Washington, DC 20250–0522; telephone (202) 720–1632; FAX (202) 690–1117; e-mail mfalcone@wdc.fsa.usda.gov.

FOR FURTHER INFORMATION CONTACT: Mark Falcone at (202) 720–1632.

SUPPLEMENTARY INFORMATION: Section 5 of the Agricultural Credit Improvement Act of 1992 (Pub. L. 102–554) required the Secretary of Agriculture to establish the Committee for the purpose of advising the Secretary on: (1) The development of a program of coordinated financial assistance to qualified beginning farmers and ranchers required by Section 309 (i) of the Consolidated Farm and Rural Development Act (this program consists of Federal and State beginning farmer programs that provide joint financing to beginning farmers and ranchers); (2) methods of maximizing the number of new farming and ranching opportunities created through the program; (3) methods of encouraging States to participate in the program; (4) the administration of the program; and (5) other methods of creating new farming or ranching opportunities.

Departmental Regulation 1042–119 dated November 25, 1998, formally established the Committee and designated the Farm Service Agency (FSA) to provide support. The Committee is comprised of 18 members appointed by the Secretary. Members represent the following groups: (1) FSA; (2) State beginning farmer programs; (3) commercial lenders; (4) private nonprofit organizations with active beginning farmer programs; (5) the Cooperative State Research, Education, and Extension Service; (6) educationalinstitutions with demonstrated experience in training beginning farmers or ranchers; (7) other entities providing lending or technical assistance for qualified beginning farmers or ranchers; and (8) farmers and ranchers. The Committee will meet at least once a year and all meetings will be open to the public. The duration of the Committee is indefinite.

If special accommodations are required, please contact Mr. Falcone at the address specified above, by COB August 26, 1999.

Signed in Washington, DC on August 5, 1999.

James C. Kearney,

Acting Administrator, Farm Service Agency.

[FR Doc. 99–20782 Filed 8–10–99; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Upper Pipe Creek Timber Sale and Associated Activities; Kootenia National Forest, Lincoln County, Montana

AGENCY: Forest Service, USDA.

ACTION: Withdrawal of notice of intent to prepare an environmental impact statement.

SUMMARY: On December 28, 1998, a Notice of Intent to prepare an environmental impact statement for the Upper Pipe Creek Timber Sale and Associated Activities appeared in the **Federal Register** (FR, December 28, 1998, Volume 63, Number 248, Pages 71442–71444). The Upper Pipe Creek Timber Sale will be incorporated into the Pipe Creek Timber Sale; therefore, the Notice of Intent to prepare an environmental impact statement for the Upper Pipe Creek Timber Sale and Associated Activities is being withdrawn.

FOR FURTHER INFORMATION CONTACT: Kirsten Kaiser, Project Coordinator, Libby Ranger District. Phone: (406) 293–7773.

Dated: August 2, 1999.

Bob Castaneda,

Forest Supervisor.

[FR Doc. 99–20715 Filed 8–10–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

California Coast Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The California Coast Provincial Advisory Committee (PAC) will meet on August 25 and 26, 1999, at the City Hall in Fort Bragg, California. The meeting will be held from 9:00 a.m.

to 2:00 p.m. on August 25. A field trip to the Jackson State Forest will be held from 2:00 p.m. to 5:00 p.m. on August 25. The business meeting will continue on August 26 from 9:00 a.m. to 3:00 p.m. The City Hall is located at 363 No. Main Street in Fort Bragg. Agenda items to be covered include: (1) Panel presentation on anadromous fish stocks at risk in the California Coast Province; (2) Regional Ecosystem Office (REO)/IAC Update (to include IAC/PAC Summit, new developments in Late Successional Reserves; and Survey and Manage requirements update); (3) Status of FERC/Potter Valley Project; (4) Presentation on a US Fish and Wildlife Service study on northern spotted owl demographics; (5) Presentation on cumulative watershed effects in the California Coast Province; (6) PAC direction to the Public/Private/Tribal Partnership Opportunities Subcommittee; (7) Report from the Work on the Ground Subcommittee; (8) Agency/PAC updates; and (9) Open public comment. All California Coast Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Daniel Chisholm, USDA, Forest Supervisor, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA, 95988, (530) 934–3316 or Phebe Brown, Province Coordinator, USDA, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA, 95988, (530) 934–3316.

Dated: August 4, 1999.

Thomas Kennedy,

Acting Forest Supervisor.

[FR Doc. 99–20723 Filed 8–10–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's (RHS) intention to request an extension for a currently approved information collection in support of Housing Application Packaging Grants.

DATES: Comments on this notice must be received by October 12, 1999 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Gloria L. Denson, Loan Specialist, Single Family Housing Direct Loan Division, RHS, U.S. Department of Agriculture, STOP 0783, South Building, Washington, DC 20250, Telephone 202–720–1474. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION:

Title: Housing Application Packaging Grants.

OMB Number: 0575–0157.

Expiration Date of Approval: September 30, 1999.

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

Abstract: The Rural Housing Service (RHS) under section 509 of the Housing Act of 1949, 42 U.S.C. 1479, provides grants to public and private nonprofit organizations and state and local governments to package housing applications for loans under sections 502, 504, 514, 515, and 524 grants under section 533 of the Housing Act of 1949 in colonias and designated undeserved counties. RHS reimburses eligible organizations for part or all of the costs of conducting, administering and coordinating an effective housing application packaging program in colonias and designated underserved counties. Eligible organizations assist very low and low-income families that are without adequate housing to buy, build, or repair housing for their own use. Also, the organizations package applications for loans to buy, build or repair rental units for lower income families.

RHS will be collecting information from grantees to assure the organizations participating in this program are eligible entities and have participated in RHS training in application packaging. The respondents are nonprofit organizations, States, State agencies, and units of general local government. The information required for approval of housing application packaging grants is used by RHS personnel to verify program eligibility requirements. The information is collected at the RHS field office responsible for the processing of the application being submitted. The information is also used to ensure the program is administered in a manner consistent with legislative and administrative requirements. If not collected, RHS would be unable to determine if a grantee would qualify for grant assistance.

The grantees facilitate the application process by helping applicants submit complete applications to RHS. This saves RHS time by prescreening applicants, making preliminary determinations of eligibility, ensuring that the application is complete, and helping the applicant understand the program.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.12 hours per response.

Respondents: Private and public nonprofit organizations and State and local governments.

Estimate Number of Respondents: 200.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 900 hours.

Copies of this information collection can be obtained from Jean Mosley, Regulations and Paperwork Management Branch, at (202) 692–0041.

Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of RHS, including whether the information will have practical utility; (b) the accuracy of RHS's estimates 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Jean Mosley, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, Stop 0742, Washington, DC 20250. 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.

Dated: August 3, 1999.

Eileen M. Fitzgerald,

Acting Administrator, Rural Housing Service.

[FR Doc. 99–20781 Filed 8–10–99; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 351.213 of the Department of Commerce (the Department) Regulations (19 CFR 351.213 (1997)), that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review

Not later than the last day of August 1999, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in August for the following periods:

	Period
Antidumping Duty Proceeding	
Argentina:	
Oil Country Tubular Goods, A–357–810	8/1/98–7/31/99
Seamless Pipe, A–357–809	8/1/98–7/31/99
Australia: Corrosion-Resistant Carbon Steel Flat Products, A–602–803	8/1/98–7/31/99
Belgium:	
Cut-to-Length Carbon Steel Plate, A–423–805	8/1/98–7/31/99
Phosphoric Acid, A–423–602	8/1/98–7/31/99
Brazil:	
Cut-to-Length Carbon Steel Plate, A–351–817	8/1/98–7/31/99
Seamless Pipe, A–351–826	8/1/98–7/31/99
Canada:	
Corrosion-Resistant Carbon Steel Flat Products, A–122–822	8/1/98–7/31/99
Cut-to-Length Carbon Steel Plate, A–122–823	8/1/98–7/31/99
Magnesium, A–122–814	8/1/98–7/31/99
Finland: Cut-to-Length Carbon Steel Plate, A–405–802	8/1/98–7/31/99
France:	
Corrosion-Resistant Carbon Steel Flat Products, A–427–808	8/1/98–7/31/99
Industrial Nitrocellulose, A–427–009	8/1/98–7/31/99
Germany:	
Cold-Rolled Carbon Steel Flat Products, A–428–814	8/1/98–7/31/99
Corrosion-Resistant Carbon Steel Flat Products, A–428–815	8/1/98–7/31/99
Cut-to-Length Carbon Steel Plate, A–428–816	8/1/98–7/31/99
Seamless Pipe, A–428–820	8/1/98–7/31/99
Israel: Phosphoric Acid, A–508–604	8/1/98–7/31/99
Italy:	
Grain Oriented Electrical Steel, A–475–811	8/1/98–7/31/99
Oil Country Tubular Goods, A–475–816	8/1/98–7/31/99
PTFE Resin, A–475–703	8/1/98–7/31/99
Seamless Pipe, A–475–814	8/1/98–7/31/99
Japan:	
Acrylic Sheet, A–588–055	8/1/98–7/31/99
Brass Sheet & Strip, A–588–704	8/1/98–7/31/99
Corrosion-Resistant Carbon Steel Flat Products, A–588–824	8/1/98–7/31/99
Oil Country Tubular Goods, A–588–835	8/1/98–7/31/99
PTFE Resin, A–588–707	8/1/98–7/31/99
Kazakhstan: Titanium Sponge, A–834–803	8/1/98–7/31/99
Mexico:	
Cement, A–201–802	8/1/98–7/31/99
Cut-to-Length Carbon Steel Plate, A–201–809	8/1/98–7/31/99
Oil Country Tubular Goods, A–201–817	8/1/98–7/31/99
Poland: Cut-to-Length Carbon Steel Plate, A–455–802	8/1/98–7/31/99
Republic of Korea:	
Cold-Rolled Carbon Steel Flat Products, A–580–815	8/1/98–7/31/99
Corrosion-Resistant Carbon Steel Flat Products, A–580–816	8/1/98–7/31/99
Oil Country Tubular Goods, A–580–825	8/1/98–7/31/99
Romania: Cut-to-Length Carbon Steel Plate, A–485–803	8/1/98–7/31/99
Russia: Titanium Sponge, A–821–803	8/1/98–7/31/99
Spain: Cut-to-Length Carbon Steel Plate, A–469–803	8/1/98–7/31/99
Sweden: Cut-to-Length Carbon Steel Plate, A–401–805	8/1/98–7/31/99
Thailand: Malleable Pipe Fittings, A–549–601	8/1/98–7/31/99
The Netherlands:	
Brass Sheet & Strip, A–421–701	8/1/98–7/31/99
Cold-Rolled Carbon Steel Flat Products, A–421–804	8/1/98–7/31/99
The People's Republic of China:	
Petroleum Wax Candles, A–570–504	8/1/98–7/31/99
Sulfanilic Acid, A–570–815	8/1/98–7/31/99

	Period
The Ukraine:	
Titanium Sponge, A–823–803	8/1/98–7/31/99
Uranium, A–823–802	8/1/98–7/31/99
The United Kingdom: Cut-to-Length Carbon Steel Plate, A–412–814	8/1/98–7/31/99
Turkey: Aspirin, A–489–602	8/1/98–7/31/99
Suspension Agreements	
Japan: Color Negative Photographic Paper, A–588–832	8/1/98–7/31/99
The Netherlands: Color Negative Photographic Paper, A–421–806	8/1/98–7/31/99
The People's Republic of China: Honey, A–570–838	8/1/98–7/31/99
Countervailing Duty Proceedings	
Belgium: Cut-to-Length Carbon Steel Plate, C–423–806	1/1/98–12/31/98
Brazil: Cut-to-Length Carbon Steel Plate, C–351–818	1/1/98–12/31/98
Canada:	
Live Swine, C–122–404	4/1/98–3/31/99
Pure Magnesium, C–122–815	1/1/98–12/31/98
Alloy Magnesium, C–122–815	1/1/98–12/31/98
France: Corrosion-Resistant Carbon Steel, C–427–810	1/1/98–12/31/98
Germany:	
Cold-Rolled Carbon Steel Flat products, C–428–817	1/1/98–12/31/98
Corrosion-Resistant Carbon Steel, C–428–817	1/1/98–12/31/98
Cut-to-Length Carbon Steel Plate, C–428–817	1/1/98–12/31/98
Israel: Industrial Phosphoric Acid, C–508–605	1/1/98–12/31/98
Italy:	
Seamless Pipe, C–475–815	1/1/98–12/31/98
Oil Country Tubular Goods, C–475–817	1/1/98–12/31/98
Mexico: Cut-to-Length Carbon Steel Plate, C–201–810	1/1/98–12/31/98
Republic of Korea:	
Cold-Rolled Carbon Steel Flat Products, C–580–818	1/1/98–12/31/98
Corrosion-Resistant Carbon Steel Plate, C–580–818	1/1/98–12/31/98
Spain: Cut-to-Length Carbon Steel Plate, C–469–804	1/1/98–12/31/98
Sweden: Cut-to-Length Carbon Steel Plate, C–401–804	1/1/98–12/31/98
United Kingdom: Cut-to-Length Carbon Steel Plate, C–412–815	1/1/98–12/31/98

In accordance with section 351.213 of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. The Department has changed its requirements for requesting reviews for countervailing duty orders. Pursuant to 771(9) of the Act, an interested party must specify the individual producers or exporters covered by the order or suspension agreement for which they are requesting a review (Department of Commerce Regulations, 62 FR 27295, 27494 (May 19, 1997)). Therefore, for both antidumping and countervailing duty reviews, the interested party must specify for which individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, US Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(1)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of August 1999. If the Department does not receive, by the last day of August 1999, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: August 4, 1999.

Bernard T. Carreau,

Deputy Assistant Secretary for Group II, AD/CVD Enforcement.

[FR Doc. 99–20735 Filed 8–10–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–605]

Frozen Concentrated Orange Juice From Brazil; Final Results and Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On February 5, 1999, the Department of Commerce published in the **Federal Register** the preliminary results of the administrative review of

the antidumping duty order on frozen concentrated orange juice from Brazil. This review covers the U.S. sales and/or entries of four manufacturers/exporters. We are rescinding this review with respect to two additional companies. This is the eleventh period of review, covering May 1, 1997, through April 30, 1998.

We gave interested parties an opportunity to comment on our preliminary results. We have considered the comments we received in our analysis and have changed the results from those presented in the preliminary results of review.

EFFECTIVE DATE: August 11, 1999.

FOR FURTHER INFORMATION CONTACT: Sergio Gonzalez or Shawn Thompson, Office of AD/CVD Enforcement, DAS Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–1779 or (202) 482–1776, respectively.

APPLICABLE STATUTE AND REGULATIONS: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations at 19 CFR Part 351 (1998).

SUPPLEMENTARY INFORMATION:

Background

On February 5, 1999, the Department published in the **Federal Register** its preliminary results of the 1997–1998 administrative review of the antidumping duty order on frozen concentrated orange juice (FCOJ) from Brazil (64 FR 5767). The Department has now completed this administrative review, in accordance with section 751(a) of the Act.

Scope of the Review

The merchandise covered by this review is FCOJ from Brazil. The merchandise is currently classifiable under item 2009.11.00 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS item number is provided for convenience and for customs purposes. The Department's written description remains dispositive.

Partial Rescission of Review

As noted in the preliminary results, in July 1998, two companies to whom the Department issued the questionnaire, CTM Citrus S.A. (CTM) and Sucorrico S.A. (Sucorrico), informed the Department that they had no shipments of subject merchandise to the United States during the period of review (POR) (*i.e.*, May 1, 1997, through April 30, 1998). We have confirmed this with information received from the Customs Service. Therefore, in accordance with 19 CFR 351.213(d)(3) and consistent with the Department's practice, we are rescinding our review with respect to CTM and Sucorrico (*see, e.g., Certain Welded Carbon Steel Pipe and Tube from Turkey; Final Results and Partial Rescission of Antidumping Administrative Review,* 63 FR 35190, 35191 (June 29, 1998); and *Certain Fresh Cut Flowers From Colombia; Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 62 FR 53287, 53288 (Oct. 14, 1997)).

Facts Available

A. Use of Facts Available

In accordance with section 776(a)(2)(A) of the Act, we have based the dumping margin for Branco Peres Citrus S.A. (Branco Peres), Cambuhy Citrus Comercial e Exportadora Ltd. (Cambuhy), Citrovita Agro Industrial S.A. (Citrovita), and Frutax Industria e Comercio Ltda. (Frutax) on facts available. Section 776(a)(2) of the Act provides that if an interested party: (1) Withholds information that has been requested by the Department; (2) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act; (3) significantly impedes a determination under the antidumping statute; or (4) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination. Specifically, both Cambuhy and Frutax failed to respond to the Department's questionnaire, issued in June 1998, while Branco Peres and Citrovita failed to respond to the cost of production (COP) questionnaire. Moreover, Citrovita also failed to respond to a supplemental questionnaire regarding sales information.

Because all four respondents have failed to respond to certain questionnaires and have refused to participate fully in this administrative review, we find that, in accordance with sections 776(a)(2)(A) and (C) of the Act, the use of total facts available is appropriate. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Persulfates from The People's Republic of China,* 62 FR 27222, 27224 (May 19, 1997); and *Certain Grain-Oriented Electrical Steel From Italy: Final Results of Antidumping Duty Administrative Review,* 62 FR 2655 (Jan. 17, 1997) (affirming *Certain Grain-Oriented Electrical Steel From Italy: Preliminary Results of Antidumping Duty Administrative Review,* 61 FR 36551 (July 4, 1996)).

Section 776(b) of the Act provides that adverse inferences may be used with respect to a party that has failed to cooperate by not acting to the best of its ability to comply with requests for information. *See* Statement of Administrative Action (SAA) accompanying the URAA, H.R. Doc. 103–316, Vol. 1, 870 (1994). The failure of each of the four respondents to participate in the review or to respond completely to the Department's questionnaires demonstrates that each has failed to act to the best of its ability in complying with the Department's request for information in this review and, therefore, an adverse inference is warranted. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars From Turkey,* 62 FR 9737 (Mar. 4, 1997) (*Rebar from Turkey*); and *Extruded Rubber Thread From Malaysia; Final Results of Antidumping Duty Administrative Review,* 64 FR 12967 (Mar. 16, 1999).

In situations involving non-cooperating respondents of this type, it is the Department's normal practice to select as adverse facts available the highest margin from the current or any prior segment of the same proceeding. (*See, e.g., Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada; Final Results of Antidumping Duty Administrative Review and Determination to Revoke in Part,* 64 FR 2173, 2175 (Jan. 13, 1999); and *Brass Sheet and Strip from Germany; Final Results of Antidumping Duty Administrative Review,* 63 FR 42823 (Aug. 11, 1998).) In this case, however, use of this margin, 2.52 percent, would not be appropriate because it is apparent that the respondents would benefit from their lack of cooperation, given that 2.52 percent is much lower than the margins actually calculated based on information submitted by respondents in this segment of the proceeding (*see* below). Therefore, we do not believe this rate is high enough to encourage participation in future segments of this proceeding. *See, e.g., Steel Wire Rope from the Republic of Korea; Final*

Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order, 63 FR 17986, 17987 (April 13, 1998).

Consequently, in accordance with section 776(b)(4) of the Act, we have used the data on the record of this proceeding as adverse facts available. Specifically, we used the data supplied by the petitioners in the cost allegation, as well as the sales data provided by the two respondents that submitted partial questionnaire responses (*i.e.,* Branco Peres and Citrovita), to calculate sales-specific dumping margins. We then selected as the facts available rates for Branco Peres and Citrovita the highest company-specific and transaction-specific margins calculated in this manner. The highest company-specific rates are 39.18 and 63.55 percent, respectively. In addition, we assigned the higher of these rates to the two remaining respondents who did not submit questionnaire responses (*i.e.,* Cambuhy and Frutax). For the procedures used to determine the rates, *see* the ''Calculation of the Facts Available Rate'' section, below.

We find that the methodology described above is appropriate given the particular facts of this case. Specifically, we note that, unlike in many cases, the publicly available cost data submitted by the petitioners in the cost allegation was complete. The petitioners provided cost data for 100 percent of the products sold by Branco Peres and Citrovita. Moreover, this data was contemporaneous with the POR and specific to Brazil. Finally, this methodology results in a facts available rate that is sufficiently high to effectuate the purpose of the facts available rule—which is to encourage the participation of these companies in future segments of this proceeding. (*See Ad Hoc Committee of AZ–NM–TX–FL Producers of Gray Portland Cement v. United States,* 865 F. Supp. 857, 858 (CIT 1994), where the Court affirmed that the best information available provisions encourage compliance with the Department's requests for information, in view of the Department's lack of subpoena power.)

B. Calculation of the Facts Available Rates

As mentioned above, we calculated margins based on the information on the record using the following methodology:

We used the data in the cost allegation to perform the cost test for Branco Peres and Citrovita. The COP information in the cost allegation was obtained from two sources: (1) A U.S. Department of Agriculture Attache Report, dated June 1998, which showed the price and quantity of oranges needed to produce one metric ton of FCOJ in Brazil; and (2) a study by a University of Florida professor published in *Citrus & Vegetable Magazine* in December 1997, which showed FCOJ processing and general and administrative costs in Brazil.

We compared the COP figures derived from the cost allegation to home market/third country prices of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. We compared product-specific COPs to product-specific foreign market prices, less any applicable movement charges.

In determining whether to disregard foreign market sales made at prices below the COP, we examined whether such sales were made: (1) In substantial quantities within an extended period of time; and (2) at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. *See* section 773(b)(1) of the Act.

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product were at prices below the COP, we found that sales of that product were made in ''substantial quantities'' within an extended period of time (as defined in section 773(b)(2)(B) of the Act), in accordance with section 773(b)(2)(C)(i) of the Act. In such cases, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales.

We found that more than 20 percent of Branco Peres' and Citrovita's foreign market sales within an extended period of time were at prices less than COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We, therefore, disregarded the below-cost sales and, where available, used the remaining above-cost sales as the basis for determining normal value (NV), in accordance with section 773(b)(1) of the Act. For those U.S. sales of FCOJ for which there were no comparable foreign market sales in the ordinary course of trade, we compared export price (EP) and constructed export price (CEP) to constructed value (CV), in accordance with section 773(a)(4) of the Act.

In accordance with section 773(e) of the Act, we calculated CV using the COP data referenced above. In accordance with section 773(e)(2)(A) of the Act, we based profit for Branco Peres on the amounts incurred and realized by this company in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. Regarding Citrovita, because: (1) This company made no sales at prices above the COP; and (2) there was no publicly available profit rate on the record of this proceeding, we used a profit rate which was derived from the public financial statements of the sole respondent who participated in the most recent prior administrative review. For further discussion, see *Comment 2* in the ''Analysis of Comments Received'' section of this notice.

In accordance with the results of the cost test, we disregarded all foreign market sales made at prices below the COP.

We made currency conversions into U.S. dollars, in accordance with section 773A of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. Company-specific calculations are discussed below.

1. Branco Peres

We calculated EP using the data submitted by Branco Peres in its September 18, 1998, supplemental questionnaire response. We based EP on the gross unit price to the first unaffiliated purchaser in the United States. We made deductions from gross unit price, where appropriate, for foreign inland freight, foreign inland insurance, warehousing costs, and port charges, in accordance with section 772(c)(2)(A) of the Act.

We also calculated NV using the data submitted on September 18, 1998. Based on the results of the cost test described above, we found that Branco Peres made certain third country sales during the POR at prices above the COP. Consequently, where a contemporaneous comparison existed, we based NV on these above-cost sales. Where no contemporaneous comparison existed, we based NV on CV.

Where NV was based on third country sales, we based NV on the gross unit price to unaffiliated customers. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, warehousing costs, and port charges, in accordance with section 773(a)(6)(B) of the Act. Pursuant to

section 773(a)(6)(C)(iii) of the Act, we made circumstance-of-sale adjustments, where appropriate, for differences in commissions and credit expenses.

Where NV was based on CV, we made circumstance-of-sale adjustments, where appropriate, for commissions and credit expenses, in accordance with sections 773(a)(6)(C)(iii) and (a)(8) of the Act. Because it was unclear whether the processing costs included in CV contained commission expenses, as facts available we assumed that these costs were exclusive of commissions.

2. Citrovita

We calculated CEP using the data submitted by Citrovita on August 17, 1998. We calculated CEP based on the gross unit price to the first unaffiliated customer in the United States. We made deductions from gross unit price, where appropriate, for foreign inland freight, ocean freight, marine insurance, U.S. brokerage and handling expenses, U.S. customs duties, U.S. inland freight, and U.S. warehousing expenses, in accordance with section 772(c)(2)(A) of the Act. We made additional deductions, where appropriate, for commissions, credit expenses, U.S. indirect selling expenses, and U.S. inventory carrying costs, in accordance with section 772(d)(1) of the Act.

Because Citrovita did not respond to the supplemental sales questionnaire, we adjusted its U.S. sales data to account for certain discrepancies in its response. Specifically, where the data shown on Citrovita's calculation worksheets differed from the data contained in the U.S. sales listing, we used the highest figure reported as facts available. *See* the memorandum to the file from Sergio Gonzalez entitled ''Calculations Performed for Citrovita for the Preliminary Results,'' dated February 1, 1999.

We made no adjustment to the price for CEP profit, pursuant to section 772(d)(3) of the Act, because Citrovita operated at a loss with respect to its sales of FCOJ during the POR. *See Comment 3.*

Based on the results of the cost test described above, we found that Citrovita made no home market sales during the POR at prices above the COP. Consequently, we based NV on CV.

For CEP-to-CV comparisons, we made circumstance-of-sale adjustments, where appropriate, for commissions and credit expenses (offset by interest revenue received by Citrovita), in accordance with sections 773(a)(6)(C)(iii) and (a)(8) of the Act. We computed the CV profit rate using the public financial statements of the sole respondent who participated in the most recent prior administrative review. (*See Comment 2.*) Furthermore, we recalculated home market credit expenses on the basis of home market price net of Brazilian taxes, in accordance with our practice. *See, e.g., Ferrosilicon from Brazil; Final Results of Antidumping Duty Administrative Review,* 61 FR 59407 (Nov. 22, 1996).

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from two respondents, (*i.e.,* Branco Peres and Citrovita). We received rebuttal comments from the petitioners, (*i.e.,* Florida Citrus Mutual, Caulkins Indian Citrus Co., Citrus Belle, Citrus World, Inc., Orange-Co of Florida, Inc., Peace River Citrus Products, Inc., and Southern Gardens Citrus Processors Corp).

Comment 1: Use of Adverse Facts Available

Both Branco Peres and Citrovita contend that the Department's decision to use adverse facts available to calculate the margins in this review is not supported by evidence on the record, is contrary to law, and is in violation of application of the Agreement on Application of Article VI of GATT 1994, Annex II (use of best information available) (GATT 1994).

Specifically, these companies argue that, in order to apply adverse facts available, the Department must first make a finding that the companies did not act to the best of their ability. *See Borden, Inc., et al.,* versus *United States,* F. Supp. 2d 1221, 1246–47 (CIT 1998). Both companies argue that the Department cannot make such a finding in this review, because each respondent submitted complete, or almost complete, sales data, and the failure to provide cost data was caused by factors beyond their control. Branco Peres asserts that it did not possess the cost information required by the Department (due to circumstances of a business proprietary nature which cannot be discussed here), while Citrovita maintains that it did not possess personnel resources sufficient to complete the review (due to an economic crisis in Brazil).

According to Branco Peres, Congress intended the Department to take these types of circumstances into account when evaluating a respondent's data. In support of this assertion, Branco Peres cites the SAA, which states that the Department ''may take into account the circumstances of the party including (but not limited to) the party's size, its accounting systems, and computer capabilities, as well as the prior success of the same firm, or other similar firms, in providing requested information in antidumping and countervailing duty proceedings.'' Branco Peres asserts that, not only does it have a history of being a cooperative respondent in prior segments of this proceeding, but it also would have supplied all of the data requested in this segment had it been able to do so. According to Branco Peres, the circumstances surrounding its inability to supply cost data are precisely the type of circumstances envisioned by Congress.

Branco Peres asserts that the courts have made clear that the Department may not use adverse facts available to penalize companies for failing to provide information that does not exist. Branco Peres maintains that the courts have similarly held that the Department may not characterize a party's failure to provide such information as a ''refusal'' to provide information. *See Olympic Adhesives, Inc.* versus *United States,* 899 F.2d 1565, 1572 (Fed. Cir. 1990) (*Olympic Adhesives*).

According to Branco Peres and Citrovita, given the fact that the Department erred with respect to finding that each did not act to the best of its ability, the Department's use of adverse facts available is contrary to law and to GATT 1994.[1] Branco Peres and Citrovita cite to section 782(e) of the Act (19 U.S.C. 1677m(e)), which states that the administering authority shall not decline to use information that is submitted by an interested party if that information is verifiable, submitted on time, is not so incomplete that it cannot be used, has been provided to the best of the party's ability, and can be used without difficulty. Branco Peres and Citrovita also assert that their information meets each of the above three criteria: it was submitted on time, it can be used without difficulty (since the Department did, in fact, use it to some extent for purposes of the preliminary results); and it has been provided to the best of the respondents' abilities. Moreover, while they acknowledge that the Department would be justified in using facts available to determine COP for both companies (and selling expenses for Citrovita), they argue that there is no basis for applying total facts available.

According to Citrovita, the Department has discretion in deciding whether to make adverse inferences. As support for this position, Citrovita cites the preamble to the Department's

[1] The language in Annex II of the Agreement on Implementation of Article VI of GATT (1994) to a large extent mirrors that in 19 USC 1677m(e).

regulations (*see Final rule*, 62 FR 37296, 27340 (May 19, 1997)), which states that ''if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department, in reaching its determination, 'may use an inference that is adverse to the interests of that party in selecting from the facts otherwise available.' ''

Citrovita argues that the Department has consistently distinguished between respondents who do not cooperate at all and those who attempt to respond to the Department's information requests but cannot do so completely. As support for this assertion, Citrovita cites the *Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy*, 61 FR 30326, 30329 (June 14, 1996) (*Pasta from Italy: LTFV Investigation*); *Roller Chain, Other Than Bicycle from Japan: Final Results and Partial Recission of Antidumping Duty Administrative Review*, 63 FR 63671, 63674 (Nov. 16, 1998) (*Roller Chain from Japan*); and *Certain Cut-to-Length Carbon Steel Plate from Sweden: Final Results of Administrative Review*, 62 FR 46947, 46948 (Sept. 5, 1997). Citrovita notes that in the former two cases the Department assigned less adverse facts available rates based upon a finding of partial cooperation, while in the latter case the Department assigned a higher rate to a respondent who failed to cooperate at all. Consistent with these findings, Citrovita contends that the Department should assign it and Branco Peres facts available margins which are lower than the one assigned to Cambuhy and Frutax, given that they fully participated in this review by submitting responses to the Department's sales questionnaire, while Cambuhy and Frutax did not respond to any requests for information.

Moreover, both respondents argue that, not only was the decision to use adverse facts available unsupported by law or Department practice, but also the method used to select the facts available margin was completely arbitrary. According to the respondents, the Department should reconsider its decision because the courts have held that the power to use facts available against recalcitrant parties cannot be used arbitrarily. *See AK Steel Corp., et al.*, v. *United States*, 34 F. Supp. 2d 756, 771 (CIT 1998).

Specifically, the respondents note that the Department deviated from its normal practice of applying the highest margin ever found in the current or any prior segment of the same proceeding, based on a finding that the respondents would benefit from such a policy. Branco Peres argues that in order to make this finding, however, the Department treated the respondents' data inconsistently, in that it deemed it reliable for certain purposes but not others. For example, Branco Peres asserts that, while the Department used the data to: (1) Determine the extent of the respondents' below-cost sales; (2) determine the fact that the calculated margin would be higher than the highest margin calculated in any prior segment (*i.e.*, 2.52 percent); and (3) calculate transaction-specific margins, it did not deem it reliable enough to calculate the weighted-average dumping margin. According to Branco Peres, the Department failed to explain why the respondents' information was sufficiently reliable to justify departure from normal procedures, but not sufficiently reliable to calculate weighted-average margins.

Furthermore, Branco Peres argues that the Department failed to explain why Citrovita's price information is a more reliable indicator of Branco Peres' margin than Branco Peres' own data, especially given that Branco Peres submitted a response to the Department's supplemental questionnaire, while Citrovita did not. Indeed, Branco Peres argues that the Department in three separate instances disregarded manifestly better information that was on the record in favor of inferior information. Specifically, Branco Peres asserts that the Department: (1) Used Citrovita's, rather than Branco Peres', prices to establish the dumping margins for Branco Peres; (2) calculated the adverse facts available margin using CEP methodology (because Citrovita made CEP sales), although Branco Peres had no CEP sales; and (3) calculated profit using Branco Peres' pre-POR profits when the information on the record showed that neither Branco Peres nor Citrovita was operating at a profit during the POR. Branco Peres asserts that the use of Citrovita's information is impermissible in this instance, because courts have held that the Department may not disregard acceptable information in favor of what is demonstrably inferior information. *See Rautaruukki Oy* v. *United States*, Consol. Ct. No 97–05–00864, Slip Op. 98–112, 1998 CIT LEXIS 109 (Aug. 4, 1998) (*Rautaruukki*).

Branco Peres argues that, for purposes of the final results, the Department should determine its margin by comparing net U.S. prices to the cost information submitted by the petitioners (*i.e.*, costs without profit). According to Branco Peres, the margin resulting from this comparison is sufficiently punitive, because it is more than twice the highest rate calculated in any prior review. Alternatively, the respondents assert that the Department should apply the weight-averaged rates calculated, but not used, for each respondent for purposes of the preliminary results. These rates are 18.33 percent for Branco Peres and 22.09 for Citrovita.[2] The respondents argue that these rates would not in any way reward them for not supplying information, because they were calculated using the cost data submitted by the petitioners. According to the respondents, because this cost information is overstated, the extent of the dumping margins is overstated as well.

According to the petitioners, the Department was justified in using adverse facts available for purposes of the preliminary results because neither respondent acted to the best of its ability in this proceeding. Regarding Branco Peres, the petitioners state that this company should have known that a cost investigation was likely to be initiated because: (1) The information used in the cost allegation was public information based on Brazilian industry data, which showed that the Brazilian FCOJ industry was experiencing losses during the POR; and (2) Branco Peres had been involved in cost investigations in previous segments of this proceeding and, therefore, was familiar with the procedures. The petitioners assert that Branco Peres intentionally planned not to respond to a COP questionnaire in hopes of obtaining a minimal facts available rate. Moreover, the petitioners assert that Branco Peres' reliance on *Olympic Adhesives* is misplaced, because in *Olympic Adhesives*, the court found that the Department incorrectly applied total facts available to a respondent who did not provide information which had never been directly requested; here, on the other hand, Branco Peres failed to respond to the Department's specific request for cost information.

The petitioners argue that Citrovita's claim that it failed to submit a complete response because of the current economic crisis in Brazil is similarly without merit. According to the petitioners, if the Department were to allow a respondent to refuse to answer questionnaires on the basis on national economic problems, the entire process of administrative reviews would be compromised.

Moreover, the petitioners note that the Act contains a provision designed to aid

[2] The respondents argue that these rates should be adjusted to incorporate the calculation changes identified below.

companies who encounter difficulties in responding to the questionnaire. Specifically, section 782(c) of the Act affords interested parties in a review the opportunity to notify the Department when they are unable to submit the information requested, and requires them to provide suggested alternatives for submitting the information. The petitioners note that Citrovita not only failed to inform the Department of any difficulties in responding to the questionnaires prior to withdrawing from the review, but it also suggested no alternatives for completing the responses. Furthermore, the petitioners assert that Citrovita did not explain why it had sufficient staff to complete the initial sales questionnaire response, but not the supplemental and COP questionnaires.

The petitioners state that the Department acted completely within its discretion in selecting the rate to use as adverse facts available for Branco Peres and Citrovita. Regarding Branco Peres' argument that the Department should have used its own information in order to calculate a margin, the petitioners note that the SAA at page 869 does not require the Department to prove that the facts available margin is based on the best alternative information. Rather, the petitioners state that this section of the SAA merely requires that the information or inferences used as facts available be reasonable under the circumstances. Further, the petitioners note that both the GATT and the URAA direct the Department to consider the extent to which a party may benefit from its own lack of cooperation. The petitioners argue that in this case the respondents' failure to respond to the Department's cost questionnaire could be due in part to the respondents' expectations that they would receive a lower rate by not cooperating. According to the petitioners, the information selected for facts available should take this possibility into account.

Regarding Branco Peres' assertion that its information is reliable since the Department used it in part, the petitioners assert that the Department never made a determination that this information was fully accurate. Rather, the petitioners maintain that the Department simply used this information to determine if there were reasonable grounds to initiate a cost investigation. According to the petitioners, the level of the reliance on accuracy and detail of information for margin calculation purposes is much greater than for the purpose of determining the extent of sales below the COP. Finally, the petitioners assert that the use of information for one purpose does not necessarily make it reliable for a completely different purpose. Consequently, the petitioners argue that, even if Branco Peres' sales information were somehow more reliable than Citrovita's, the Department was still well within its discretion in this case to choose which facts available rate to apply and to make an adverse inference in doing so.

DOC Position

We disagree with the respondents, in part. We find that our determination to rely on adverse facts available is reasonable, supported by evidence on this record, and otherwise in accordance with law (as discussed below). Nonetheless, we have reconsidered the methodology used to select the adverse facts available margin for Branco Peres. For purposes of the final results, we assigned this company the highest transaction-specific margin generated using its own data.

According to section 776(a) of the Act, the Department shall use the facts otherwise available in reaching a determination if:

(1) Necessary information is not available on the record, or

(2) An interested party or any other person—

(A) Withholds information that has been requested by the administering authority or the Commission under this title,

(B) Fails to provide such information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782,

(C) Significantly impedes a proceeding under this title, or

(D) provides such information but the information cannot be verified as provided in section 782(i).

In this proceeding, both Branco Peres and Citrovita submitted an apparently complete response to the initial sales questionnaire. However, neither responded to the Department's request for COP and CV information. Moreover, Citrovita also did not respond to the supplemental sales questionnaire. While we may have been able to ''fill in the gaps'' in Citrovita's sales data without a supplemental response, we were unable to do so with respect to the COP/CV data. This information is vital to our dumping analysis, because: (1) It provides the basis for determining whether comparison market sales can be used to calculate normal value; and (2) in certain instances (*e.g.*, when there are no comparison market sales made at prices above the COP), it is used as the basis of NV itself. In cases involving a sales-below-cost investigation, as in this case, lack of COP/CV information renders a company's response so incomplete as to be unuseable. *See, e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils from Canada*, 64 FR 15457 (Mar. 31, 1999) (*Plate from Canada*); *Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Antidumping Duty Administrative Review*, 64 FR 76, 82 (Jan. 4, 1999); *Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Canned Pineapple Fruit From Thailand*, 63 FR 43661, 43664 (Aug. 14, 1998) (*Pineapple from Thailand*); *Rebar from Turkey*, 62 FR at 9737–3738; and *Certain Cut-to-Length Carbon Steel Plate From Sweden: Final Results of Antidumping Duty Administrative Review*, 62 FR 18396, 18401 (Apr. 15, 1997).

Accordingly, because both companies failed to submit information which was not only specifically requested by the Department but was also fundamental to the dumping analysis, we find that they withheld information necessary to reach a determination and/or significantly impeded the proceeding. Consequently, we have assigned these companies margins based on total facts available, as required by sections 776(a)(2)(A) and (C) of the Act.

According to section 776(b) of the Act, if the Department finds that an interested party fails to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference that is adverse to the interests of that party in selecting from the facts otherwise available. We have determined that the respondents did not act to the best of their ability in this proceeding, as required by section 776(b) of the Act, because we find that the failure to provide the information requested was not beyond either respondent's control.

Regarding Branco Peres, we note that this company possessed the information necessary to complete the review at the time that the review was initiated. At initiation, the information was within Branco Peres' control. Although Branco Peres subsequently maintained control of the sales data only, there is no evidence to indicate that it was outside Branco Peres' ability to maintain control over the data necessary to respond to the cost questionnaire. As with its sales data, the company could have made an adequate provision to retain this cost data. Not only was Branco Peres aware that the possibility of a cost investigation existed (in light of its participation in cost investigations in previous segments of this proceeding),

but it should have been aware that such an investigation was likely, given that the information used in the cost allegation was public information based on Brazilian industry data.

Furthermore, although Branco Peres' factual circumstances changed during the course of the review, this does not relieve Branco Peres of the obligation to attempt to comply, to the best of its ability, with the request for information. In this case, Branco Peres provided no evidence that it attempted to obtain the cost information necessary to complete the review. Finally, we note that section 782(c) of the Act affords interested parties in a review the opportunity to notify the Department when they are unable to submit the information requested, and requires them to provide suggested alternatives for submitting the information. Although Branco Peres notified the Department of its purported inability to submit the information, it provided no suggestions for submitting alternative information. *See, e.g., Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Turkey*, 63 FR 68429, 68429 (December 11, 1998); and *Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Italy*, 64 FR 6615, 6616 (Feb. 10, 1999) (*Pasta from Italy*). Consequently, we find that Branco Peres did not act to the best of its ability in this proceeding.

For the foregoing reasons, we find that Branco Peres' reliance on *Olympic Adhesives* is misplaced. In *Olympic Adhesives*, the respondent failed to provide information which had never been directly requested by the Department and had never existed. Here, there is no dispute that the information exists. Moreover, the information was directly requested by the Department; Branco Peres simply did not provide it; nor did it attempt to provide reasonable alternative information.

Regarding Citrovita, we note that this company possessed the sales and cost information requested by the Department, but it opted to withdraw from the review rather than to submit this information. In its withdrawal letter, Citrovita stated:

> [t]he Department's recent decision to initiate a sales below cost investigation will make it extremely difficult, if not impossible, for Citrovita to complete the required responses within the time frame allotted. The current economic crisis in Brazil has forced us to maintain the bare minimum of staff and we simply do not have the personnel resources to dedicate to completing the review.

It is clear from this statement that Citrovita made a conscious decision not to allocate any more resources to participating in this review. Although Citrovita cites the deadlines for submitting its responses, it did not request an extension of these deadlines. Indeed, had Citrovita requested such an extension, the company could have reasonably expected that the Department would grant it, given that Citrovita had requested and received extensions for filing both its initial and supplemental sales responses in this review.

Moreover, we find Citrovita's concerns related to staffing unpersuasive. We note that Citrovita was able to submit its initial questionnaire response without raising similar staffing concerns. Acceptance of Citrovita's argument in this proceeding would be tantamount to giving companies the option not to dedicate their resources to response preparation, which would have the practical effect of waiving the requirement that companies submit cost responses at all. The Department has a long-standing practice of denying these types of administrative burden arguments. *See, e.g., Pasta from Italy, Plate from Canada, Roller Chain from Japan*, and *Pineapple from Thailand*.

Nonetheless, Congress recognized that on occasion respondents may experience legitimate difficulties in collecting information. The SAA indicates that the Department has the discretion to modify its request for information if promptly asked to do so by an interested party, to avoid imposing an unreasonable burden on the party. Specifically, the SAA states that the Department:

> Will take due account of difficulties experienced by parties, particularly small companies, in supplying information, and will provide such assistance as [the Department considers] practicable * * * Section 782(c)(1) is intended to alleviate some of the difficulties encountered by small firms and firms in developing countries, particularly with regard to the submission of data in computerized form. *It is not intended to exempt small firms from the requirements of the antidumping and countervailing duty laws.*

SAA at 864 and 865 (emphasis added). As noted in the SAA, section 782(c) of the Act directs the Department to mitigate the burden imposed on respondents under certain circumstances (*e.g.*, when a company is unable to submit data in the appropriate computer format). It is clear from the SAA, however, that Congress did not intend the Department to exempt firms from submitting questionnaire responses because the preparation of these responses would place an unreasonable administrative burden on respondents.

Although section 782(c)(1) of the Act allows the Department to consider the ability of the respondent to submit information, Citrovita did not attempt to invoke this provision. Specifically, Citrovita did not request that the Department modify its reporting requirements to alleviate its administrative burden, nor did it provide any alternative solutions. It merely withdrew from the proceeding. Thus, we find that Citrovita was not unable to respond to our information requests; it was simply unwilling to do so. Consequently, we also find that Citrovita did not act to the best of its ability in this review.

Accordingly, we have made an adverse inference in selecting the margins for both respondents for purposes of the final results. Section 776(b) of the Act provides that the Department may use the following sources of information in making adverse inferences:

(1) The petition,

(2) A final determination in the investigation under this title,

(3) Any previous review under section 751 or determination under section 753, or

(4) Any other information placed on the record.

In this case, in accordance with section 776(b)(4) of the Act, we have continued to use the data on the record of this proceeding as adverse facts available. Specifically, we used the data supplied by the petitioners in the cost allegation, as well as the sales data provided by Branco Peres and Citrovita, to calculate sales-specific dumping margins. We then selected as the facts available rate for each company the highest transaction-specific margin generated using its own data.

We disagree with the respondents that the methodology used to select the facts available margins is arbitrary. In choosing these margins, we looked to the SAA for guidance. Specifically, the SAA states:

> Where a party has not cooperated, Commerce and the Commission may employ adverse inferences about missing information to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully. In employing adverse inferences, *one factor the agencies will consider is the extent to which a party may benefit from its own lack of cooperation.*

SAA at 870 (emphasis added).

As noted in the ''Facts Available'' section of this notice, the data on the record indicates that the respondents were dumping during the POR at rates higher than the highest rate ever

determined in any other segment of this proceeding. For this reason, we find that assigning them the highest rate ever determined would allow the respondents to benefit from their lack of cooperation.

Similarly, we find that using the data in the cost allegations to calculate company-specific weighted-average dumping margins potentially would allow the respondents to benefit. Contrary to the respondents' assertions, there is no evidence on the record that the costs in these allegations were overstated. Rather, we find that it is equally likely that these costs are understated with respect to Branco Peres and Citrovita, because they are based on average data from the Brazilian FCOJ industry, which is comprised of both high-and low-cost producers. Thus, we find that the use of this information is not adverse to the respondents.

According to the SAA, at 869, there is no requirement that the information used as facts available be the best alternative information. Rather, the SAA merely requires that the facts available be reasonable to use under the circumstances. As we discussed above, the highest company-specific margin is a reasonable use of facts available.[3]

We disagree with Branco Peres that the Department may not disregard its sales information because the Department has not only deemed this information reliable, but this information meets the requirements of section 782(e) of the Act. We find that Branco Peres' arguments are without merit, because, in situations involving the application of total facts available, it is the Department's practice to evaluate whether a respondent's data *in toto* should be disregarded under section 782(e) of the Act. Given the fact that Branco Peres did not submit a complete questionnaire response, the five requirements of section 782(e) of the Act were not met. Therefore, the Department is not required to use this information. *See, e.g., Pineapple from Thailand* and *Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review*, 62 FR 53808, 53819–20 (Oct. 16, 1997).

Moreover, although we have ultimately reached the same conclusion, we also disagree with Branco Peres' rationale as to why the Department should not base its margin on Citrovita's data in this review. We note that in certain cases it may be appropriate to base the facts available rate for one respondent on another company's margin. However, in such instances the Department does not attempt to assign rates of companies who are similarly situated to the non-cooperating respondent, nor do we take into account whether these companies primarily made EP or CEP sales. *See, e.g., Extruded Rubber Thread from Malaysia; Final Results of Antidumping Duty Administrative Review*, 63 FR 12752, 12763 (Mar. 16, 1998). Furthermore, we find that Branco Peres' citation to *Rautaruukki* equally does not apply here, because the court in that case merely held that the Department may not continue to use as facts available any rates which were subsequently invalidated on remand. Rather, the court mandated that the Department must use the updated rates when choosing margins in proceedings involving facts available.

Nonetheless, we agree that we should base Branco Peres' margin on its own data. This data has probative value and is sufficiently adverse.

Finally, we disagree with Citrovita's argument that the Department should assign it a rate which is less adverse than the margins assigned to those companies who did not respond at all. While we acknowledge that the Department has, in other proceedings, assigned less adverse rates in instances where a respondent has made a sufficient effort to cooperate (*see, e.g., Pasta from Italy: LTFV Investigation*), we do not consider it appropriate to do so here. Citrovita essentially terminated its participation in the review, failing to respond at all to the COP/CV section of the questionnaire. Moreover, in order to assign different rates to the ''less cooperative'' respondents in this case, the Department would be required to either: (1) Assign lower margins than we consider suitable to Branco Peres and Citrovita; or (2) select a more adverse rate for Cambuhy and Frutax. Neither of these options is appropriate.

Although there are more adverse rates available to the Department, use of these rates would require us to resort to the data in the petition. Given the facts that: (1) The data on the record is more probative of current conditions than is the data contained in the petition; (2) unlike in many cases, this data can actually be used to calculate dumping margins;[4] and (3) we have determined that the rates calculated using the facts available are sufficiently high to encourage participation in future segments of the proceeding, we find that there is no need to resort to the petition in this segment.

Comment 2: CV Profit Calculation for Citrovita

For purposes of the preliminary results, the Department based the CV profit rate on information contained in the 1995 public financial statements of Branco Peres, because these were the most recent financial statements available to the Department showing a profit on the sale of FCOJ. Citrovita argues this methodology is not in accordance with the statute because the Department ignored Citrovita's own income statement in favor of another producer's pre-POR data.

In support of its position, Citrovita cites section 773(e)(2)(B) of the Act, which provides the following three alternatives for calculating CV profit when there are no home market sales in the ordinary course of trade:

(i) The actual amounts incurred and realized by the specific exporter or producer being examined * * * in connection with the production and sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise;

(ii) The weighted average of the actual amounts incurred and realized by exporters or producers that are subject to the * * * review (other than the exporter or producer described in clause (i)) * * * in connection with the production and sale of a foreign like product, in the ordinary course of trade, for consumption in the foreign country; or

(iii) the amounts * * * based on any other reasonable method, except that the amount of profit may not exceed the amount normally realized by exporters or producers (other than the exporter or producer described in clause (i)) in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise.

According to Citrovita, the Department correctly did not invoke subsection (i) above, because it found that Citrovita made all of its home market sales at prices below the COP. However, Citrovita maintains that the Department erred in using Branco Peres' financial statements because Branco

[3] We disagree with Branco Peres that we should calculate this dumping margin without incorporating an element for CV profit. Because our calculations show that Branco Peres made comparison market sales in the ordinary course of trade during the POR, we have used the profit derived from these sales in the computation of CV for Branco Peres. For further discussion, see *Comment 2* below.

[4] Although the respondents failed to respond to the cost questionnaire, complete cost information exists on this record. Specifically, the cost allegation contains costs for 100 percent of the products sold by Branco Peres and Citrovita.

Peres did not have home market sales of FCOJ, as required by both subsections (ii) and (iii). Moreover, Citrovita notes that these financial statements reflected worldwide sales which were made two years prior to the instant period of review.

Citrovita asserts that, because the requirements of subsections (ii) and (iii) cannot be met due to the absence of appropriate data on the record, the Department should calculate the CV profit rate based on the combined income statement of Citrovita and Votorantrade, Citrovita's affiliated exporter. Alternatively, Citrovita argues that, should the Department disregard these statements because they reflect a combined loss, the Department should use only Votorantrade's income statement because this statement shows a profit. According to Citrovita, the Department would be justified in using Citrovita's own experience to calculate the CV profit rate because the SAA, at 841, states that ''in situations where the producer and exporter are separate companies, the Administration intends that Commerce may continue to calculate constructed value based on the total profit and total SG&A expenses realized and incurred by both companies.''

The petitioners disagree, asserting that the Department acted within its discretion in selecting the CV profit rate. According to the petitioners, section 776(b) of the Act authorizes the Department to use information derived from previous administrative reviews when drawing adverse inferences. Furthermore, the petitioners assert that there was no reason for the Department to rely on secondary information from one of Citrovita's affiliated parties when it had an actual profit figure from another respondent engaged directly in FCOJ production.

DOC Position

We disagree with Citrovita and as part of our adverse facts available determination we have continued to base CV profit on the 1995 financial statements of Branco Peres. Based on the results of our analysis, we found that Citrovita made no home market sales in the ordinary course of trade during the POR. According to section 773(e)(2)(B) of the Act, the Department has three alternatives for calculating CV profit in these circumstances. Specifically, section 773(e)(2)(B) directs the Department to use: (1) The respondent's own profits earned on home market sales, made in the ordinary course of trade, of the same general category of merchandise; (2) another respondent's profits earned on home market sales, made in the ordinary course of trade, of the foreign like product; or (3) profits based on any other reasonable method, as long as they do not exceed the amount normally realized on home market sales by other exporters or producers of the same general category of merchandise. However, the Department is not required to follow any of these approaches, given that we have made a determination to base the respondents' margins on adverse facts available.

Moreover, contrary to Citrovita's assertion, the Department has interpreted section 773(e)(2) of the Act as requiring a positive amount for profit in the calculation of CV. Although the URAA and the subsequent revisions to U.S. law eliminated the use of a minimum profit, it did not eliminate the presumption of a profit element altogether. For a discussion of the reasoning behind our interpretation in this area, see *Silicomanganese from Brazil, Final Results of Antidumping Administrative Review*, 62 FR 37877–37878 (July 15, 1997). Consequently, contrary to Citrovita's assertions, the Department cannot use the combined income statements of Citrovita and Votorantrade to determine Citrovita's profit, because these statements show a loss.

We also disagree with Citrovita that we can base profit on the income statement of Votorantrade alone. As Citrovita correctly noted, the SAA states:

> In situations where the producer and exporter are separate companies, the Administration intends that Commerce may continue to calculate total profit and total SG&A expenses realized and incurred by both companies.

SAA at 841. Thus, the SAA directs the Department to use combined data in cases where the producer and exporter are separate. In any event, however, we find that it would be inappropriate to use Votorantrade's data, because this company appears to function as a middle man between Citrovita and its U.S. affiliate. Thus, the profit shown on this income statement is merely an intra-corporate profit, because it is derived in large part from transactions between affiliated parties.

Because we are precluded from determining profit under the methodology advocated by Citrovita, we have continued to base the amount of profit on the facts available under the methodology used for purposes of the preliminary results. Specifically, we have continued to use the most recent financial statements available to the Department showing a profit on the sale of FCOJ. We find that this method is reasonable, because these financial statements are for the sale of the foreign like product in question. Moreover, we find that these financial statements continue to have probative value, because the profit percentage computed from them is comparable to the profit percentage computed using the proprietary data submitted by Branco Peres in this administrative review. *See* the memorandum to the file from Sergio Gonzalez regarding this topic, dated August 4, 1999. Finally, we find that this method does not conflict with the intent of the Act, because: (1) This alternative does not require that profit be determined on home market sales; and (2) there is no information available to use in determining the profit ''cap.'' *See* the SAA at 841.

Comment 3: CEP Profit Calculation for Citrovita

For purposes of the preliminary results, the Department also based the CEP profit rate for Citrovita on the 1995 financial statements of Branco Peres. According to Citrovita, this methodology is contrary to law, as well as a direct contradiction of Department policy as set forth in the SAA. Specifically, Citrovita notes that the SAA states, at 155, that ''if there is no profit to be allocated (because the affiliated entity is operating at a loss in the United States and foreign markets) Commerce will make no adjustment under section 772(d)(3)'' of the Act. In addition, Citrovita cites to section 772(f) of the Act, which requires the Department to use total actual profit in calculating the CEP profit deduction.

Citrovita asserts that its own financial statements show that the company operated at a loss during 1997. Therefore, Citrovita argues that the Department should make no adjustment to U.S. price for CEP profit for purposes of the final results.

DOC Position

Section 772(f)(1) of the Act states that the Department will calculate CEP profit by multiplying the total actual profit by the applicable percentage of U.S. expenses to total expenses. According to section 772(f)(2)(D) of the Act, ''total actual profit'' is defined as the total profit earned by the foreign producer, exporter, and affiliated parties with respect to the sale of the same merchandise for which total expenses are determined.

Because the data on the record shows that Citrovita operated at an aggregate loss in its home and U.S. markets during the POR, we have made no adjustment for CEP profit for purposes of the final

results, in accordance with section 772(f)(1) of the Act.

Comment 4: CEP Offset

Citrovita argues that the Department improperly denied it a CEP offset for purposes of the preliminary results. Citrovita maintains that it is entitled to a CEP offset in accordance with 19 CFR 351.412(f) because: (1) It does not sell in the home market at a level of trade that is comparable to the CEP level of trade; and (2) it cannot quantify a level of trade adjustment. According to Citrovita, this offset should equal total home market indirect selling expenses, capped by the amount of indirect selling expenses incurred on U.S. sales.

DOC Position

We disagree. Section 351.412(f) states that the Department will grant a CEP offset only under the following conditions: (1) NV is compared to CEP; (2) NV is determined at a more advanced level of trade than the level trade of the CEP; and (3) despite the fact that a person has cooperated to the best of its ability, the data available do not provide an appropriate basis to determine whether the difference in level of trade affects price comparability. In this case, we find that neither of the second two criteria has been met. Specifically, we note that there is no information on the record to establish that NV is at a more advanced level of trade than the CEP. Moreover, we have found that Citrovita has not cooperated to the best of its ability in this administrative review. (*See Comment 1.*) Consequently, we find that Citrovita is not entitled to a CEP offset for purposes of the final results.

Final Results of Review

As a result of our review, we find that the following margins exist for the period May 1, 1997, through April 30, 1998:

Manufacturer/exporter	Margin percent
Branco Peres Citrus, S.A	39.18
Cambuhy Citrus Comercial e Exportadora Ltda	63.55
Citrovita Agro Industrial S.A	63.55
Frutax Industria e Comercio Ltda	63.55

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The duty assessment rates for importers of subject merchandise will be those rates listed above. These rates will be assessed uniformly on all entries of FCOJ made during the POR. The Department will issue appraisement instructions directly to the Customs Service.

Further, the following deposit requirements will be effective for all shipments of frozen concentrated orange juice from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates for those firms as stated above; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 1.96 percent, the all others rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), section 777(i) of the Act (19 U.S.C. 1677f(i)), and 19 CFR 351.210(c).

Dated: August 4, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–20738 Filed 8–10–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–803]

Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China; Final Results and Partial Recission of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Reviews.

SUMMARY: The Department of Commerce (the Department) published the preliminary results of the administrative reviews of the antidumping duty orders on heavy forged hand tools, finished or unfinished, with or without handles (HFHTs), from the People's Republic of China (PRC) in the **Federal Register** on February 5, 1999 (64 FR 5770). These reviews cover the time period, February 1, 1997 through January 31, 1998. We gave interested parties an opportunity to comment on our preliminary results. Based upon our analysis of the comments received, we have made changes to the margins and the margin calculations presented in the preliminary results of the reviews. The final weighted-average dumping margins are listed below in the section entitled Final Results of Review. We will instruct the U.S. Customs Service (Customs) to assess antidumping duties accordingly.

EFFECTIVE DATE: August 11, 1999.

FOR FURTHER INFORMATION CONTACT: Lyman Armstrong or James Terpstra, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–3601 or 482–3965, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions as of January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act

(URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (April 1998).

Background

The Department published the preliminary results of the administrative reviews of the antidumping duty orders on HFHTs from the PRC in the **Federal Register** on February 5, 1999 (*HFHTs Prelims*). *See* 64 FR 5770. We received case and rebuttal briefs from O. Ames Co., and its division, Woodings-Verona (Petitioner), on March 11 and March 16, respectively. We also received joint case and rebuttal briefs from Fujian Machinery & Export Corp. (FMEC), Shandong Huarong General Group Corp. (SHGC), Liaoning Machinery Import & Export Corp. (LMC), Tianjin Machinery Import & Export Corp. (TMC), and Shandong Machinery Import & Export Corp. (SMC) (collectively Respondents) on March 11 and March 16, respectively. On March 25 we determined that Respondents' case brief contained new factual information because it referenced data that had not been submitted prior to the deadlines outlined in 19 CFR 351.301(b)(2). *See* March 25, 1999, Commerce Department letter to Respondents regarding case briefs. On April 8, 1999, Respondents submitted a revised case brief, redacting the new factual information. Also, on April 30, 1999, we determined that Petitioner's brief also contained new factual information. *See* April 30, 1999, Commerce Department letter to Petitioner regarding case briefs. Subsequently, the Department removed the untimely filed data from the record. We held a hearing on April 27, 1999. On May 12, 1999 Petitioner asked us to reconsider our decision to reject the new factual information contained in its case brief. However, we did not change our finding that this untimely filed new information had to be returned. On June 10 and July 13, the Department published notice that pursuant to section 733 (c)(1)(A) of the Act, these HFHTs reviews were extraordinarily complicated and required postponement of the final review results until no later than August 4, 1999. *See* 64 FR 31178 and 64 FR 37742, respectively.

In the preliminary review results of HFHTs, we decided to preliminarily rescind the reviews for certain companies reporting no shipments of certain classes or kinds of HFHTs pending confirmation of these claims from Customs. On April 16, 1999, Customs confirmed that LMC had no shipments of hammers/sledges, picks/mattocks, and axes/adzes during the period of review (POR). Similarly, Customs confirmed that SHGC had no shipments during the POR of picks/mattocks and hammers/sledges. As a result, the Department is rescinding the reviews of LMC with respect to hammers/sledges, picks/mattocks, and axes/adzes and the reviews of SHGC with respect to picks/mattocks and hammers/sledges. *See* the *Facts Available* section below regarding the final disposition of the remaining recission requests filed by SHGC, TMC, FMEC, and SMC.

The Department has now completed these reviews in accordance with section 751 of the Act.

Scope of Reviews

Imports covered by these reviews are shipments of HFHTs from the PRC comprising the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg (3.33 pounds) (hammers/sledges); (2) bars over 18 inches in length, track tools, and wedges (bars/wedges); (3) picks/mattocks; and (4) axes/adzes.

HFHTs include heads for drilling, hammers, sledges, axes, mauls, picks, and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars, and tampers; and steel wood-splitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to the required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot-blasting, grinding, polishing, painting, and the insertion of handles for handled products. HFHTs are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded are hammers and sledges with heads 1.5 kg (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of these orders is dispositive.

Facts Available (FA)

In accordance with section 776(a) of the Act, we have determined that the use of FA is appropriate for several producers. For FMEC and SMC and their supplying factories A and B, we found that these companies provided information which could not be verified, as described in section 776(a)(2)(D) of the Act. *See* comments 2 through 6 below. For SHGC with respect to axes/adzes, and for TMC with respect to axes/adzes and bars/wedges, we found that these companies, in claiming no shipments when there were transactions, withheld information requested by the Department, as described in section 776(a)(2)(A) of the Act. Similarly, for FMEC and SMC, we found that both companies withheld information with respect to bars/wedges, by claiming no shipments when there were transactions by these entities involving this class or kind of hand tools.

Adverse Inferences

In accordance with section 776(b) of the Act, we find that the companies listed above claiming no shipments when they had transactions involving certain classes or kinds of HFHTs failed to cooperate by not acting to the best of their abilities. Contrary to what was reported by these Respondents, on April 16, 1999, Customs notified the Department of U.S. sales by these companies of the above noted classes or kinds of HFHTs. We notified Respondents of this and gave them an opportunity to comment. On May 10, 1999, Respondents provided various explanations as to why such sales were not reported. However, we found Respondents' explanations to be without merit. We found that the Customs data showed that all unreported sales were of subject merchandise sold by these companies during the POR. As a consequence, Respondents were obligated to report these sales. As much of the underlying data is confidential, a more detailed discussion of this analysis is contained in the *Memorandum Regarding Unreported Sales*, dated August 3, 1999. Because Respondents failed completely to report these sales, no U.S. price and normal value (NV) data exist on the records of these proceedings that would permit sales comparisons and margin calculations. As a result there is no basis for a margin estimate other than FA. Moreover, the fact that Respondents failed completely to report the sales of subject merchandise indicates that they did not act to the best of their abilities and that adverse inferences are warranted.

For purposes of 776(b) of the Act, an adverse inference may include reliance on secondary information such as information derived from the petition, the final determination in the investigation, and previous administrative review results, or reliance on any other information

placed on the record. In this case, as adverse FA (AFA) with respect to axes/adzes for SHGC and with respect to axes/adzes and bars/wedges for TMC, we selected the highest rate from all segments of the respective proceedings. Specifically, we have used the rates of 18.72 percent for axes/adzes and 47.88 percent for bars/wedges. *See* Comment 6 for a further discussion of these rates. As SMC and FMEC have not satisfied the Department that they are entitled to separate rates, shipments of bars/wedges from these two companies will be subject to the PRC rate for bars/wedges, which is an AFA rate based on the highest margin from any segment of this proceeding. *See* Comments 6 and 7 below. With respect to TMC, LMC, and SHGC, we are issuing separate rates because TMC, LMC, and SHGC have satisfied the Department that they are entitled to separate rates for the proceedings in question.

Section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action, H.R. Doc. 103–316, Vol.1, at 870 (1994) (SAA) provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870.

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as surrogate values, there are no independent sources for calculated dumping margins. The only source for calculated margins is an administrative determination. Thus, in an administrative review, if the Department chooses as AFA a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. *See, e.g., Fresh Cut Flowers from Mexico; Preliminary Results of Antidumping Duty Administrative Review*, 60 FR 49567, 49568 (September 26, 1995) (the Department disregarded the highest margin as best information available because that margin was based on an extraordinarily high business expense resulting from uncharacteristic investment activities, which resulted in the high margin). In the instant review, because there is no evidence to suggest that these margins are not relevant, the Department finds no need to disregard such information as appropriate FA.

Analysis of the Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received case and rebuttal briefs from Petitioner and case and rebuttal briefs from Respondents.

Comment 1: Factual Errors

Respondents contend that the preliminary results notice contains several significant factual errors, which in turn call into question the overall accuracy of the verification results issued by the Department. Respondents first claim that, in the verification reports, the dates listed for the verifications of FMEC and SMC are incorrect. Respondents further assert that the Department incorrectly implies in the preliminary results notice that the verified factories produce and supply subject merchandise to either SMC or FMEC, when in fact the factories supply both SMC and FMEC with subject merchandise. Respondents argue that the Department incorrectly stated in the preliminary results notice that it found unreported factors of production for both factories, where in actuality, the Department found during verification that only one factory failed to report certain factors of production. Respondents contend that these discrepancies illustrate fundamental flaws in the Department's characterization of the verification results, the conclusions of which provided the basis for the Department's preliminary review results.

Department's Position

We disagree with Respondents that the verification reports were materially in error. Respondents are correct that the dates in the verification reports were inadvertently transposed. In addition, Respondents are correct that the report erroneously indicated that each factory only supplied one trading company. Moreover, we agree with Respondents that the Department found unreported factors of production at only one factory. However, these minor errors in no way undermine the findings in the report, or call into question the underlying accuracy and objectivity of the reports. Indeed, none of these minor errors relates in any way to the significant problems encountered at verification and described in the reports, including the companies' failure to substantiate certain factor data, provide relevant investment records, or to reconcile the total quantity and value of reported sales to the firms' books and records. *See* Comments 2, 3, 4, and 5 below.

Comment 2: Whether FMEC Failed Verification

FMEC claims that its failures during verification were justifiable for five general reasons: first, FMEC argues it had insufficient time to prepare for verification because of a Chinese holiday that fell a few days prior to the beginning of the verification; second, FMEC claims that the two-day time period allotted for verification was insufficient; third, FMEC argues that the Department was merely attempting to ''verify the negative,'' which is contrary to Department practice; fourth, FMEC argues that failure to provide certain data was immaterial to the dumping analysis; and finally, FMEC argues that its accounting system is not flexible and thus not easily translatable for antidumping verification purposes. As such, FMEC claims that it acted to the best of its ability by providing extensive information, and that the Department should rely on the data that were provided during verification as sufficient data for margin calculation purposes.

In particular, FMEC argues that contrary to the Department's statement in the January 29, 1999, *Determination of Adverse Facts Available Based on Verification Failure in the Administrative Review of Heavy Forged Hand Tools from the People's Republic of China Regarding Adverse Facts Available Memorandum (AFA Memorandum)* that it had ''ample time, specifically ten days * * * to analyze the outline and thus prepare for verification,'' FMEC in fact had only four business days to prepare for verification because of a Chinese holiday that immediately preceded verification. FMEC argues that the Department was aware of the holiday and that FMEC would be closed from October 1 through October 4 for the holiday.

According to FMEC, the Department's standard 2-day allocation for verification of a Chinese company is flexible, and thus, because the verification followed a national holiday, the Department should have extended the allotted time for verification. FMEC argues that, while the Department's standard practice may be to provide two days for a verification, it has not always followed this standard. FMEC notes that

in the verification conducted for the 1992–1993 HFHT review, and in several other cases, the Department provided more than two days for verification. FMEC claims that in *Disposable Pocket Lighters from the People's Republic of China,* 60 FR 5899, 5900 (Jan. 31, 1995), the Department indicated a need for flexibility in dealing with the time allowed for verification and the timing of verification where Chinese holidays conflict with scheduled verifications.

FMEC further argues that the problems regarding timing were compounded by the extensive number of general questions asked by the verifiers in their attempt to ''verify the negative,'' or in essence to review the entire operations of the trading company to determine that no unreported sales of subject merchandise were made by FMEC through any aspect of its operations. FMEC asserts that the verifiers' attempt to ''verify the negative'' was contrary to the intent of verification and case law defining the scope of verification. FMEC cites *Belmont Industries* v. *United States,* 733 F. Supp. 1507, 1508 (CIT 1990), arguing that verification should ''normally * * * entail selective examination rather than testing of an entire universe,'' of possibilities. FMEC also cites *Monsanto Co.* v. *United States,* 698 F. Supp. 275, 281 (CIT 1988), arguing that verification is ''a spot check and is not intended to be an exhaustive examination of the Respondents' business.''

FMEC's fourth argument is that its failure to provide certain data during verification was immaterial. FMEC agrees that it was unable to provide four different types of data, but maintains that such data were not necessary for verification. The data requested that FMEC could not produce include in part: (1) A complete list of sales; (2) financial records for long-and short-term investments; (3) quantity and value worksheets; and (4) voucher books and records. With respect to the first two types of data, a complete list of sales and financial records for long-and short-term investments, FMEC notes that the records were either locked away or not kept at FMEC's offices. FMEC argues that it does not have an integrated computer system and therefore offered instead the FMEC catalogue in order to provide sales information. FMEC argues that the verifiers agreed to move on, accepting copies of the catalogues. Additionally, FMEC argues that, although financial records were locked away, company officials provided a list of FMEC investments.

FMEC argues that it could not prepare the ''quantity and value'' worksheets, because it does not have a flexible accounting system that allows sales tracing to financial records. FMEC also claims that the documents relevant to this request were kept in a locked cabinet, and that the accountant with the key had already left for the day, since the request did not come until approximately 5:30 p.m.

As to the requested voucher books and records, FMEC notes that ''[t]he verifiers actually visited the accounting department office where the records were kept during the business day, but did not ask for the records at that time.'' FMEC contends, however, that ''most of the verifiers'' concerns can be satisfactorily answered by other information on the record. FMEC also claims that although it was unable to reconcile total U.S. sales to its financial statements, and specifically could not provide any accounting voucher books for the four requested months, January–April, it did not realize such information would be necessary. *See Memorandum To the File on Verification of the Questionnaire Response of Fujian Machinery & Equipment Import and Export Corporation in the Administrative Review of Heavy Forged Hand Tools from the People's Republic of China* (January 6, 1999). Additionally, regarding the absence of available financial records requested for certain entities, FMEC asserts that there is no evidence that any of these entities shipped subject merchandise during the POR. Regardless, Respondents contend, any financial records FMEC had would not have included sales records. Further in response to the Department's assertion in the *AFA Memorandum* that FMEC's failure to show ''there was no affiliation with its U.S. customer undermines the bona fides of the reported prices,'' FMEC claims that there simply is no affiliation between FMEC and its U.S. customers.

Finally, FMEC argues that, ''but for the timing,'' the necessary documents would have been provided. FMEC claims that the Department verifiers did not advise the company officials that they could submit any information following the verification. FMEC asserts that, the Department should have informed FMEC that it could have more time to supply these records, in accordance with 19 CFR 351.301(b)(2), and that counsel should have been told by Department officials that FMEC had not supplied all requested information. FMEC maintains that it provided extensive records to the verifiers, and that given the circumstances, the Department should use the sales information submitted by FMEC or reopen the verification for the narrow purpose of collecting the information.

Petitioner claims the Department was correct in determining that FMEC failed verification as a result of FMEC's inability to provide key accounting records, including records concerning sales in the first three months of the POR and all relevant records detailing the company's investments. Taken together, Petitioner notes that this resulted in the verifier's inability to confirm the accuracy of the reported U.S. sales.

Petitioner disagrees with Respondents' claim that the verification failure was due to insufficient time, noting that the amount of time spent verifying FMEC's submissions was consistent with past Department practice. Further, Petitioner contends that because this is the seventh administrative review of the antidumping orders on HFHTs, FMEC should be familiar with the Department's review and verification process.

Finally, Petitioner also disagreed with Respondents' assertion that the problems encountered at verification were immaterial. Petitioner claims that the Department's inability to ascertain whether U.S. sales were properly reported is not only material, but detrimental to establishing the integrity of the entire database submitted by the Respondent.

Department's Position

We disagree with FMEC's claim that it did not fail verification and that its failures to provide appropriate documentation during verification were justifiable. As stated in our AFA Memorandum, we encountered a number of serious problems at verification. Among the most serious was FMEC's failure to provide sales data for four months of the POR. As a result, we could not confirm that all U.S. sales were properly reported, which is one of the most important goals of verification. FMEC also did not respond to our requests for quantity and value worksheets, a sales listing, and financial records relating to long-and short-term investments. As discussed below, these requests were crucial to our confirmation of the submitted data.

With respect to FMEC's claim that it had inadequate time to prepare for verification, we disagree. FMEC claims that it only had four business days to prepare for the verification, because there was a national holiday preceding the verification which caused FMEC to be closed for several days just before the verification. However, FMEC agreed in advance to the selected verification

dates, and did not express concern about the proximity of the national holiday at that time. In order to secure approval to travel to the PRC on official government business, it is necessary to secure a letter of invitation from the company being visited in advance of submitting a visa application. In this case, the letter of invitation was provided by Respondents nearly a month before verification. This required that Department verifiers, the Respondents, and their counsel discuss verification scheduling well in advance of the actual dates of verification. Moreover, the verification outline was sent to Respondents 10 days in advance, as is customary, and was similar to the verification outlines used in verifying these companies in the past. Thus, FMEC did, in fact, have ample time to prepare for verification.

We also disagree with FMEC's contention that two days was not a reasonable period of time to allow for verification. The Department typically allows two days for verifying trading companies and two days for verifying factories in PRC cases (*see Memorandum to the File on Verification in Beijing, PRC, of the Questionnaire Response of China Processed Food Import & Export Company in the Antidumping Duty Investigation of Certain Preserved Mushrooms from the People's Republic of China* (October 16, 1998)). The amount of verification time can be adjusted within limits to accommodate the circumstances of a case. In this instance, no adjustment was appropriate. Data that the Department requested in advance of its visit were not accessible to the verification team when it was requested. FMEC maintained a list of the data requests made by the Department throughout the verification and understood clearly what information requests were pending. All outstanding information requests were repeatedly followed up throughout the two days of the Department's stay. The verification team stayed late both days of verification to allow sufficient time for company officials to provide requested information. At no time during the verification did the company officials request additional time to provide the information. Because the delays were the result of FMEC's failures, it was not necessary or appropriate to extend the time allotted for verification.

We also disagree with Respondent's assertion that the Department improperly attempted to ''verify the negative.'' The verifiers simply followed standard verification procedures which call for the confirmation that all sales have been reported completely and accurately. This procedure is known as the ''completeness test,'' which was described in the verification outline provided to FMEC prior to the start of verification. The completeness test is routinely conducted as part of virtually all sales verifications and requires that all sales records be available for examination by the verifiers. This procedure is a critical aspect of verification and is specifically designed to test whether all sales in the United States (and home market, where appropriate) were properly reported. Since dumping is a measure of price discrimination, and prices are reflected in sales documentation, a complete record of sales is indispensable for an accurate measure of dumping. Thus, FMEC's claim that the Department acted contrary to Department practice by attempting to verify the negative is without merit.

Furthermore, because of the volume of information that has to be evaluated at verification, the Department is necessarily limited in the number and scope of documents examined. Therefore, many verification procedures, including the completeness test, call for the testing of a subset of the total amount of information in the questionnaire response using the company's accounting records. For example, it is common to select only certain months to test for unreported sales. In the instant case, we requested but were completely unable to test four full months of the POR. Therefore, there was no way to determine whether all sales were properly reported.

We also disagree with FMEC's contention that its failure to provide certain data was immaterial. During verification, FMEC failed to produce, among other things: (1) A complete list of sales; (2) financial records for long- and short-term investments; (3) quantity and value worksheets; and (4) financial records, including voucher books and records, for four full months of the POR.

As we mentioned above, a complete listing of sales, along with quantity and value worksheets, and financial records for long- and short-term investments, are necessary to successfully perform the ''completeness test'' and confirm that all sales have been properly reported. The integrity of the Respondent's entire response is based upon the confirmation that all sales have been reported properly. The quantity and value worksheets also serve another important purpose in that they provide a baseline for the accounting ledgers and worksheets that are used to verify many other topics. For this reason, the questionnaire issued to FMEC required it to submit a quantity and value reconciliation on the record prior to the start of verification. FMEC failed to provide such data before or during verification. Additionally, without financial records for four full months of the POR, the Department can neither confirm total sales, nor confirm the completeness of the responses as a whole.

FMEC contends that much of the documentation was locked away or unavailable, and that ''but for the time,'' such information would have been presented. This response is insufficient. FMEC received the verification outline well in advance, and has participated in verifications for several years. Although FMEC claims that its failures to produce information were immaterial, it has provided no justification for the absence of key personnel or for assuming that it would not need to provide four full months of financial data from the POR. A respondent must be prepared to verify any section of its response during the scheduled verification.

We also disagree with FMEC's claim that, because it does not have a flexible accounting system, it consequently should be relieved from presenting certain information at verification. The verification outline used in this case, which was similar to the standard verification outlines used in all non-market economy (NME) cases, requested information that is necessary for determining the accuracy and completeness of the submissions. Regardless of the nature of a particular company's record-keeping system, the information provided in submissions to the Department must be verifiable and the Department must be satisfied that the questionnaire responses are complete and accurate. While some companies have elaborate computerized records and reliable, audited financial statements, many producers and exporters have rudimentary record-keeping systems or lack audited financial statements, and the Department adjusts its verification procedures accordingly. In this case the verifiers made deliberate efforts to work within the constraints of FMEC's limited accounting system and were still unable to confirm the completeness and accuracy of FMEC's responses. The fact that the verifiers took into account the nature of the company's accounting records in attempting to perform standard verification procedures is clearly reflected in the Department's verification reports. For example, the verifiers altered the extent of the reconciliation they were asking FMEC to perform. However, despite limiting their requests to departmental levels within FMEC and confining the reconciliation

to a smaller time period, FMEC failed to provide sufficient data from its books and records to confirm the accuracy of its response.

FMEC further argues that the information actually verified should be sufficient to address the Department's concerns. However, as explained above, the information that FMEC failed to provide is a crucial part of the Department's ''completeness test,'' which allows the Department to verify that the Respondent has accurately reported all sales of subject merchandise. FMEC simply did not provide the Department with documentation at verification that confirmed all reported sales. Thus, the examples cited by FMEC of instances in which alternative information was provided during verification pertaining to selected shipments and certain suppliers were not sufficient to confirm the reliability of FMEC's response.

Finally, FMEC argues that, ''but for the timing,'' the necessary documents would have been provided, and that the Department verifiers did not advise the company officials that they could submit any information following the verification. FMEC argues that the Department should have informed FMEC that it could have more time to supply these records, in accordance with 19 CFR 351.301(b)(2), and that counsel should have been told that FMEC had not supplied all requested information. However, Respondents maintained a list of data requests by the Department and understood what had been supplied and what was still pending. If FMEC wished to submit additional requested data, it could have inquired immediately as to that possibility.

Comment 3: Whether SMC Failed Verification

SMC contends that it did not fail verification and that it responded completely to virtually every question posed by the verifiers. SMC claims that the *AFA Memorandum* is distorted and erroneous in reporting the events at the SMC verification, and does not tie with the SMC verification report.

SMC also claims that the verifiers had complete access to all SMC Department records and that the verifiers were confused about access to the complete records of the No. 2 Hardware & Tools Department and the Agricultural Tools Department. SMC argues that although the verification report states that records from the No. 2 Hardware & Tools Department were not available, in fact the verifiers reviewed various records from that Department. SMC claims that, contrary to the verification report, the verifiers looked at the books containing sales of picks by the Agriculture Tools Department and saw that there were no pick sales other than those reported. SMC notes, in fact, that every sale checked by the verifiers was found to be non-subject merchandise. SMC states that because of the many concurrent verification requests being addressed and the general confusion of the verification, it was impossible in the time allowed to complete the tracing for both the No. 2 Hardware & Tools Department and the Agriculture Tools Department.

SMC argues that the primary problem during verification involved the Department's verification request that SMC ''provide a breakdown of the value of the No. 2 Hardware & Tools Department's 1997 sales by U.S. and non-U.S. sales of each subject merchandise product; and of all sales of each individual other product; and to reconcile these figures to their department's and the company's financial statement.'' SMC contends that the verification report is incorrect in its statements that, ''company officials did not have available at verification any invoices except for the invoices of the reported U.S. sales of the subject merchandise. When we asked about the invoices and other sales documentation, company officials told us that the individual salesmen kept all sales documentation, and by that time, the documentation was no longer available because these salesmen had already left the office for the day.'' SMC claims, in fact, that the complete sales records of the No. 2 Hardware & Tools Department and the Agricultural Tools Department were in the verification room during the entire verification. Additionally, SMC contends that the Agricultural Tools Department manager was present throughout the verification and could locate any files in the boxes in the room. SMC has provided a photograph of a box in the verification room as evidence that the documents were present and available for review. SMC claims that in only one instance was a sales person unavailable during the verification, an instance when the verifiers expressly asked for an unannounced check of some other SMC department.

SMC claims that at the end of the second day, the only incomplete verification project was a request for information concerning SMC's affiliated U.S. entity, Pacific Tools. SMC argues that its failure to provide Pacific Tools' data is immaterial, and reiterates that there has never been any question of affiliation between SMC and its U.S. customers.

SMC argues that its individual department records were successfully reconciled. SMC states that, in regard to the verification exercise which attempted to reconcile department statements and SMC's 1997 financial statement, although small differences existed in SMC's department statements and its financial statement, these differences have no relationship to company sales, and in fact, the sales data in both statements are the same. SMC also states that its accounting system is maintained in accordance with Chinese generally accepted accounting principles (GAAP), although the verifiers independently concluded that they were not.

Finally, SMC argues that other issues identified as contributing to the verification failure are in fact minor; specifically, (1) the failure to report one U.S. sale; (2) the non-completion of the Agricultural Department reconciliation; (3) the incorrect reporting of the port of entry for one shipment; (4) the failure of SMC to substantiate that ocean freight payments were paid in foreign currency; and (5) the failure of SMC to acknowledge and report several companies, formerly departments of SMC, that would potentially be considered affiliated with SMC.

Petitioner claims the Department's determination that SMC failed verification is appropriate because SMC did not provide any quantity or value reconciliation for its Agriculture Tools Department's sales, failed to reconcile its financial records to the financial statement submitted to the Department, and was unable to provide ownership and financial information regarding the company's U.S. affiliate, SMC Pacific Tools, Inc. Petitioner claims that when combined, these problems prevented the Department from ascertaining the reliability of SMC's reported sales, made it impossible to tie SMC's sales from its Hand Tool Department to its company-wide financial record, and undermined the Department's ability to verify whether the U.S. sales were *bona fide* transactions.

Petitioner disagrees with the Respondents that the problems encountered at verification were either minor or immaterial. Petitioner claims that the Respondents' comments contradict the verifiers' record and that SMC is merely attempting to submit untimely and unverifiable data on the record after verification.

Department's Position

We disagree with SMC's claim that its verification failures were minor. The verification report and the *AFA Memorandum* from the preliminary

determination clearly establish that the company failed to adequately demonstrate that it had reported all sales. Specifically, SMC was unable to confirm the total sales for its Agriculture Department. In addition SMC was unable to satisfy the Department that SMC's affiliated U.S. importer was not affiliated with other firms, including customers. As a consequence, the Department was not able to perform the ''completeness test.'' *See* Comment 2 of this notice for a more detailed discussion of the importance of the completeness test.

Moreover, SMC's assertions that the verifiers did examine the books of the Agricultural Department are flatly contradicted by the Department's verification report. According to the verification report, SMC acknowledged that SMC officials did not have available at verification any invoices except invoices of the reported U.S. sales of subject merchandise. When verifiers asked about other invoices and sales documentation to test the completeness of the reported U.S. sales, company officials told the verifiers that the individual salesman who kept all sales documentation had left for the day. *See Memorandum to the File on Verification of the Questionnaire Response of Shandong Machinery Import and Export Corporation in the Administrative Review of Heavy Forged Hand Tools from the People's Republic of China* (January 6, 1999). Consequently, while SMC salesmen may have been present throughout the verification process, the specific sales personnel that had access to requested documentation were not available when necessary. As explained in Comment 2 of this notice, a respondent must be prepared to verify any section of its response during the scheduled verification.

SMC further claims that a complete tracing of sales was difficult, since its system was not computerized and such an activity must be manually done. However, as explained in Comment 2 of this notice, a respondent in an antidumping proceeding is not relieved of its responsibility to substantiate its submissions simply because it has a rudimentary bookkeeping system. Moreover, the verification team did not demand records that did not exist; rather they attempted to work with the existing record-keeping system of the company. For example, when the verifiers requested sales reconciliations, SMC informed them that complying with the request would be difficult due to its bookkeeping system. Therefore, the verifiers then requested less complicated versions of the reconciliations by limiting their requests, for example, to certain products or months. Nevertheless, SMC failed to provide even the data that were ordinarily maintained in its books and records. Thus, SMC failed to provide key documentation during verification that was necessary to test the completeness of SMC's response, and because the lack of documentation calls into question the reliability of SMC's responses as a whole, we find that SMC failed verification.

Comment 4: Whether Factory a Failed Verification

Respondents assert that Factory A did not fail verification. Respondents argue that the factory measures its costs through the use of ''caps'' (''estimated'' costs) in the ordinary course of business. Respondents note that while Factory A keeps ''actual'' costs for steel inputs, for all other inputs, the costs are measured only through the use of established ''caps.'' Because the vast majority of input cost in the production of hand tools is steel, Respondents maintain that inputs other than steel are inconsequential, and hence, easily adapted to the use of ''caps.'' Respondents claim that the Department had determined that ''caps'' were reasonable using factory records in previous reviews.

Respondents suggest that the verifiers confused some of the deficiencies noted in the preliminary results notice by claiming that, contrary to the notice, there were no unreported factors of production from Factory A. Respondents next argue that while the reported cost figures for Factory A were in some cases inaccurate, the factory reported the same estimated input figures as the Department verified in 1994 and the differences were consistent. Respondents assert that the under-reported inputs are more than compensated by the over-reported inputs, and that it should be expected that there would be variances from the ''caps.'' Respondents stress that each of the reported ''caps,'' which are essentially estimates, was reasonable, even though not traceable to the company's financial statement.

Respondents believe that the main problem at the Factory A verification was the failure of the factory to tie factor inputs to financial statements. Respondents argue that the submissions never indicated that the factories had records which specifically tied ''caps'' to their financial statements, and that with the exception of steel inputs for Factory A, all factor inputs were based solely on ''caps.'' Respondents argue that it was abundantly clear that the factory did not have records which could trace factor inputs on a per product basis, and that nothing in the verification outline requires companies to prepare materials that do not exist. Respondents insist that the Department's verification outline did not require the factory to tie ''caps'' to financial statements.

Respondents note that Factory A separately calculated the amount of steel it used to produce the subject merchandise, but argue that just because it could now report actual steel physical weights did not mean it could tie its steel consumption per item of subject merchandise to its financial statements.

Petitioner claims that the Department was justified in rejecting the factor data of Factory A because Factory A could not reconcile its reported factors of production or ''caps'' with the factory's actual accounting records. More specifically, Factory A could not verify the actual consumption of coal, electricity, or steel.

Department's Position

We disagree with Respondents' argument that the Department has ''accepted caps'' in the past and should do so again. This is a misleading characterization of what happened in previous reviews. The questionnaire in this and previous reviews requires Respondents to report for each factor of production (FOP) the quantity used to manufacture one unit of subject merchandise during the POR, *e.g.*, the actual kilograms (kgs.) of steel used to produce one hand tool. In this and previous reviews, Respondents reported ''caps'' instead of the actual per-unit utilization of inputs, because they claimed their bookkeeping systems were limited. However, it is not entirely accurate to say that the Department accepted ''caps'' in previous reviews. Rather, in the previous review segment, as a result of verification, we confirmed that the reported FOP data, *i.e.*, the ''caps,'' were reasonable approximations of actual consumption. As such we used this data to calculate NV.

However, verification objectives, testing, and results vary with the review segment, company, and facts. In the verification in this review, we once again tested the reasonableness of certain reported FOP data by weighing the input materials as they entered the production process. We found that the factor utilization rates the company reported in its questionnaire response appeared to be reasonable estimates of the weight of certain material inputs. Although we weighed the input materials as in the previous review and found them not widely variant from reported factors, we also asked the

company to demonstrate that the reported factor utilization figures or ''caps'' were accurate and reflected the company's actual production experience by tracing these ''caps'' to the company's accounting records in some way. This is a basic goal of verification and the company failed.

Respondents' argument, in essence, is that the only way the Department needs to test their reported factors is to weigh several pieces at verification and ignore any systematic link between the reported factors and the company's books and records. This is not acceptable. While it is useful to test the production factors that a company reports in various ways, the reliability of the factor utilization rates ultimately depends on the ability of the respondent to trace the calculation of this rate to the company's actual production experience as it has been recorded in the company's accounting records, a demonstration that in this review segment the company could not make.

This approach is consistent with the position the Department took regarding the use of ''caps'' in *Natural Bristle Paintbrushes and Brush Heads from the People's Republic of China; Final Review Results of Antidumping Duty Administrative Review,* 64 FR 27506 (May 20, 1999) (*Natural Bristle Paintbrushes*) for the review period covering 97–98. While the Department had considered ''caps'' reasonable in past segments of this proceeding, the Department found that there were discrepancies in the 97–98 review between the reported ''cap'' amounts and the figures presented at verification. Because the Department could not deduce how the information in the questionnaire was derived, the Department did not consider the information verified.

Regarding Respondents' assertion that the errors noted at verification were minor, we disagree. The verification reports clearly set forth the significant problems encountered at verification. Company officials at Factory A could not support or document actual consumption of coal and electricity. In addition, we were unable to tie steel purchases to steel consumption as reported in the questionnaire response. Furthermore, as discussed above, company officials could not establish links between reported ''caps'' and company accounting records for specific products. *See AFA Memorandum*. Despite the rudimentary record keeping of the company, it was the responsibility of Factory A to demonstrate how its questionnaire response is derived from the production data captured in its books and records. Factory A failed to do so in this case.

In concluding that Factory A failed verification, we examined the entire record supporting the factual data in the questionnaire response and considered the critical impact that any questionable items may have had on our NV calculations. We ultimately determined that the inaccuracies and unverified claims, *in toto,* were such that the reported data were not a reliable basis for calculating a dumping margin. We also note that, regardless of whether Factory A passed verification, the Department would be applying FA, nonetheless, because of the critical deficiencies in the sales verifications of FMEC and SMC.

Comment 5: Whether Factory B Failed Verification

Respondents argue that Factory B did not fail verification. First, Respondents claim that the verifiers confused some of the deficiencies noted in the preliminary results notice. Respondents claim that, while the verifiers identified three unreported inputs in the notice, these should be considered part of factory overhead rather than separate factor inputs. Respondents argue that these inputs are not significant, and that, even if the record is incomplete, it is not so incomplete as to warrant the use of total FA.

Respondents also contend that the reported figures did not contain many errors, and that the ''caps'' verified in 1994 are the same figures as the current ''caps'' for the same types of subject merchandise. Respondents argue that reported factors relating to the most important inputs, steel and steel scrap, were confirmed during verification, and that the verifiers unnecessarily conducted an extensive review of three insignificant unreported factors. Respondents further argue that Factory B provided its complete records, and that the submissions never indicated that the factory had records which specifically tied the reported ''caps'' to the factory's financial statements. Respondents argue that the Department has accepted ''caps'' in the past, recognizing that variances between reported ''caps'' and the actual figures existed. Respondents stress that in previous HFHT reviews, it was established that the ''caps'' were estimated, that the estimates were reasonably close to the actual factor inputs used, and thus, the Department accepted the reported ''caps'.

Petitioner claims that the Department was justified in rejecting the cost data of Factory B because Factory B could not reconcile its reported factors of production or ''caps'' with the factory's actual accounting records, could not confirm the actual consumption of coal or electricity used in the production process, and could not confirm the levels of the additional factors of production not included in Factory B's data.

Department's Position

We disagree that Factory B did not fail verification. As detailed in the *AFA Memorandum*, there are several reasons for concluding that the information reported for Factory B was unreliable. First, the company did not adequately document its FOP data, including the most important factor, which is steel. Second, we discovered at verification additional factors of production that Factory B had not reported to the Department. Finally, Factory B provided insufficient data to support the consumption figures that it had reported for coal and electricity. Although Factory B attempts to defend these deficiencies by arguing the limitations of its bookkeeping system, it is the factory's responsibility to demonstrate how its questionnaire response is derived from its actual production experience as reflected in the factory's financial records. Factory B failed to do this.

We also disagree with Respondents' assertion that the Department had accepted ''caps'' in the past and that the reported ''caps'' were adequately verified in this review segment. As explained in Comment 4 of this notice, we performed limited testing of the ''caps'' in the last review segment. In this review, we asked the factory to trace these ''caps'' to its records. Thus, for the Department to consider the reported production factors reliable, the factory should have demonstrated how they were derived from the company's accounting records. However, as we mention above, Factory B failed in this exercise as it was unable to show any systematic link between the reported factors and the factory's books and records. The verification report, in discussing the grade, type, and specifications of steel used by Factory B, identifies the important ways in which the reported production factors were found to be inaccurate. As these findings are proprietary, please *see Memorandum to the File on Verification of the Questionnaire Response of Factory B in the Administrative Review of Heavy Forged Hand Tools from the People's Republic of China* (January 6, 1999) and the *AFA Memorandum* for a more detailed discussion of this and other deficiencies.

We also disagree with Respondents' arguments that the factors the Department states were not reported were insignificant, that these factors should appropriately be subsumed within the factory overhead factor, and that the Department allotted too much time to these factors at verification. There was no way to confirm these claims at verification as Factory B was not able to substantiate a number of its production factors. Furthermore, because the information concerning the additional FOPs was new, the Department had no choice but to devote some time to these data at verification, to ascertain, if possible, the extent of the new information uncovered.

In concluding that Respondents failed verification we examined the entire record supporting the factual data in the questionnaire response and considered the critical impact that any questionable items may have had on our NV calculations. We ultimately determined that the inaccuracies and unverified claims, *in toto*, were such that the reported data did not provide a reliable basis for calculating a dumping margin. Furthermore, regardless of these findings, the Department would apply FA to transactions involving Factory B because of the critical deficiencies in the sales verifications of FMEC and SMC.

Comment 6: Whether the Application of AFA Is Warranted

Respondents claim that, given the level of cooperation and the substantial evidence on the record that they acted to the best of their abilities during verification, application of AFA is unwarranted. Respondents argue that the Department applies a five-part test, as detailed in the *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Chile*, 63 FR 56613, 56616 (October 22, 1998) (*Mushrooms from Chile*), when determining whether information should be accepted in the face of verification failures. The five factors considered are whether: (1) Submissions of information were made timely; (2) Respondents substantially cooperated with the Department's information requests; (3) some successful verification of the questionnaire response was made; (4) for unverifiable information, there was alternative information available to allow ''appropriate adjustments to the submitted data;'' and (5) the Department was able to make adjustments for the identified deficiencies and could use the submitted information without undue difficulties. Respondents note that when applying these factors in *Mushrooms from Chile*, the Department chose not to apply AFA, despite certain deficiencies, because the Respondent had ''demonstrated that it acted to the best of its ability in the investigation and [did] not otherwise significantly [impede the] investigation.''

According to Respondents, the verifications at Factory A, Factory B, SMC, and FMEC were largely successful. Despite discrepancies in verifying certain sales and cost information, these four companies assert that they provided alternative information sufficient to verify the data in their questionnaire responses and that they have cooperated to the best of their abilities. Respondents maintain that the conduct of SMC and FMEC is neither wholly unresponsive, blatantly uncooperative, nor resulted in any significant impediments to the verification or review. SMC claims that its conduct demonstrates an effort to comply with the Department's information requests and precludes any application of AFA. Similarly, Respondents stress that the inability of FMEC to provide certain documents to the Department does not evidence any level of non-cooperation or willful withholding of information, but rather resulted from unfortunate timing. Respondents further claim that Factories A and B were prepared for verification and did cooperate to the best of their ability. Outlining the data the factories did supply, Respondents argue that their conduct does not warrant application of AFA.

Respondents insist that the Department cannot expect companies to prepare and maintain records solely for purposes of the antidumping statute. Respondents claim that, while the Department in its AFA memo repeatedly points to a failure of Respondents to provide financial statements to tie in to their production records, this expectation is unreasonable unless such a financial statement is kept in the ordinary course of business. In this case, Respondents argue, the companies do not prepare internal financial statements, and the verification should have been limited instead to an examination of ''whether the allocation methods are used in the normal accounting records and whether they have been historically used by the company.'' *See Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Antidumping Duty Administrative Review*, 64 FR at 77 (January 4, 1999). Applying that standard, the records provided to the Department at the verifications are the normal accounting records and methods used historically by Respondents. Further, the Respondents argue that by providing these records, use of AFA cannot be supported or sustained.

Finally, Respondents contend that the PRC-wide rate assigned to FMEC and SMC is based on tainted steel surrogate data from the second review, and that, even if the Department resorts to AFA, it has to have some basis for the rates selected. Respondents claim that the preliminary PRC-wide rates, which were applied to FMEC and SMC, are invalid as a matter of law. Respondents assert that these rates, taken from the 1992–1993 review, were changed due to the remand in *Olympia Indus., Inc.* v. *United States*, Consol. Ct. No. 95–10–01339, (Slip Op. 98–49 (April 17, 1998) (*Olympia*), which the Court affirmed on February 17, 1998. Thus, Respondents argue, the Department has no legal authority to assert AFA rates or PRC-wide rates based on rates which the Department has itself acknowledged contain ''aberrational'' data.

Petitioner asserts that the Department correctly assigned AFA to SMC and FMEC for their lack of cooperation during verification. Petitioner points out that both SMC and FMEC failed to provide financial information at verification to confirm sales and ownership data. SMC failed to verify its Agriculture Tool Department's sales, failed to reconcile its 1997 financial record, and failed to confirm its ownership stake in SMC Pacific Tool. Similarly, FMEC failed to provide numerous financial statements containing important sales data, and failed to provide accounting records regarding its affiliation with a U.S. party. Petitioner claims that these deficiencies prevented the Department from using the Respondents' data to calculate margins, and from evaluating whether the Respondents should be given separate margins or should be considered a single PRC entity.

Department's Position

We disagree with Respondents that adverse inferences are not warranted in this case. With respect to the PRC, FMEC, SMC, and their supplying factories A and B, we found that these parties did not cooperate to the best of their abilities. On April 23, 1998, the Department sent a questionnaire to the Ministry of Foreign Trade and Economic Cooperation (''MOFTEC'') in order to collect information relevant to the calculation of the PRC-wide rate. MOFTEC did not respond. SMC and FMEC likewise did not justify separate rates or provide a consolidated response representing all non-independent exporters of HFHTs. In addition, as discussed above in comments 2 through

5, the accuracy of SMC's and FMEC's individual responses could not be substantiated at verification. These verification failures were the direct result of these companies' failure to supply a wide variety of requested information.

We also disagree with Respondents' claims that the same facts that caused the Department not to apply AFA in *Mushrooms from Chile* exist in these reviews. In *Mushrooms from Chile,* the Department applied the criteria established in section 782(e) of the Act, which directs the Department to consider information, even if the information did not meet all the Department's requirements, if: (1) The information is submitted within the established deadlines; (2) the interested party acted to the best of its ability in providing the requested information; (3) the information can be verified; (4) the information is not so incomplete that it cannot serve as a reliable basis for reaching a determination; and (5) the information can be used without undue difficulties. After reviewing the record of the investigation in *Mushrooms from Chile,* the Department decided that it was not appropriate to reject the respondent's data in its entirety, but to apply partial facts available. Contrary to the facts involved in the Chilean mushroom investigation, the inaccuracies and unverified information in SMC's and FMEC's responses in the HFHTs' proceedings, when taken in total, are so substantial that they prevent the Department from using any part of SMC's or FMEC's responses to determine whether dumping margins exist. Consequently, the Department finds that, pursuant to sections 776(a)(2)(D) and 776(b), the use of an adverse inference is appropriate in determining dumping margins, as these entities have not acted to the best of their abilities to comply with our requests for information.

As explained in the following comment entitled ''Separate Rates,'' the PRC entity, which did not respond to our information requests, includes both SMC and FMEC, as these firms were not able to justify being assigned separate rates for any class or kind of HFHT. Pursuant to section 776(b) of the Act, we are relying on AFA to determine the margin for the PRC-wide entity. This is consistent with the Department's practice in cases where a firm fails verification or the Department receives no response to its questionnaires. *See Natural Bristle Paintbrushes.*

For each of these HFHTs' proceedings, we have used as AFA for the PRC-wide rate the highest rate from any segment of the respective proceedings. Specifically, the highest rates are: 18.72 percent for axes/adzes; 47.88 percent for bars/wedges; 27.71 percent for hammers/sledges; and 98.77 percent for picks/mattocks.

As to the Respondents' claim that the PRC-wide rates that we selected for the preliminary results are not appropriate due to changes in the rates as a result of litigation on the 1992–1993 review, we agree. The Department reviewed the PRC-wide rates on remand in *Olympia* and stated that it had eliminated Japanese exports to India for the purposes of valuing the steel input factor in the final results of the 1992/1993 HFHT reviews, thereby lowering the margins in these cases. We have taken the *Olympia* decision into account when we reviewed the highest rates from any segment of these respective proceedings.

Comment 7: Separate Rates

Respondents argue that the Department had no basis in law or fact to deny separate rates for FMEC and SMC. Respondents argue that no part of the verification addressed the separate rates issue, and that the first mention of this issue was in the preliminary results notice. Respondents argue that for *de jure* control, the verifiers looked at FMEC's business license, that the verifiers noted no restrictive stipulations, and that the record shows no government control. For d*e facto* control, Respondents argue, the reports show that FMEC and SMC set their own prices, kept the proceeds, negotiated their contracts, and selected their own management.

Respondents further raise the question, if the Department's policy that ''separate rates questionnaire responses must be evaluated each time a respondent makes a separate rates claim,'' why did the Department's verification outline fail to include any separate rates' questions? Respondents argue that the Department's citation to *Manganese Metal from the People's Republic of China, Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 63 FR 12441 (March 13, 1998), is misplaced, because it does not involve a change in the Department's granting a separate rate following a verification. Additionally, Respondents argue that the Department's basis for denying separate rates rested on Respondents' failure to provide information that was irrelevant to this issue. Accordingly, Respondents claim that the Department abused its discretion in denying separate rates for FMEC and SMC.

Respondents stress that the Department determined that FMEC and SMC qualified for separate rates in the previous five administrative reviews. Citing *Certain Iron Construction Castings from the People's Republic of China; Final Results of Antidumping Duty Administrative Review,* 57 FR 24245 (June 8, 1992), Respondents claim that it is the Department's practice to maintain separate rates unless there is an indication that a Chinese company's status has changed.

Petitioner supports the Department's decision to assign the PRC-wide rate to both SMC and FMEC, as AFA. Petitioner claims that Respondents failed to provide the Department with verified information regarding their eligibility for separate rates. Petitioner disagrees with Respondents that the record shows that FMEC and SMC set their own prices, kept the proceeds, negotiated their contracts, and selected their own management. Petitioner claims that the problems at verification resulted in the Department's inability to verify U.S. sales and to verify affiliations which could have a direct impact on the Department's separate rate determination. Petitioner notes that, while the Department has, in other cases, calculated separate rates for Respondents that failed verification, the present case is factually different from those circumstances. Citing *Natural Bristle Paintbrushes and Brush Heads From the People's Republic of China; Preliminary Results and Partial Recission of Antidumping Duty Administrative Review,* 64 FR 2192 (Jan. 13, 1999) (*Natural Bristle Paintbrushes Prelim*), Petitioner claims that Respondents in that case warranted a separate rate based on the fact that the verification failure resulted from the Department's inability to verify the information provided by the supplier, and not from any discrepancies in the information provided by the exporter; and that verification of the company revealed that it warranted a separate rate. Thus, Petitioner argues that the *Natural Bristle Paintbrushes Prelim* is distinguishable from this case.

Petitioner also claims that assigning the PRC-wide margins to SMC and FMEC as AFA is appropriate regardless of the separate rate analysis, because the PRC-wide rates are the highest margins calculated in any prior segment of these cases. Petitioner claims that SMC and FMEC warrant the highest rate calculated because they failed to cooperate to the best of their abilities in verifying their cost and sales data. In similar situations, Petitioner claims that the Department has assigned AFA citing *Natural Bristle Paintbrushes Prelim and Elemental Sulphur from Canada; Final Results of Antidumping Administrative*

Reviews, 62 FR 37958 (July 15, 1997). Further, Petitioner suggests that by assigning the PRC-wide rate to SMC and FMEC, the Department will ensure that these companies will not benefit from their lack of cooperation.

Department's Position

We disagree with Respondents' assertion that the record supports a finding of separate rates for FMEC and SMC. As stated in the preliminary results of these reviews, the failure to satisfy requests for information that would confirm various elements of these firms' questionnaire responses directly compromised the information that formed the basis of these entities' separate rates' claims. More specifically, we determined that, due to the nature of the verification failures of SMC and FMEC and the inadequacy of their cooperation, it was not possible to confirm information regarding these entities' affiliations, ownership arrangements, and corporate structure. *See Heavy Forged Hand Tools From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review,* 64 FR 5770 (February 5, 1999). Thus, even though we did not directly examine all aspects of these firms' separate rates' claims at verification, the separate rates' claims were called into question because the data unsuccessfully addressed at verification were key to our separate rates' analysis.

Comment 8: Surrogate Value for Steel

For HFHTs that are not made from scrap, Petitioner argues that the Department erred in selecting its steel surrogate values. In the previous administrative reviews of this case, the Department valued steel inputs for these tools based upon HTS category 7214.50, the classification for forged bars and rods. However, in this review, based on the descriptions of the production process in the record, the Department decided to use HTS category 7207.20.09, the classification for semi-finished steel, to value the steel input. Petitioner claims that HTS category 7207.20.09 is not appropriate because it covers billets and blooms that must be further hot-rolled to ensure that they meet the tolerances necessary to be forged into hand tools. While Petitioner acknowledges that the petition did refer to the raw material for HFHTs as a ''billet,'' Petitioner maintains that the Respondents do not hot roll semi-finished steel billets in their production process. Instead, according to the Respondents' questionnaire responses, the hand tool manufacturers purchase finished round bars, cut them to proper length, and then forge them into tools. Petitioner contends that because ''bars'' are used in the Respondents' production process, it is not appropriate to use an ''unfinished'' product to value the steel input into HFHTs. Petitioner argues that the use of HTS category 7207.20.09 is inconsistent with the statutory mandate, because it is unrelated to the factors of production that are utilized in producing subject merchandise. The proper category to value the steel input is HTS category 7214.50 because it includes finished bars.

Respondents support the Department's use of the HTS category 7207.20.09 to value the steel input, claiming that it constitutes the best available information regarding the materials being used by the HFHT manufacturers to produce subject merchandise. While the Respondents agree that the Department used the correct HTS category to value steel inputs, the Respondents contend that the Department should recalculate the surrogate value within the HTS subheading used. More specifically, Respondents argue that the April–September 1997 Indian Imports from Germany and Qatar under HTS category 7207.20.09 are aberrational in price and therefore should be disregarded to avoid distorting the per unit value for steel. Respondents cite the Department's final remand results in *Olympia,* arguing that the Department's decision in that review to disregard certain Japanese imports as aberrational suggests that the Department should disregard the imports from Germany and Qatar in this review, because they are similarly aberrational.

Finally, Respondents claim the Department double-counted the values for steel in the month of April 1997.

Department's Position

We disagree with Petitioners. In our preliminary review results we stated that we had changed the HTS category that we used to value steel from 7214.50 used in previous reviews to 7207.20.09 because the former covered ''finished rods and bars'' and the latter covered ''unfinished'' steel. This was based on our analysis of the petition, the ITC report, the questionnaire responses in this review segment, the HTS, and conversations with product experts. This analysis suggested that the input material used by the PRC producers was unfinished and that the input material underwent a number of operations which could be characterized as ''finishing'' operations, including forging.

However, in reviewing this analysis in light of the comments raised by the parties we realized that our use of the term ''unfinished'' was somewhat imprecise in the discussion regarding the choice of appropriate surrogate values. One of the primary differences between HTS categories 7214.50 and 7207.20.09 is that the former covers ''bars and rods'' and the latter covers ''ingots and other primary forms'' (including billets). Thus, in considering which of these categories most closely reflects the input materials used by respondents, the most important determinant is whether the steel input for the HFHTs in question is closest to a billet or a bar, not whether the input is ''finished'' or ''unfinished.''

In reviewing the record evidence we noted that both Respondents and Petitioners used a variety of terms to describe the input materials. The petition originally filed in this proceeding describes the input material as ''fine grain special bar quality carbon steel'' in one place, and as a ''billet'' in another. *See* Petition for the Imposition of Antidumping Duties on Heavy Forged Hand Tools, With or Without Handles, from the People's Republic of China, at pages 14 and 35, respectively (April 4, 1990). Similarly, Respondents refer to the input materials as ''ordinary merchant grade 1045 steel bar'' and ''billets.'' *See* TMC's and Shandong Huarong's Response to the Department's April 23, 1998 Questionnaire—Section C and D (June 24 and 26, 1998). In order to address this issue we asked Respondents a series of questions designed to clarify the type of input used. *See* June 18 letter to Respondents regarding Steel Value. Their responses indicated that they used billets. *See* Shandong Huarong and TMC Response to Department's June 18, 1999 Supplemental Questionnaire (June 23, 1999). Accordingly, for these final review results, we continue to hold that HTS category 7207.20.09 is a better HTS category to value the steel input used in the HFHTs in question because it covers billets, not bars.

We also disagree with Petitioner's assertion that this category is inappropriate because it covers both semi-finished billets and blooms. Almost all of the HTS categories we use cover a range of products, some of which include products other than the specific input in question. Nevertheless, the category selected is still the factor value on the record of this review that most closely resembles the production input actually used by the PRC producers.

We disagree with Respondents' claim that the Department incorrectly double-counted the values for steel in the month of April 1997. However, we

identified an error in the calculation of unit values derived from the April-September time period which we have corrected in these final review results. In addition, we agree with Respondents' final claim that the average unit values for steel imports from Germany and Qatar under this HTS category are so substantially higher when compared with the great majority of other imports under this category that they are aberrational. As such we have excluded these imports from our analysis.

Comment 9: Surrogate Value for Steel Scrap

Petitioner argues that for HFHTs made from scrap railroad wheels and rails, the record evidence does not support using HTS category 7204.41 to value Respondents' steel input. Petitioner claims that railroad wheels used as scrap are not classified under HTS category 7204.41. Furthermore, Petitioner contends that the used railroad wheels and rails that are resold in the scrap market command almost twice the price of scrap that is resold in the form of mill waste, turnings, and shavings. According to Petitioner, railroad scrap is a premium quality scrap as opposed to the scrap by-products that are covered under HTS category 7204.41, an item number which generally encompasses the cheapest grades of scrap available. As evidence Petitioner cites to experience in the U.S. scrap market where used railroad wheels command almost twice the price of certain other scrap forms. Petitioner therefore maintains that the scrap steel should be valued as bars under HTS category 7214.50. However, if the Department continues to use HTS category 7204.41, Petitioner argues that the Department should take into account the scrap market data discussed above and double the unit value we derive from the import statistics. Petitioner further notes that the Department has never verified TMC's use of railroad wheels in the production process for certain HFHTs.

Respondents argue that the Department used the correct HTS category to value the scrap steel input and oppose Petitioner's suggestion that the average import unit value be doubled to reflect the value of the scrap railroad wheels. Respondents contend that the statute requires the Department to use surrogate values when they are available, not U.S. experience. In addition, respondents oppose HTS category 7214.50, the input classification that Petitioner advocates, because it does not include used railroad wheels and rails. Respondents argue in addition that Petitioner made no timely request that the Department conduct a verification of TMC.

Department's Position

Based on the arguments raised by the parties, subsequent to the preliminary review results, we identified a new value for scrap which may more closely resemble the production input actually used by respondents. This value, HTS category 7204.49, encompasses heavier scrap steel than the category previously used. This category is significantly closer to the scrap railroad wheels and rails that the Respondents use than the mill waste, turnings, and shavings that are classified under HTS category 7204.41. *See Memorandum to the File regarding Selection of Scrap Steel,* dated June 7, 1999.

Comment 10: NME Shipments

The Respondents claim that the Department made a clerical error when we included imports from the Democratic People's Republic of Korea (the DPRK) but not imports from the Republic of Korea (the ROK) in the Indian import statistics used to value certain FOPs for HFHTs.

Department's Position

We agree with the Respondents that an error occurred when we inadvertently included import data for shipments from the DPRK, but omitted the import data for shipments from the ROK in establishing factor values. It is the Department's practice to exclude from the import data used to value FOP import information pertaining to NMEs. Consequently, the Department has included the import data from the ROK and omitted the import data from the DPRK in these final review results.

Comment 11: Ocean Freight Rate for SHGC

Respondents claim that the Department should have used market value ocean freight rates for all SHGC shipments since it represents the best information available. Instead, the Department used surrogate value ocean freight rates for all shipments except one. The one exception concerned a shipment by SHGC that was transported by a market economy vendor and paid for by SHGC using a market economy currency. It is the market economy rates used for this shipment that Respondents argue the Department should use to value all ocean freight for SHGC.

Petitioner did not comment on this issue.

Department's Position

We disagree with the Respondents. Record evidence indicates that, with one exception, SHGC used NME carriers for its shipments. Since, with this one exception, SHGC did not use a market economy vendor or pay market economy prices for its shipments, we appropriately used surrogate values for all but this one shipment. This is consistent with our longstanding practice of using actual prices only when the NME producer (1) sources an input from a market economy country; and (2) pays for the input in a market economy currency. *See, e.g., Final Determination of Sales at Less than Fair Value: Chrome Plated Lug Nuts From the People's Republic of China,* 56 FR 46153 (September 10, 1991); *Final Determination of Sales at Less Than Fair Value: Oscillating Fans and Ceiling Fans From the People's Republic of China,* 56 FR 55271, 55274–75 (October 25, 1991); *Final Determination of Sales at Less Than Fair Value: Saccharin from the People's Republic of China,* 59 FR 58818, 58822–23 (November 15, 1994); *Notice of Final Determination of Sales at Less Than Fair Value: Disposable Pocket Lighters From the People's Republic of China,* 60 FR 22359, 22366 (May 5, 1995); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of Antidumping Duty Administrative Reviews,* 61 FR 65527, 65553 (December 13, 1996).

We also disagree with Respondents' claim that the one market economy currency transaction is the ''best available information'' for valuing the remaining NME transactions because that value reflects the ''actual'' value of ocean freight. This contention is without merit. Respondents have not suggested why, nor provided any information to support the argument that, this one market economy transaction is a better surrogate value than the value we used from a comparable economy, as is our normal practice.

Comment 12: The Surrogate Value for Coal

The Respondents argue that the Department should abandon the data source it used to price coal and value this input using the more contemporaneous Indian import statistics for coal imported during the POR. Respondents note that the Department relied on Indian import statistics for valuing coal expenditures in the 96–97 *Preliminary Results of Antidumping Duty Administrative Review of Certain Helical Spring Lock Washers from the People's Republic of China,* 63 FR 60299 (November 9, 1998) (*Helical Spring Lock Washers*). Thus,

Respondents claim that the Department should do the same here.

Petitioner did not comment on this issue.

Department's Position

We disagree with Respondents. Respondents cite to an earlier review result in another proceeding as support for their claim that the Department should use Indian import statistics to value coal. However, the Department's decision on factor valuation is based on the best information available in each review segment. In this case, we used information from the International Atomic Energy Agency's Publication, *Energy Prices and Taxes*, Second Quarter 1998, to value coal because the publication provided values for coal on a more specific basis. In particular, this publication provided values for coal used in industrial applications. The Indian import statistics for coal that Respondents recommend do not distinguish between coal used for household and industrial applications. Because the use of coal in HFHT production is an industrial application, we believe the value for coal used in industrial applications is more specific and more reflective of this factor's value.

Comment 13: The Surrogate Value for Cartons

Respondents argue that the Department should use the most recent Indian import statistics to value cartons even though the statistical reporting unit for more recent imports under this HTS category is no longer kilograms, the unit Respondents used for this production factor. Respondents argue that these data are more contemporaneous.

Petitioner did not comment on this issue.

Department's Position

We disagree. Respondents reported their carton data on a per kilogram basis. In order to accurately value this production factor, we use data that are reported on a per kilogram basis. As a result, for these final results, the Department used Indian import statistics for cartons from an earlier time period, February 1995, when the statistical reporting unit for the HTS category in question was still kilograms. As we discussed in the *HFHTs Prelims*, we adjusted these data using the wholesale price indices for India reported in the IMF's publication, *International Financial Statistics*, to account for price differences between the period of the FOP data and the POR.

Comment 14: Truck Freight

The Respondents claim that the Department double-counted the truck freight expense, by including both mileage and factory overhead in its factor valuation. Respondents suggest that, where a company uses its own trucks, the Department should simply assume these expenses are included as part of a company's factory overhead. In the alternative, Respondents argue that the Department should use the *Times of India* truck rate for all domestic truck transportation, rather than using this rate only in those instances when transportation was provided by company-operated trucks. While Respondents acknowledge that the *Times of India* truck rate covers company-operated trucks, not non-company operated trucks, they nonetheless cite *Helical Spring Lock Washers*, noting that in that case, the Department used the *Times of India* rate for all domestic truck transportation.

Department's Position

We disagree with Respondents. First, Respondents have provided no evidence to demonstrate that truck expenses are already included in factory overhead. Second, the Department treats the cost of operating the company's own vehicles as a separate, distinguishable expense from the costs related to use of non-company operated trucks. We used the *Times of India* rate to value the cost of a company-operated truck because this is the most appropriate surrogate value. For non-company operated trucks, *i.e.*, the purchase of freight delivery services in the PRC, we used information contained in an August 1993 embassy cable, which we have placed on the record of these reviews, describing the cost of truck transportation for an Indian company located in Bombay used in the *Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the People's Republic of China* (58 FR 48833). We also disagree that Helical *Spring Lock Washers* supports using company-operated truck rates for valuing all truck transportation. In that review segment the Department used only company-operated truck rates to value truck transportation because the company used only company-operated trucks during the POR.

Comment 15: Selling, General, and Administrative Expenses (SG&A), Factory Overhead, and Profit

Respondents claim that the surrogate values used for calculating SG&A, factory overhead, and profit were from large industries and therefore not appropriate for the small companies engaged in producing the subject material. Citing *Helical Spring Lock Washers*, Respondents argue that despite the Department's practice of using the most contemporaneous data available, Commerce should use the data for smaller companies from other reviews in this case because these data are more representative of the business conditions in China and the industry producing HFHTs.

Petitioner argues that the Department should maintain the use of the current surrogate values for SG&A, factory overhead, and profit, since they are more contemporaneous.

Department's Position

We agree with the Respondents. For these final review results we valued the factors for factory overhead, SG&A, and profit using the surrogate data employed for these factors in *Helical Spring Lock Washers*. More specifically, these data were derived from the *Reserve Bank of India Bulletin*, a publication that we have placed on the record of this review and reflects the experience of companies from smaller industries. The PRC producers subject to this review are small producers. Thus, the surrogate data used in *Helical Spring Lock Washers* is more appropriate for valuing SG&A, factory overhead, and profit, because it is more reflective of the business experience of small industries, and therefore, the HFHTs' sector.

Final Results of the Reviews

As a result of our reviews, we have determined that the following margins exist for the period February 1, 1997 through January 31, 1998:

Manufacturer/exporter	Time period	Margin (percent)
Shandong Huarong General Group Corporation		
Bars/Wedges	2/1/97–1/31/98	1.27
Axes/Adzes	2/1/97–1/31/98	18.72
Liaoning Machinery Import & Export Corporation		
Bars/Wedges	2/1/97–1/31/98	0.00

Manufacturer/exporter	Time period	Margin (percent)
Tianjin Machinery Import & Export Corporation		
Hammers/Sledges	2/1/97–1/31/98	0.14
Picks/Mattocks	2/1/97–1/31/98	0.00
Bars/Wedges	2/1/97–1/31/98	47.88
Axes/Adzes	2/1/97–1/31/98	18.72
PRC-wide rates		
Axes/Adzes	2/1/97–1/31/98	18.72
Bars/Wedges	2/1/97–1/31/98	47.88
Hammers/Sledges	2/1/97–1/31/98	27.71
Picks/Mattocks	2/1/97–1/31/98	98.77

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), where we analyzed and used a company's response in issuing these final review results, we have calculated an importer-specific duty assessment rate by dividing the total amount of dumping margins calculated for sales to each importer by the total number of units of those same sales sold to that importer. The unit dollar amount will be assessed uniformly against each unit of merchandise of that specific importer's entries during the POR. As discussed above, SMC and FMEC did not justify receiving separate rates. They are covered by the PRC-wide rates for the different classes or kinds of HFHTs. Where a rate is based on FA, this rate will be uniformly applied to all imports of that merchandise. In accordance with 19 CFR 351.106(c)(2), we also will instruct Customs to liquidate without regard to antidumping duties any entries for which the importer-specific antidumping duty assessment rate is *de minimis, i.e.*, less than 0.5 percent. The Department will issue appraisement instructions directly to Customs.

Furthermore, the following cash deposit requirements will be effective upon publication of this notice of final results of reviews for all shipments of HFHTs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies named above which have separate rates (SHGC, LMC, and TMC) will be the rates stated above for those firms and for the classes or kinds of HFHTs listed above; (2) for any previously reviewed PRC and non-PRC exporter with a separate rate, (including those companies and products where we terminated the review), the cash deposit rate will be the company-and product-specific rate established for the most recent period; (3) for all other PRC exporters, including SMC and FMEC, which failed to justify receiving separate rates in this segment of the proceeding, the cash deposit rates will be the product-specific PRC-wide rates as stated above; and (4) the cash deposit rates for non-PRC exporters of subject merchandise from the PRC will be the product-specific rates applicable to the PRC supplier of that exporter. These cash deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under section 351.402(f) of the Department's regulations to file a certificate regarding reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double the amount of antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These administrative reviews and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 1677f(i)(1)).

Dated: August 4, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–20739 Filed 8–10–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Postponement of Time Limit for Countervailing Duty Investigation: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of postponement of time limit for preliminary determination of countervailing duty investigation.

SUMMARY: The Department of Commerce is extending the time limit of the preliminary determination in the countervailing duty investigation of certain cold-rolled flat-rolled carbon-quality steel products from Brazil because we deem this investigation to be extraordinarily complicated, and determine that additional time is necessary to make the preliminary determination.

EFFECTIVE DATE: August 11, 1999.

FOR FURTHER INFORMATION CONTACT: Dana Mermelstein at (202) 482–0984 or Javier Barrientos at (202) 482–2849, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act.

Postponement

On June 21, 1999, the Department of Commerce (the Department) initiated a countervailing duty investigation of certain cold-rolled flat-rolled carbon-quality steel products from Brazil. *See Initiation of Countervailing Duty Investigations: Certain Cold-Rolled Flat-*

Rolled-Carbon-Quality Steel Products from Brazil, Indonesia, Thailand and Venezuela, 64 FR 34201 (June 25, 1999). The preliminary determination currently must be issued by August 25, 1999. Respondents have indicated that they will be cooperating in the investigation. In November 1998, the Department issued new countervailing duty regulations (*see, Countervailing Duties; Final Rule* 63 FR 65341 (November 25, 1998), which have new provisions that are applicable in this case, particularly with respect to equityworthiness, creditworthiness and discount rates. Accordingly, as detailed in the August 4, 1999 Memorandum to Robert S. LaRussa, Assistant Secretary for Import Administration (on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce), we deem this investigation to be extraordinarily complicated by reason of the novelty of the issues presented, and determine that additional time is necessary to make the preliminary determination. Therefore, pursuant to section 703(c)(1) of the Tariff Act of 1930, as amended (''the Act''), we are postponing the preliminary determination in this investigation to no later than September 27, 1999. This notice is published pursuant to section 703(c)(2) of the Act.

Dated: August 5, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–20734 Filed 8–10–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–412–811]

Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On April 7, 1999, the Department of Commerce (''the Department'') published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on certain hot-rolled lead and bismuth carbon steel products (''lead bar'') from the United Kingdom for the period January 1, 1997 through December 31, 1997. The Department has now completed this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended. For information on the net subsidy for each reviewed company, and for all non-reviewed companies, please see the *Final Results of Review* section of this notice. We will instruct the Customs Service to assess countervailing duties as detailed in the *Final Results of Review* section of this notice.

EFFECTIVE DATE: August 11, 1999.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Stephanie Moore, Group II, 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; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 C.F.R. 351.213(b), this review covers only those producers or exporters of the subject merchandise for which a review was specifically requested. Accordingly, this review covers British Steel plc./British Steel Engineering Steels Limited (formerly United Engineering Steels Limited). This review also covers the period January 1, 1997 through December 31, 1997 and nine programs.

Since the publication of the preliminary results on April 7, 1999 (64 FR 16920), the following events have occurred. We invited interested parties to comment on the preliminary results. On May 7, 1999 case briefs were submitted by British Steel Engineering Steels Limited (''BSES''), which exported to the United States during the review period (''respondent''), and Inland Steel Bar Co. (''petitioner''). On May 12, 1999 rebuttal briefs were submitted by BSES and Inland Steel Bar Co.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (''URAA'') effective January 1, 1995 (''the Act''). The Department is conducting this administrative review in accordance with section 751(a) of the Act. All citations to the Department's regulations reference 19 C.F.R. Part 351, (1998) unless otherwise indicated.

Scope of the Review

Imports covered by this review are hot-rolled bars and rods of non-alloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this review are other alloy steels (as defined by the *Harmonized Tariff Schedule of the United States* (''HTSUS'') Chapter 72, note 1 (f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead or 0.1 percent or more of bismuth, tellarium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this review are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7213.91.30.00, 45.00. 60.00; 7213.99.00; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; 7214.91.00; 7214.99.00 and 7228.30.80.00, 80.50. Although the HTSUS subheadings are provided for convenience and for Customs purposes, our written description of the scope of this proceeding is dispositive.

Subsidies Value Information

Change in Ownership

(I) Background

On March 21, 1995, British Steel plc (''BS plc'') acquired all of Guest, Keen & Nettlefolds' (''GKN'') shares in United Engineering Steels (''UES''), the company which produced and exported the subject merchandise to the United States during the original investigation. Thus, UES became a wholly-owned subsidiary of BS plc and was renamed British Steel Engineering Steels (''BSES'').

Prior to this change in ownership, UES was a joint venture company formed in 1986 by British Steel Corporation (''BSC''), a government-owned company, and GKN. In return for shares in UES, BSC contributed a major portion of its Special Steels Business, the productive unit which produced the subject merchandise. GKN contributed its Brymbo Steel Works and its forging business to the joint venture. BSC was privatized in 1988 and now bears the name BS plc.

In the investigation of this case, the Department found that BSC had received a number of nonrecurring subsidies prior to the 1986 transfer of its Special Steels Business to UES. *See Final Affirmative Countervailing Duty*

Determination: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom, 58 FR 6237, 6243 (January 27, 1993) (''*Lead Bar*''). Further, the Department determined that the sale to UES did not alter these previously bestowed subsidies, and thus the portion of BSC's pre-1986 subsidies attributable to its Special Steels Business transferred to UES. *Lead Bar*, 58 FR at 6240.

In the 1993 certain steel products investigations, the Department modified the allocation methodology developed for *Lead Bar*. Specifically, the Department stated that it would no longer assume that all subsidies allocated to a productive unit follow it when it is sold. Rather, when a productive unit is spun-off or acquired, a portion of the sales price of the productive unit represents the reallocation of prior subsidies. *See* the General Issues Appendix (''*GIA*''), appended to the *Final Countervailing Duty Determination; Certain Steel Products From Austria*, 58 FR 37217, 37269 (July 9, 1993) (''*Certain Steel*''). In a subsequent Remand Determination, the Department aligned *Lead Bar* with the methodology set forth in the ''Privatization'' and ''Restructuring'' sections of the *GIA*. *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom: Remand Determination* (October 12, 1993) (''*Remand*'').

On March 21, 1995, BS plc acquired 100 percent of UES. In determining how this change in ownership affects our attribution of subsidies to the subject merchandise, we relied on section 771(5)(F) of the Act, which states that a change in ownership does not require a determination that past subsidies received by an enterprise are no longer countervailable, even if the transaction is accomplished at arm's length. The Statement of Administrative Action, H.R. Doc. No. 316, Vol. 1, 103d Cong., 2d Sess. (1994) (''SAA''), explains that the aim of this provision is to prevent the extreme interpretation that the arm's length sale of a firm automatically, and in all cases, extinguishes any prior subsidies conferred. While the SAA indicates that the Department retains the discretion to determine whether and to what extent a change in ownership eliminates past subsidies, it also indicates that this discretion must be exercised carefully by considering the facts of each case. SAA at 928.

In accordance with the Act and the SAA, we examined the facts of BS plc's acquisition of GKN's 50 percent ownership stake in UES, and we determined that the change in ownership does not render previously bestowed subsidies attributable to UES no longer countervailable. However, we also determined that a portion of the purchase price paid for UES is attributable to its prior subsidies. Therefore, we reduced the amount of the subsidies that ''traveled'' with UES to BS plc, taking into account the allocation of subsidies to GKN, the former joint-owner of UES. *See Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Final Results of Countervailing Duty Administrative Review*, 62 FR 53306 (October 14, 1997) (''*Lead Bar 95 Final Results*'') and *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Preliminary Results of Countervailing Duty Administrative Review*, 62 FR 16555 (April 7, 1997) (''*Lead Bar 95 Preliminary Results*''). To calculate the amount of UES's subsidies that passed through to BS plc as a result of the acquisition, we applied the methodology described in the ''Restructuring'' section of the *GIA*. *See GIA*, 58 FR at 37268–37269. This determination is in accordance with our changes in ownership finding in *Final Affirmative Countervailing Duty Determination; Pasta From Italy*, 61 FR 30288, 30289-30290 (June 14, 1996), and our finding in the 1994 administrative review of this case, in which we determined that ''[t]he URAA is not inconsistent with and does not overturn the Department's *General Issues Appendix* methodology or its findings in the *Lead Bar Remand Determination*.'' *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Final Results of Countervailing Duty Administrative Review*, 61 FR 58377, 58379 (November 14, 1996).

With the acquisition of UES, we also determined that BS plc's remaining subsidies are attributable to the subject merchandise, now produced by BS plc's wholly-owned subsidiary, BSES. Where the Department finds that a company has received untied countervailable subsidies, to determine the countervailing duty rate, the Department attributes those subsidies to that company's total sales of domestically produced merchandise, including the sales of 100-percent-owned domestic subsidiaries. If the subject merchandise is produced by a subsidiary company, and the only subsidies in question are the untied subsidies received by the parent company, the countervailing duty rate calculation for the subject merchandise is the same as described above. Similarly, if such a company purchases another company, as was the case with BS plc's purchase of UES, then the current benefit from the parent company's allocable untied subsidies is attributed to total sales, including the sales of the newly acquired company. *See, e.g., GIA*, 58 FR at 3762 (''the Department often treats the parent entity and its subsidiaries as one when determining who ultimately benefits from a subsidy''). Accordingly, in the *Lead Bar 95 Final Results*, we determined that it is appropriate to collapse BSES with BS plc for purposes of calculating the countervailing duty for the subject merchandise. BSES, as a wholly-owned subsidiary of BS plc, continues to benefit from the remaining benefit stream of BS plc's untied subsidies.

In collapsing UES with BS plc, we also determined that UES's untied subsidies ''rejoined'' BS plc's pool of subsidies with the company's 1995 acquisition. All of these subsidies were untied subsidies originally bestowed upon BSC (BS plc). After the formation of UES in 1986, the subsidies that ''traveled'' with the Special Steels Business were also untied, and were found to benefit UES as a whole. *See Lead Bar 95 Final Results; Lead Bar 95 Preliminary Results*.

(II) Calculation of Benefit

To calculate the countervailing duty rate for the subject merchandise in 1997, we first determined BS plc's benefits in 1997, taking into account all spin-offs of productive units (including the Special Steel Business) and BSC's full privatization in 1988. *See Final Affirmative Countervailing Duty Determination; Certain Steel Products from the United Kingdom*, 58 FR 37393 (July 9, 1993) (''*UK Certain Steel*''). We then calculated the amount of UES's subsidies that ''rejoined'' BS plc after the 1995 acquisition, taking into account the reallocation of subsidies to GKN. *See Lead Bar 95 Final Results; Lead Bar 95 Preliminary Results*. As indicated above, in determining both these amounts, we followed the methodology outlined in the *GIA*. After adding BS plc's and UES's benefits for each program, we then divided that amount by BS plc's total sales of merchandise produced in the United Kingdom in 1997.

Allocation Methodology

In *British Steel plc* v. *United States*, 879 F. Supp. 1254 (CIT 1995) (''*British Steel*''), the U.S. Court of International Trade (''the Court'') ruled against the allocation period methodology for non-recurring subsidies that the Department has employed for the past decade, a

methodology that was articulated in the *General Issues Appendix* (58 FR at 37226). In accordance with the Court's decision on remand, the Department determined that the most reasonable method of deriving the allocation period for nonrecurring subsidies is a company-specific average useful life (''AUL'') of non-renewable physical assets. For British Steel, we determined this allocation period to be 18 years. This remand determination was affirmed by the Court on June 4, 1996. *British Steel,* 929 F. Supp. 426, 439 (CIT 1996).

The Department's acquiescence to the CIT's decision in the *Certain Steel* cases resulted in different allocation periods between the *UK Certain Steel* and *Lead Bar* proceedings (18 years vs. 15 years). Moreover, UES became a wholly-owned subsidiary of BS plc in 1995. In the 1995 review of *Lead Bar,* in order to maintain a consistent allocation period across the *UK Certain Steel* and *Lead Bar* proceedings, as well as in the different segments of *Lead Bar,* we altered the allocation methodology previously used to determine the allocation period for non-recurring subsidies previously bestowed on BSC and attributed to UES. In the 1995 review, we applied the company-specific 18-year allocation period to all non-recurring subsidies. *See Lead Bar 95 Final Results.* Based on our decision in the 1995 administrative review of this order, we determine that it is appropriate in this review to continue to allocate all of BSC's non-recurring subsidies over BS plc's company-specific average useful life of renewable physical assets (*i.e.,* 18 years).

Analysis of Programs

Based upon the responses to our questionnaire and written comments from the interested parties we determine the following:

I. Programs Conferring Subsidies

A. Programs Previously Determined to Confer Subsidies

1. Equity Infusions

In the preliminary results we found that this program conferred countervailable subsidies on the subject merchandise. Our review of the record shows that no new information has been placed on it which shows that this program does not continue to confer countervailable subsidies. This and our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the preliminary results. Accordingly, the net subsidies for this program, which is 4.07 percent *ad valorem,* remains unchanged from the preliminary results.

2. Regional Development Grant Program

In the preliminary results we found that this program conferred countervailable subsidies on the subject merchandise. Our review of the record shows that no new information has been placed on it which shows that this program does not continue to confer countervailable subsidies. This and our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the preliminary results. Accordingly, the net subsidies for this program, which is 0.14 percent *ad valorem,* remains unchanged from the preliminary results.

3. National Loan Funds Loan Cancellation

In the preliminary results we found that this program conferred countervailable subsidies on the subject merchandise. Our review of the record shows that no new information has been placed on it which shows that this program does not continue to confer countervailable subsidies. This and our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the preliminary results. Accordingly, the net subsidies for this program, which is 0.43 percent *ad valorem,* remains unchanged from the preliminary results.

II. Programs Found To Be Not Used

In the preliminary results we found that the producers and/or exporters of the subject merchandise did not apply for or receive benefits under the following programs:

A. New Community Instrument Loans
B. NLF Loans
C. Regional Selective Loans
D. ECSC Article 56(b)(2) Redeployment Aid
E. Inner Urban Areas Act of 1978
F. LINK Initiative

We did not receive any comments on these programs from the interested parties, and our review of the record has not led us to change our findings from the preliminary results.

III. Other Programs Examined

BRITE/EuRAM and Standards Measurement and Testing Program

BS plc received assistance under these two European Union programs to fund research and development. The European Union claimed that assistance provided under both of these programs is non-countervailable in accordance with Article 8.2(a) of the WTO Agreement on Subsidies and Countervailing Measures and section 771(5B)(B) of the Act (which provide that certain research and development subsidies are not countervailable). We determine that it is not necessary to address whether BRITE/EuRAM and the Standards Measurement and Testing Program qualify for non-countervailable treatment because combined, the assistance provided under both of these programs would result in a rate of less than 0.005 percent *ad valorem,* and thus would have no impact on the overall countervailing duty rate calculated for this POR. For the same reason we have not conducted a specificity analysis of these programs. *See, e.g., Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Germany,* 62 FR 54990, 54995–54996 (October 22, 1997).

Analysis of Comments

Comment 1: Application of the Repayment Methodology

According to the petitioner, the Department's subsidy repayment methodology is inconsistent with the countervailing duty statute, basic economic principles, and evidence produced in this proceeding. The petitioner contends that the Department's subsidy credit methodology is invalid, that there is no evidence of repayment, and that BS plc's acquisition of GKN's shares does not differ from sales of shares traded daily on the stock market. Because BSES is in the same position as BSC's special steels business in 1985, all of UES's subsidies should travel back to BS plc, subsequent to GKN's sale of UES shares to BS plc. Furthermore, the petitioner asserts that the *GIA* and *Certain Pasta from Italy* are distinguishable from the current case.

In rebuttal, the respondent points out that the petitioner's arguments with respect to the attribution of a portion of UES's subsidies to GKN have been examined by the Department in the 1995 and 1996 administrative reviews and rejected by the Department. The respondent argues that petitioner's contention that the Department's repayment methodology should not be applied to the1986 privatization of the assets of British Steel Corporation's Special Steel Division and BS plc's 1995 acquisition of GKN is not correct. The respondent asserts that these two transactions were authentic and substantive undertakings enacted for separate and important commercial reasons. The respondent further argues that these transactions were not carried

out for purposes of evading U.S. countervailing duties. Therefore, the respondent asserts that the Department has no basis to disregard the validity or substance of these transactions and there is no basis to not apply the repayment methodology.

Department's Position

Our position with respect to the petitioner's comments was outlined in detail in the 1995 review of this case. *See Lead Bar 95 Final Results,* 62 FR at 53309–10. The petitioner has not presented any new arguments or facts that would lead the Department to depart from its original conclusion with respect to this issue. Further, the Department's position was strengthened with the CAFC's holding in *British Steel,* affirming the Department's discretion to apply the repayment methodology. For these reasons, we continue to apply the repayment methodology in these final results.

Comment 2: The ''Change in Ownership'' Issue

BSES argues that the Department should revisit its determinations on the change-in-ownership issues in this case because the effect of the URAA amendments on change in ownership transactions is currently under consideration by the United States Court of Appeals for the Federal Circuit (''CAFC'') in *Delverde, SRL* v. *United States,* 24 F.Supp.2d 314 (CIT 1998), appeal docketed, No. 99–1186 (Federal Circuit Jan. 13, 1999). The respondent states that pursuant to consent motions, the CIT has stayed the appeals of the Department's final results in both the 1995 and 1996 administrative reviews of this case pending the CAFC's decision in *Delverde.* According to the respondent, by raising this issue again in this review, BSES preserves the possibility that the final decision in *Delverde* may be applied to entries covered by this administrative review.

The respondent claims that the Department countervailed BS plc's 1997 production without any analysis of its 1988 privatization. The respondent also contends that to comply with the Change in Ownership provision of the URAA, the Department is required to conduct an analysis of the privatization transaction in order to determine whether subsidies pass through. Moreover, the respondent argues that 19 U.S.C. section 1677(5)(B) requires the Department to conduct an analysis to determine whether the privatized company has received a financial benefit from the past subsidies received by BSC. The respondent argues that current production of BS plc subject to countervailing duties is no longer subsidized because, as of the 1988 privatization, the company bears its full cost of capital to its shareholders on all funds and assets in the company. Moreover, the respondent contends that BSES received no financial benefit from the past subsidies to BSC. Therefore, the respondent argues that BSES cannot be subjected to countervailing duties based on past subsidies.

In rebuttal, petitioner points out that BSES raises no new arguments in its case brief and the Department has already addressed and ruled against these arguments in *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom (''Lead Bar 1994 Final Results''),* 61 FR 58377 (November 14, 1996). According to petitioner, the Department decided that its subsidy allocation methodology was in agreement with the URAA and used its discretion in determining the impact the change in ownership had on the countervailability of BS plc's past subsidies. The petitioner asserts that the Department has rejected BSES's claim that countervailable subsidies must be current benefits and the CAFC has also rejected similar arguments made by British Steel in *Inland Steel Bar Co.* v. *United States,* 155 F.3d 1370 (Federal Circuit 1998).

The petitioner further argues that BSES has mischaracterized the Department's analysis in the preliminary results of this review and in the investigation and previous administrative reviews of this case in claiming that the Department has refused ''to consider the effect of a privatization'' and has used an ''irrebuttable presumption.'' The petitioner contends that the Department has examined the specific facts of this case and considered arguments raised by the parties in its determination of the allocation of subsidies. The petitioner cites to Comment 5 of the *Lead Bar 1994 Final Results* and asserts that the Department considered interested parties arguments regarding the ''subsequent events rule'' and explained that the Department did not rely on such a rule in its findings in that review. *See* 61 FR at 58381.

Department's Position

Our position with respect to the respondent's comments on these ''change in ownership'' issues was outlined in detail in the 1994 review of this case. *See Lead Bar 1994 Final Results,* 61 FR at 58378–58380. The respondent has not presented any new arguments or facts that would lead the Department to depart from its original conclusion with respect to this issue. For these reasons, our preliminary determination with respect to the changes in ownership remains unchanged in these final results.

Final Results of Review

In accordance with 19 C.F.R. 351.221(b)(4)(i), we calculated an individual subsidy rate for each producer/exporter subject to this administrative review. As discussed in the ''Change in Ownership'' section of the notice, above, we are treating British Steel plc and British Steel Engineering Steels as one company for purposes of this proceeding. For the period January 1, 1997 through December 31, 1997, we determine the net subsidy for British Steel plc/British Steel Engineering Steels (BS plc/BSES) to be 4.64 percent *ad valorem*.

We will instruct the Customs Service (''Customs'') to assess countervailing duties on entries of subject merchandise from BS plc/BSES during the POR at 4.64 percent *ad valorem*. The Department will also instruct Customs to collect a cash deposit of estimated countervailing duties of 4.64 percent of the f.o.b. invoice price on all shipments of the subject merchandise from BS plc/BSES entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 C.F.R. 351.213(b). Pursuant to 19 C.F.R. 351.212(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company cannot change, except pursuant to a request for a review of that company. *See Federal-Mogul Corporation and The Torrington Company* v. *United States,* 822 F.Supp. 782 (CIT 1993) and *Floral Trade Council* v. *United States,* 822 F.Supp. 766 (CIT 1993). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non-

reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order will be the rate for that company established in the most recently completed administrative proceeding conducted under the URAA. If such a review has not been conducted, the rate established in the most recently completed administrative proceeding pursuant to the statutory provisions that were in effect prior to the URAA amendments is applicable. *See, Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom; Final Results of Countervailing Duty Administrative Review,* 60 FR 54841 (October 26, 1995). These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period January 1, 1997 through December 31, 1997, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 C.F.R. § 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are issued and published in accordance with section 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677f(i)(1)).

Dated: August 5, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–20736 Filed 8–10–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Environmental Technologies Trade Advisory Committee (ETTAC)

AGENCY: International Trade Administration, US Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The Environmental Technologies Trade Advisory Committee will hold a plenary meeting from 9:30 a.m. to 3 p.m. on August 26, 1999. The ETTAC was created on May 31, 1994, to advise the U.S. government on policies and programs to expand U.S. exports of environmental products and services.

Date and Place

August 26, 1999. The meeting will take place in Room 6800 of the Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The plenary meeting will include an update of the WTO ATL process, a guest speaker on the topic of European environmental support at the WTO and review the objectives and agendas of its subcommittee working groups: Market Access, Trade Impediments, Government Resources, Finance, Water, and Energy.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Jane Siegel, Department of Commerce, Office of Environmental Technologies Exports. Phone: 202–482–5225.

Dated: August 3, 1999.

E. Sage Chandler,

Office of Environmental Technologies Exports.

[FR Doc. 99–20649 Filed 8–10–99; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080599A]

ICCAT Advisory Committee; Summer Workshop

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

ACTION: Notice of public meeting.

SUMMARY: The Advisory Committee to the U.S. Section to the International Commission for the Conservation of Atlantic Tunas (ICCAT) announces an August 1999 workshop on ICCAT minimum sizes. More information on the August workshop can be found in the **DATES** and **SUPPLEMENTARY INFORMATION** sections of this notice.

DATES: The Advisory Committee minimum size workshop will be held from 1:00 p.m. to 6:00 p.m. on August 24, 1999, and from 8:30 a.m. to 12:00 p.m. on August 25, 1999.

ADDRESSES: The Advisory Committee workshop will be held at the Holiday Inn Silver Spring, located at 8777 Georgia Avenue, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Patrick E. Moran or Kimberly Blankenbeker at 301–713-2276.

SUPPLEMENTARY INFORMATION: The August workshop of the Advisory Committee will examine the efficacy of minimum sizes as conservation and management measures for ICCAT species. It will provide a forum to critically review the application of minimum sizes to ICCAT species, including a discussion of possible alternative management measures and other issues as deemed appropriate. The first day of the meeting is expected to be composed of presentations by invited speakers. Committee discussions will take place on the second day. There will be no opportunity for public comment at this workshop.

The public is reminded that NMFS expects members of the public to conduct themselves appropriately for the duration of the meeting. At the beginning of the meeting, an appropriate representative will explain the ground rules. Attendees are expected to respect these rules, and if they do not, they will be asked to leave the meeting.

Special Accommodations

The meeting locations are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Patrick E. Moran at (301) 713–2276 at least 5 days prior to the meeting date.

Dated: August 5, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–20731 Filed 8–6–99; 3:28 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 072899A]

Marine Mammals; File No. 466B

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

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Dr. Scott Kraus, Edgerton Research Laboratory, New England Aquarium, Central Wharf, Boston, MA 02110–33099, has been issued an amendment to scientific research Permit No. 1014.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930, (978/281–9250); and

Regional Administrator, Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432 (813/570–5312).

FOR FURTHER INFORMATION CONTACT: Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: On June 21, 1999, notice was published in the **Federal Register** (63 FR 33056) that an amendment of Permit No. 1014, issued August 29, 1996 (61 FR 51688), had been requested by the above-named individual. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The amendment authorizes the Holder to conduct acoustic activities on right whales.

Issuance of this amendment, as required by the ESA was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: August 3, 1999.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–20730 Filed 8–10–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent To Grant an Exclusive Patent License

Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, the Department of the Air Force announces its intention to grant Linden Innovative Research LLC (hereafter Linden) a private, limited liability company doing business in Fairfax County, VA, an exclusive license in any right, title, and interest the Air Force has in United States Patent No. 5,719,794 issued February 17, 1998 and filed in the name of Air Force employee Edward E. Altshuler and non-Air Force inventor Derek S. Linden for ''Process for the Design of Antennas Using Genetic Algorithms.''

An exclusive license to patent described above will be granted unless an objection thereto, together with a request for an opportunity to be heard, if desired, is received in writing by the addressee set forth below within 60 days from the date of publication of this Notice. Information concerning the application may be obtained, on request, from the same addressee.

All communications concerning this Notice should be sent to Mr. Randy Heald, Patent Attorney, SAF/GCQ, 1740 Air Force Pentagon, Washington, D.C. 20330–1740, (703) 588–5091.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–20623 Filed 8–10–99; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Navy

Secretarial Authorization for a Member of the Department of the Navy To Serve on the Board of Directors, Navy-Marine Corps Relief Society

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: In accordance with 10 U.S.C. 1033, the Secretary of the Navy has authorized Rear Admiral M. E. Finley, SC, USN, a member of the Department of the Navy, to serve without compensation on the board of directors of the Navy-Marine Corps Relief Society.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Mike Edwards, JAGC, USN, Office of the Judge Advocate General, Administrative Law Division, (703) 604–8228.

(Authority: 10 U.S.C. 1033(c))

Dated: August 3, 1999.

J. L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–20751 Filed 8–10–99; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant an Exclusive Patent License; Environmental Directions, Inc.

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives of its intent to grant to Environmental Directions, Inc., a revocable, nonassignable, exclusive license in the United States to practice the Government-owned inventions described in U.S. Patent No. 5,449,553 entitled ''Nontoxic Antifouling Systems'' issued September 12, 1995 and U.S. Patent No. 5,593,732 entitled ''Nontoxic Antifouling Systems'' issued January 14, 1997; in the field of manufacture and application of fouling release coating to boat and ship hulls and power plant cooling tunnels.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, no later than October 12, 1999.

ADDRESSES: Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW, Washington, DC 20375–5320.

FOR FURTHER INFORMATION CONTACT: Catherine M. Cotell, Ph.D., Head, Technology Transfer Office, NRL code 1004, 4555 Overlook Avenue, SW, Washington, DC 20375–5320, telephone (202) 767–7230.

(Authority: 35 U.S.C. 207, 37 CFR Part 404).

Dated: August 3, 1999.

J.L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–20752 Filed 8–10–99; 8:45 am]

BILLING CODE 3810–FF–P

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an informal conference and public hearing on Wednesday, August 18, 1999. The hearing will be part of the Commission's regular business meeting. Both the conference and business meeting are open to the public and will be held in the Goddard Conference Room of the Commission's offices at 25

State Police Drive, West Trenton, New Jersey.

The conference among the Commissioners and staff will begin at 9:30 a.m. and will include discussions of coordinated drought responses and a proposed Commission-Corps of Engineers' drought storage agreement; the *Flowing Toward the Future* report and Governors' Summit; establishment of a watershed council; and the strategy for resolving interstate flow management issues in the Delaware River Basin.

In addition to the subjects summarized below which are scheduled for public hearing at the 1:00 p.m. business meeting, the Commission will also address the following: Minutes of the June 23, 1999 business meeting; announcements; report on Basin hydrologic conditions; reports by the Executive Director and General Counsel; and public dialogue.

The subjects of the hearing will be as follows:

Possible Drought Emergency Action.

The Commission may consider whether current and developing conditions of water supply and demand require drought related actions. The purpose of this hearing is to permit the public to comment on these matters and to make any suggestions or recommendations concerning possible Commission actions. The Commission will consider a resolution to ratify and approve the temporary modification of the Trenton flow objective and may also consider possible amendment of Commission Resolution No. 88–22 (Revised) or such other drought related actions as the Commission finds to be necessary.

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact.

1. *Friskies Petcare Division D–84–2 RENEWAL 2.* An application for the renewal of a ground water withdrawal project to supply up to 25.92 million gallons (mg)/30 days of water to the applicant's pet food manufacturing facility from Well Nos. 2, 4, 5 and 6. Commission approval on April 26, 1989 was extended to 10 years. The applicant requests that the total withdrawal from all wells remain limited to 25.92 mg/30 days. The project is located in South Whitehall Township, Lehigh County, Pennsylvania.

2. *City of Newark D–90–110 CP (G) (Amendment No. 1).* An amendment to revise Docket No. D–90–110 (G) CP to ratify emergency actions taken by the Executive Director due to drought conditions and to require the preparation and submission of an Integrated Water Resources Supply Plan by the City of Newark in cooperation with other New Castle County Public suppliers and the Delaware Department of Natural Resources and Environmental Control. The project is located in Newark, Delaware.

3. *United Water Delaware D–96–50 CP (Amendment No. 1).* An amendment to revise Docket No. D–96–50 CP to ratify emergency actions taken by the Executive Director due to drought conditions and to require the preparation and submission of an Integrated Water Resources Supply Plan by United Water Delaware in cooperation with other New Castle County public suppliers and the Delaware Department of Natural Resources and Environmental Control. The project is located in New Castle County, Delaware.

4. *Artesian Water Company, Inc. D–97–48 CP.* An application for approval of a ground water withdrawal project to supply up to 150 mg/30 days of water to the applicant's Southern Distribution System from 14 new and existing wells in nine wellfields, and to limit the withdrawal from all Southern Distribution System wells to 150 mg/30 days. The project is located south of the Chesapeake & Delaware Canal, New Castle County, Delaware.

5. *Buckingham Township D–98–49 CP.* A project to expand the applicant's existing Furlong sewage treatment lagoon system from 68,000 gallons per day (gpd) to 116,825 gpd. Lagoon treatment capacity will be increased along with associated spray field modifications and expansions to accommodate an increase of spray irrigation discharge. A pump station and force main will convey treated effluent to a storage pond at the Look-A-Way Golf Course for irrigation use and to allow for an alternate stream discharge from the pond to Mill Creek. All facilities are located in Buckingham Township, Bucks County, Pennsylvania. The project will continue to serve residential development in Buckingham Township.

6. *Bucks County Water & Sewer Authority D–99–13 CP.* An application to rerate the Harvey Avenue sewage treatment plant (STP) from 0.9 million gallons per day (mgd) to 1.2 mgd. Located at the end of Harvey Avenue in Doylestown Borough, Bucks County, Pennsylvania, the STP will continue to serve Doylestown Township and Doylestown Borough. Following high quality secondary treatment, effluent will continue to discharge to Cooks Run, a tributary of Neshaminy Creek.

7. *Borough of Kennett Square D–99–17 CP.* An application to modify the applicant's existing 1.1 mgd STP by replacing the existing trickling filter system with an oxidation ditch system designed to treat the same flow. The proposed modification project will also include an ultraviolet light disinfection system and post aeration. The STP is located in Kennett Square Township off Chindler Mill Road approximately 1,500 feet west of the southwest border of the Borough of Kennett Square and will continue to discharge to West Branch Red Clay Creek approximately 3.3 river miles above its confluence with Red Clay Creek.

8. *Saville Rustin Water Company D–99–31 CP.* An application for approval of an increase in ground water withdrawal from 3.18 mg/30 days of water to 7.5 mg/30 days by providing an additional supply of up to 4.32 mg/30 days of water to the applicant's distribution system from new Well No. 5, and to limit the withdrawal from all wells to 7.5 mg/30 days. The project is located in Lehman Township, Pike County, Pennsylvania.

9. *TPT Partners, L.P. D–99–41.* An application for approval of a ground water withdrawal project to supply up to 3.8 mg/30 days of water for irrigation of the applicant's Bellewood Golf Course from new Well Nos. 1 and 2, and to limit the withdrawal from all wells to 3.8 mg/30 days. The project is located in North Coventry Township, Chester County, Pennsylvania.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact Thomas L. Brand at (609) 883–9500 ext. 221 concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary at (609) 883–9500 ext. 203 prior to the hearing.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act who would like to attend the hearing should contact the Secretary at (609) 883–9500 ext. 203 or through the New Jersey Relay Service at 1–800–852–7899 (TTY) to discuss how the DRBC may accommodate your needs.

Dated: August 3, 1999.

Anne M. Zamonski,

Acting Secretary.

[FR Doc. 99–20627 Filed 8–10–99; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.234P]

Projects With Industry; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2000

Purpose of Program: The Projects With Industry (PWI) program creates and expands job and career opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process. PWI projects identify competitive job and career opportunities and the skills needed to perform those jobs, create practical settings for job readiness and training programs, and provide job placements and career advancement services.

Eligible Applicants: Employers, nonprofit agencies or organizations, designated State units, labor unions, community rehabilitation program providers, trade associations, Indian tribes or tribal organizations, and other agencies or organizations with the capacity to create and expand job and career opportunities for individuals with disabilities.

Only applicants that propose to serve individuals with disabilities in States, portions of States, Indian tribes, or tribal organizations that are currently unserved or underserved by the PWI program may apply.

SUPPLEMENTARY INFORMATION: Applications for funding under this notice will be used to support grants in FY 2000. The Secretary may consider supporting approved applications submitted in FY 2000 for grant support in FY 2001.

Deadline for Transmittal of Applications: January 10, 2000.

Deadline for Intergovernmental Review: March 10, 2000.

Applications Available: October 8, 1999.

The Administration has requested $22,071,000 for this program for FY 2000. However, the actual level of funding is contingent upon final congressional action.

Available Funds: $2,071,694.

Estimated Range of Awards: $158,000-$238,000.

Estimated Average Size of Awards: $198,000.

Estimated Number of Awards: 10.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 379.

Selection Criteria: In evaluating an application for a new grant under this competition, the Secretary uses the selection criteria in 34 CFR 379.30. The selection criteria to be used for this competition will be provided in the application package.

Priorities: Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1

Projects that demonstrate effective collaboration with the ''One-Stop'' delivery system established under title I of the Workforce Investment Act of 1998 to assist individuals with disabilities to secure job skills training and employment opportunities in the competitive labor market. Proposed PWI service delivery models should promote the delivery of services to individuals with disabilities through local ''One-Stop'' centers. Applicants who wish to address this invitational priority may get further information about the ''One-Stop'' delivery system by calling the Department of Labor at (202) 219–8395, Ext. 182.

Invitational Priority 2

Projects that demonstrate effective collaboration with the ''Welfare-to-Work Program'' administered by the U. S. Department of Labor to serve and secure competitive placement opportunities for persons with disabilities who are participants in this program. Applications should demonstrate a project's capacity to address issues unique to individuals with disabilities transitioning from welfare to work. Applicants who wish to address this invitational priority may get further information at the Department of Labor web site at:

http://wtw.doleta.gov/documents/census/

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734. You may also contact ED Pubs via its web site

(http://www.ed.gov/pubs/edpubs/html) or its E-mail address (edpubs@inet.ed.gov).

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 205–9817. If you use a telecommunications device for the deaf (TDD), you may call the TDD number at 1–877–576–7734. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

FOR FURTHER INFORMATION CONTACT: Martha Muskie or Mary Jane Kane, U.S. Department of Education, 400 Maryland Avenue, SW., room 3320 Switzer Building, Washington, DC 20202. Telephone (202) 205–3293 for Martha Muskie. Telephone (202) 205–8206 for Mary Jane Kane. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at:

http://www.access.gpo.gov/nara/index.html

Program Authority: 29 U.S.C. 777b.

Dated: August 6, 1999.

Curtis L. Richards,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 99–20756 Filed 8–10–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy; Orders Granting, Transferring and Vacating Authorizations To Import and Export Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that it has issued Orders granting, transferring and vacating natural gas import and export authorizations. These Orders are summarized in the attached appendix.

These Orders may be found on the FE web site at http://www.fe.doe.gov., or on the electronic bulletin board at (202) 586–7853.

They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, S.W., Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on August 5, 1999.

John W. Glynn,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import & Export Activities, Office of Fossil Energy.

APPENDIX—ORDERS GRANTING, TRANSFERRING AND VACATING IMPORT/EXPORT AUTHORIZATIONS

Order No.	Date issued	Importer/exporter FE docket No.	Import volume	Export volume	Comments
1499	07–01–99	COMGAS, S. DE R.L. DE C.V. 99–49-NG.	1 Tcf	1 Tcf	Import and export from and to Mexico over a two-year term beginning on date of first delivery.
165–A	07–01–99	Medpath Energy Corp. (Successor to Fiscus Inc.) 99–50–NG and ERA Docket No. 86–64–NG.			Transfer of blanket authority to affiliate.
1500	07–02–99	Mieco Inc. 99–47-NG	13 Bcf	13 Bcf	Import and export from and to Canada over a two-year term beginning on the date of first delivery.
1501	07–09–99	Crestar Energy Marketing Corp. 99–51–NG.	50 Bcf		Import and export from and to Canada up to a combined total beginning on July 12, 1999, and extending through July 11, 2001.
1438–B	07–12–99	IDACORP, Energy Solutions L.P. (Successor to Idaho Power Company) 98–91–NG.			Transfer of blanket authority to subsidiary.
1502	07–12–99	Texas-Ohio Energy, Inc. 99–52–NG	100 Bcf		Import from Canada beginning on July 11, 1999, and extending through July 12, 2001.
1503	07–26–99	Wisvest Corporation, Androscoggin Energy, Inc. and Polsky Energy Corporation of Maine, Inc. 99–53–NG.	2,500 Bcf		Import and export from and to Canada up to combined total beginning on August 1, 1999, and extending through July 31, 2001.
499–B	07–29–99	Encogen Four Partners, L.P. 90–11–NG.			Vacate long-term authority.

DOE/FE; Authority

[FR Doc. 99–20659 Filed 8–10–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11689–000]

Alpine Power Company; Notice Granting Late Intervention

August 5, 1999.

On March 14, 1999, the Commission issued a notice of the application for preliminary permit filed by Alpine Power Company for the Stuyvesant Falls Hydroelectric Project, to be located on Kinderhook Creek, in Columbia County, New York. The notice established July 13, 1999, as the deadline for filing motions to intervene.

On July 16, 1999, the New York State Department of Environmental Conservation filed a late motion to intervene. Granting the late motion to intervene will not unduly delay or disrupt the proceeding or prejudice any other party to it. Therefore, pursuant to Rule 214,[1] the late motion to intervene is granted, subject to the Commission's regulations.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20769 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

[1] 18 CFR 385.214.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–398–004]

Caprock Pipeline Company; Notice of Tariff Filing

August 4, 1999.

Take notice that on August 2, 1999, Caprock Pipeline Company (Caprock), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff Sheet, with an effective date of August 1, 1999:

Third Sub Sixth Revised Sheet No. 29A

Caprock states that the filing is being made to comply with the Commission's letter order issued July 28, 1999 in Docket No. RP99–398–002 in order to add Standard 1.3.18 on Tariff Sheet No. 29A.

Caprock respectfully requests that the Commission grant any waiver of its regulations that the Commission my deem necessary for acceptance of this filing.

Caprock states that copies of this filing have been served upon all affected firm customers of Caprock and applicable state agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20766 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM99–2–000]

Regional Transmission Organizations; Order Granting Extension of Time

Issued August 5, 1999.

Before Commissioners: James J. Hoecker, Chairman; Vicky A. Bailey, William L. Massey, Linda Breathitt, and Curt Hebert, Jr.

On July 28, 1999, Cinergy Services, Inc. (Cinergy), on behalf of its operating companies, Cincinnati Gas & Electric Company and PSI Energy, Inc., filed a motion for an extension of time within which to submit initial comments in response to the Commission's Notice of Proposed Rulemaking to facilitate the formation of Regional Transmission Organizations, issued May 13, 1999, in this proceeding. Cinergy requests a one-week extension, from August 16, 1999 to August 23, 1999, to file initial comments in this proceeding in light of the unavailability of key management personnel due to recent severe heat throughout the Midwest and its effect on power supply and transmission system operations.

Upon consideration, we are persuaded that Cinergy has provided sufficient justification to grant an extension from August 16, 1999 to August 23, 1999 for the filing of initial comments by Cinergy and other interested persons. While we grant the motion, we nevertheless encourage all interested persons to file their initial comments as early as possible.

By the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20639 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG99–23–000]

Garden Banks Gas Pipeline, L.L.C.; Notice of Filing

August 5, 1999.

Take notice that Garden Banks Gas Pipeline, L.L.C. filed standards of conduct on July 28, 1999, under Order Nos. 497 *et seq.*[1] Order Nos. 566 *et seq.*,[2] and Order No. 599.[3]

Any person desiring to be heard or to protest the 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 or 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211 or 385.214 (1998)). All such motions to intervene or protest should be filed on or before August 20, 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. 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 be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20762 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

[1] Order No. 497, 53 FR 22139 (June 14, 1988), FERC Stats. & Reg. 1986–1990 ¶ 30,280 (1988); Order No. 497–A, *order on rehearing,* 54 FR 52781 (December 22, 1989), FERC Stats. & Regs. 1986–1990 ¶ 30,868 (1989); Order No. 497–B, *order extending sunset date,* 55 FR 53291 (December 28, 1990), FERC Stats. & Regs. 1986–1990 ¶ 30,908 (1990); Order No. 497–C, *order extending sunset date,* 57 FR 9 (January 2, 1992), FERC Stats. & Regs. 1991–1996 ¶ 30,934 (1991), *rehearing denies,* 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); *Tenneco Gas* v. *FERC* (affirmed in part and remanded in part), 969 F.2d 1187 (D.C. Cir. 1992); Order No. 497–D, *order on remand and extending sunset date,* 57 FR 58978 (December 14, 1992), FERC Stats. & Regs. 1991–1996 ¶ 30,958 (December 4, 1992); Order No. 497–E, *order on rehearing and extending sunset date,* 59 FR 243 (January 4, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,987 (December 23, 1993); Order No. 497–F, *order denying rehearing and granting clarification,* 59 FR 15336 (April 1, 1994), 66 FERC ¶ 61,347 (March 24, 1994); and Order No. 497–G, *order extending sunset date,* 59 FR 32884 (June 27, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,996 (June 17, 1994).

[2] Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No. 566, 59 FR 32885 (June 27, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,997 (June 17, 1994); Order No. 566–A, *order on rehearing,* 59 52896 (October 20, 1994), 69 FERC ¶ 61,044 (October 14, 1994); Order No. 566–B, *order on rehearing,* 59 FR 65707, (December 21, 1994), 69 FERC ¶ 61,334 (December 14, 1994).

[3] Reporting Interstate Natural Gas Pipeline Marketing Affiliates on the Internet, Order No. 599, 63 FR 43075 (August 12, 1998), FERC Stats. & Regs. 31,064 (1998).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–347–001]

Kern River Gas Transmission Company; Notice of Compliance Filing

August 5, 1999.

Take notice that on August 2, 1999, Kern River Gas Transmission Company (Kern River), tendered for filing to be a part of its FERC Gas Tariff, First Revised Volume 1, Substitute Sixth Revised Sheet No. 72, to be effective August 1, 1999.

On June 22, 1999, Kern River tendered for filing and acceptance tariff sheets to implement the revised and new business standards promulgated by the Gas Industry Standards Board (GISB) and adopted by the Commission in Order No. 587–K. In its July 20 letter order, the Commission accepted the tariff sheets, subject to Kern River filing a revised Sheet No. 72, including the footnote and footnote reference that are a part of GISB Standard No. 1.3.14. The purpose of this filing is to revise Sheet No. 72.

Kern River states that it has served a copy of this filing upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20775 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–407–003]

KN Wattenberg Transmission LLC; Notice of Tariff Filing

August 5, 1999.

Take notice that on July 30, 1999, KN Wattenberg Transmission LLC (KNW), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with an effective date of August 1, 1999:

Substitute First Revised Sheet No. 44A
Second Substitute third Revised Sheet No. 67

KNW states that it is submitting the filing to correct the GISB Standard 2.3.9 (Version 1.3) by placing it in ''by reference'' tariff sheet.

KNW states that copies of its filing has been served upon all affected firm customers of KNW and applicable state agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy regulatory Commission, 888 First Street, 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20779 Filed 8–10–99 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–595–000]

Mission Pipeline Company; Notice of Petition for Declaratory Order

August 5, 1999.

Take notice that on July 30, 1999, Mission Pipeline Company (Mission), 3700 Buffalo Speedway, Suite 1100, Houston, Texas 77098, filed in Docket No. CP99–595–000 a petition pursuant to Section 1(b) of the Natural Gas Act (NGA) for a declaratory order exempting facilities being acquired by purchase from Mission Pipeline Company (Mission), located in Hidalgo County, Texas, from Commission regulation under the NGA, all as more fully set forth in the application 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/htm (call 202–208–2222 for assistance).

Mission states that it has an agreement with Texas Eastern to purchase the facilities, consisting of Line 16–A (18.45 miles of 8-inch line) and Sublateral Line 16–A–1 (0.37 mile of 4-inch line), both located in Hidalgo County, Texas. Mission states that following acquisition of the facilities, Mission, an intrastate pipeline, will use them to receive gas within Texas by purchasing gas from wells attached to the facilities or by entering into intrastate transportation agreements. Therefore, Mission requests a determination that its facilities, services and rates be exempt from Commission jurisdiction. Mission asserts that its operations are subject to regulation by the Texas Railroad Commission. Mission explains that the facilities will remain connected to Texas Eastern's McAllen-Vidor Line, also in Hidalgo County and that no customers will lose service as a result of the request.

Texas Eastern proposes to sell the facilities to Mission because the attached reserves are being depleted and the facilities are underutilized. It is stated that between June 1998 and May 1999, 23.95 percent of the capacity of the facilities has been utilized. It is asserted that acquisition of the facilities by Mission would provide Mission with access to additional gas supplies for the intrastate market. It is further asserted that Mission anticipates tying-in additional production which would lead to increased utilization of the facilities. It is stated that Texas Eastern is concurrently filing a request for abandonment authorization for the facilities by sale to Mission.

Any questions regarding the application may be directed to Cynthia Corcoran, Attorney at Law, 4801 Woodway Drive, Suite 300 East, Houston, Texas 77056 (713) 964–2776.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 26, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropraite action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20760 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–388–001]

Nautilus Pipeline Company, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

August 5, 1999.

Take notice that on July 29, 1999, Nautilus Pipeline Company, L.L.C. (Nautilus) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Sub Fourth Revised Sheet No. 216 and Sub Original Sheet No. 217, proposed to be effective August 1, 1999.

Nautilus states that the purpose of this filing is to comply with the Commission's Letter Order issued July 26, 1999 in Docket No. RP99–388–000 whereby Nautilus was directed to reflect version 1.3 standards for all standards and definitions. The tariff sheets filed herein reflect version 1.3 for all standards.

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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20778 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2474–004]

Niagara Mohawk Power Corporation, Erie Boulevard Hydropower, L.P.; Notice Requiring Service of Motion for Late Intervention

August 5, 1999.

On October 6, 1997, the Atlantic Salmon Fish Creek Club (Club) filed a late motion to intervene in the above-captioned proceeding.[1] However, the Club's motion did not include a certificate of service, as required by Rule 2010 of the Commission's Rules of Practice and Procedure.[2] As a result, it appears that parties to the proceeding may not have been served and may not have had an opportunity to file answers to the Club's late motion.

The Club will not be required to refile its motion to intervene. However, before the Commission considers whether to grant late intervention, the Club must serve a copy of its motion on each person whose name appears on the official service list for this proceeding, and file a certificate of service with the Commission. The 15-day period for filing answers to the Club's motion will begin as of the date that the Club files its certificate of service.[3]

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20768 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

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[1] On July 26, 1999, the Commission issued an order approving transfer of the project license from Niagara Mohawk Power Corporation to Erie Boulevard Hydropower, L.P., and substitution of Erie as the applicant in the pending relicensing proceeding for the project. The transfer has not yet been completed. 88 FERC ¶ 62,082.

[2] 18 CFR 385.2010 (1999).

[3] *See* Rule 213, 18 CFR 385.213 (1999).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–203–007]

Northern Natural Gas Company; Notice of Compliance Filing

August 5, 1999.

Take notice that on July 30, 1999, Northern Natural Gas Company (Northern) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets proposed to be effective November 1, 1998:

2nd Substitute Fourth Revised Sheet No. 291
2nd Substitute Third Revised Sheet No. 292
Original Sheet No. 292A

Northern states that the above-listed tariff sheets are filed in compliance with the Commission's Order On Compliance Filings issued July 16, 1999 in Docket Nos. RP98–203, *et al.,* to clarify that the Small Customer's tolerances include the Small Customer positive daily delivery variance charge (DDVC) levels within the tolerance during critical periods.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20773 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–31–003]

Northern Natural Gas Company; Notice of Compliance Filing

August 5, 1999.

Take notice that on July 30, 1999, Northern Natural Gas Company (Northern tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets proposed to be effective November 1, 1998 and August 1, 1999:

Second Substitute Fourth Revised Sheet No. 260
Substitute Fifth Revised Sheet No. 260

Northern states that the above-listed tariff sheets are filed in compliance with the Commission's Order issued July 16, 1999 in Docket Nos. RP99–31, *et al.,* to comply with the Commission's Order No. 587–H and the Commission's October 30, 1998 Letter Order in Docket No. RP99–31–000 addressing intra-day nominations and bumping tariff provisions.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

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 of 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20774 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR96–200–043]

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

August 5, 1999.

Take notice that on July 39, 1999, Reliant Energy Gas Transmission Company (REGT), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheet to be effective August 1, 1999:

First Revised Sheet No. 8B

REGT states that the purpose of this filing is to reflect an extension of and a change to an existing negotiated rate contract.

Any person desiring to protest this filing should file a protest with the 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20772 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP93–197–005]

Southern California Gas Company; Notice of Report of Refunds

August 5, 1999.

Take notice that on June 30, 1999, Southern California Gas Company (SoCalGas) tendered for filing its second report of refunds in Docket No. RP93–197–004.

SoCalGas states that the Second Report of Refunds reflects the additional refunds to interstate shippers (who were also end-use customers of SoCalGas) of all amounts collected through the Wheeler Ridge interconnection charge for the July 13, 1993 through December 31, 1993 period plus interest calculated pursuant to the Commission's regulations. SoCalGas states that the second refunds amount of $1,626,832.35 inclusive of interest and that such refunds were distributed by June 29, 1999.

SoCalGas states that it filed on November 24, 1998, a report showing that refunds of $1,899,994.85, including interest, were made only to those shippers who were not also end-use customers of SoCalGas during the time period in which the refund obligation arose. SoCalGas states that this second report of rate refunds shows that SoCalGas has refunded a total of $31,516,827.20, including interest, to all interstate shippers of all amounts collected through the Wheeler Ridge interconnection during the time period in which the refund obligation arose.

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 Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before August 12, 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 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20770 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–596–000]

Loraine Stepenske v. Colorado Interstate Gas Company; Notice of Complaint

August 5, 1999.

Take notice that on August 3, 1999, Loraine Stepenske, P.O. Box 64, Kim, Colorado 81049, filed with the Federal Energy Regulatory Commission a complaint against Colorado Interstate Gas Company (CIG) regarding certain alleged damage done to a water well on her property in Walsenburg County, Colorado during the construction of a gas line during November and December of 1998, and an alleged loose gate installed on her property.

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 August 23, 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. Answers to the complaint shall be due on or before August 23, 1999. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20761 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–385–001]

Steuben Gas Storage Company; Notice of Compliance Filing

August 5, 1999.

Take notice that on July 30, 1999, Steuben Gas Storage Company (Steuben) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheet listed below, to be effective August 1, 1999:

Substitute Third Revised Sheet No. 132B

Steuben states the attached tariff sheet is being filed in compliance with the Commission's Order issued on July 23, 1999, at Docket No. RP99–385–000.

Steuben states that copies of the filing were served upon the company's Jurisdictional customers.

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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20777 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–594–000]

Texas Eastern Transmission Corporation; Notice of Application

August 5, 1999.

Take notice that on July 30, 1999, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP99–594–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon by sale to Mission Pipeline Company (Mission) pipeline facilities and appurtenances located in Hidalgo County, Texas, all as more fully set forth in the application 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/htm (call 202–208–2222 for assistance).

Texas Eastern proposes to abandon by sale to Mission the Tabasco Facilities consisting of Line 16–A (18.45 miles of 8-inch line) and sublateral 16–A–1 (0.37 mile of 4-inch line). Texas Eastern states that the facilities were installed to gain access to supplies of natural gas from production fields in Hidalgo County and are connected to Texas Eastern's McAllen-Vidor Line, also in Hidalgo County.

Texas Eastern proposes to sell the facilities to Mission because the attached reserves are being depleted and the facilities are underutilized. It is stated that between June 1998 and May 1999, 23.95 percent of the capacity of the facilities has been utilized. It is asserted that acquisition of the facilities by Mission would provide Mission with access to additional gas supplies for the intrastate market. It is further asserted that Mission anticipates tying-in additional production which would lead to increased utilization of the facilities.

It is stated that Texas Eastern and Mission have agreed on a sale price of $80,000, which is the net book value of the facilities as of October 31, 1999, plus incidental expenses not to exceed $15,000.

Texas Eastern states that Mission is willing to provide service to all producers and other parties currently utilizing the facilities, and no customers would lose service as a result of the abandonment. Texas Eastern explains that Mission is concurrently filing a request for a declaratory order to exempt the facilities from Commission regulation.

Any questions regarding the application may be directed to Steven E. Tillman, Director of Regulatory Affairs, at P.O. Box 1642, Houston, Texas 77251–1642, (713) 627–5113.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 26, 1999, file with Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene its timely filed, or if the Commission on is own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, rules otherwise advised, it will be unnecessary for Texas Eastern to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20785 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR96–2–003]

Transok, LLC; Notice of Petition for Rate Approval

August 5, 1999.

Take notice that on July 23, 1999, Transok, LLC (Transok), submitted for filing a revised fuel tracker mechanism for its Traditional System. The revised method is intended to reduce year to year swings in the fuel percentage. Additionally, Transok states that the filing reflects a corrected classification of several of its compressors as transmission versus gathering. Transok proposes to reduce the current fuel percentage from 1.61% to 1.11%. Transok seeks an effective date of September 1, 1999.

Any person desiring to participate in this rate proceeding must 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 or 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed with the Secretary of the Commission on or before August 12, 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. Any person wishing to become a party must file a motion to intervene. Copies of this application 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20763 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR96–7–003]

Transok, LLC; Notice of Petition for Rate Approval

August 5, 1999.

Take notice that on July 23, 1999, Transok, LLC (Transok) submitted for filing a revised fuel tracker mechanism for its Anadarko System. The revised mechanism is intended to reduce year to year variations in the fuel percentage, and institutes a separate charge for low pressure compression services, capped at 2% at each stage of compression. Transok proposes to reduce the current fuel percentage from 2.09% to 0.73%. Transok seeks an effective date of September 1, 1999.

Any person desiring to participate in this rate proceeding must 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 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed with the Secretary of the Commission on or before August 12, 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 application 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20764 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–129–005 (Phase I Remand)]

Trunkline Gas Company; Notice of Informal Settlement Conference

August 5, 1999.

Take notice that an informal settlement conference will be convened in these proceedings on August 11, 1999 at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, for the purpose of exploring the possible settlement of the issues in this proceeding.

Any party, as defined by 18 CFR 285.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a part must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Marc G. Denkinger (202) 208–2215 or Lorna J. Hadlock (202) 208–0737.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20771 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–354–001]

Tuscarora Gas Transmission Company; Notice of Tariff Filing

August 5, 1999.

Take notice that on July 29, 1999, Tuscarora Gas Transmission Company (Tuscarora), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to become effective August 1, 1999:

Sub Third Revised Sheet No. 33
Original Sheet No. 33A

Tuscarora asserts that the purpose of this filing is to comply with the Commission's Letter Order issued on July 22, 1999, in Docket No. RP99–354–000. Specifically, Tuscarora has revised Sheet No. 33 and added Sheet No. 33A to include the footnote and footnote reference for GISB Standard No. 1.3.14. Tuscarora states that copies of this filing were mailed to customers of Tuscarora and interested state regulatory agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20776 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–451–000]

Williams Gas Pipelines Central, Inc.; Notice of Filing of Refund Report

August 4, 1999.

Take notice that on July 29, 1999, Williams Gas Pipelines Central, Inc. (Williams), tendered for filing its interruptible excess refund report for the month of October 1993.

Williams states that Article 12 of the General Terms and Conditions of its FERC Gas Tariff specifies that Williams will file an interruptible excess refund report within 30 days of a final Commission order accepting new rates. Based on the Commission's March 5, 1999, order in Docket No. RP93–109, Williams' revenue crediting mechanism set forth in Article 12 applies to the month of October 1993. Article 12 also provides that Williams will mail any refunds, including interest pursuant to Section 154.501 of the Commission's regulations, within 10 days following a final Commission order accepting the report. Williams proposes to refund approximately $1.2 million, including interest calculated through July 31, 1999.

Williams states that a copy of its filing was served on all of Williams' jurisdictional customer sand interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before August 11, 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://ww.ferc.fed.us/online/

rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20767 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–410–001]

Williston Basin Interstate Pipeline Company; Notice of Compliance Filing

August 5, 1999.

Take notice that on July 30, 1999, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective August 1, 1999:

Sub. third Revised Sheet No. 175
Third Revised Sheet No. 175A
Sub. Fourth Revised Sheet No. 176
Sub. Second Revised Sheet No. 176A

Williston Basin states that the tariff sheets reflect modifications to Williston Basin's FERC Gas Tariff in compliance with the Commission's Letter Order issued July 22, 1999 regarding Commission Order No. 587–K issued April 2, 1999, in Docket No. RM96–1–011. The tariff sheets reflect the Gas Industry Standards Board (GISB) Version 1.3 standards adopted by the Commission in such Order.

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 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20780 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC96–19–000, et al.]

California Power Exchange Corporation, et al.; Electric Rate and Corporate Regulation Filings

August 4, 1999.

Take notice that the following filings have been made with the Commission:

1. California Power Exchange Corporation

[Docket Nos. EC96–19–000 and ER96–1663–000]

Take notice that on July 30, 1999, the California Power Exchange Corporation (CalPX), tendered for filing its annual report on the state of competition in the California markets in accordance with the Commission's October 30, 1997 order in this proceeding.

Comment date: August 27, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Northern States Power Company (Minnesota) on behalf of itself and its Public Utility Subsidiaries and New Century Energies, Inc. on behalf of its Public Utility Subsidiaries

[Docket No. EC99–101–000]

Take notice that on July 30, 1999, Northern States Power Company (Minnesota) (NSP–M) on behalf of itself and its public utility subsidiaries and New Century Energies, Inc. (NCE) on behalf of its public utility subsidiaries (referred to collectively as the Applicants), tendered for filing pursuant to section 203 of the Federal Power Act (the FPA), 16 U.S.C. § 824b, Part 33 of the Commission's Regulations, 18 CFR 33, and 18 CFR 2.26, a Joint Application for an order approving the proposed merger and reorganization of NSP–M and NCE.

Applicants request all authorizations necessary to undertake a merger and reorganization pursuant to which NCE will merge with and into NSP–M, which will be renamed Xcel Energy Inc. (Xcel Energy), transfer all of the jurisdictional assets presently owned directly by NSP–M to a new subsidiary, provisionally named ''New NSP Utility,'' and with respect to the concomitant transfer of control resulting from the Merger Transaction over the Applicants and all their respective FERC-jurisdictional facilities, including FERC-jurisdictional contracts. Subject to Commission approval, at the time of the merger NSP–M and NCE will enter into a Joint Operating Agreement and a Joint Open Access Transmission Tariff, which agreements have been filed in separate dockets.

The Applicants state that (subject to certain requests for waiver) they have submitted the information required by part 33 of the Commission's Regulations, and by the Commission's Merger Policy Statement (Inquiry Concerning the Commission's Merger Policy Under the Federal Power Act; Policy Statement), Order No. 592, 61 FR 68,595 (1996) (codified at 18 CFR 2.26), in support of the Application. The Applicants also represent that copies of the Application and related testimony and exhibits have been served on each of the wholesale requirements and firm transmission customers of NSP–M and NCE, and on the Arizona Corporation Commission, Colorado Public Utilities Commission, Kansas Corporation Commission, Michigan Public Service Commission, Minnesota Public Utilities Commission, New Mexico Public Regulation Commission, North Dakota Public Service Commission, Oklahoma Corporation Commission, South Dakota Public Utilities Commission, Public Utility Commission of Texas, Public Service Commission of Wisconsin, and Wyoming Public Service Commission.

Comment date: September 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Westbrook Power LLC

[Docket No. EG99–208–000]

Take notice that on July 30, 1999, Westbrook Power LLC, tendered for filing with the Federal Energy Regulatory Commission (FERC or the Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Westbrook Power is a Maine limited liability company that will be engaged directly and exclusively in the business of owning and operating all or part of one or more eligible facilities to be located in Maine. The eligible facilities will consist of an approximately 540 MW gas and/or oil fired electric generation project and related interconnection facilities. The output of the eligible facilities will be sold at wholesale.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Reliant Energy Osceola, LLC

[Docket No. EG99–209–000]

Take notice that on July 30, 1999, Reliant Energy Osceola, LLC (Reliant

Osceola), tendered for filing an application for a determination of exempt wholesale generator status, pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935, as amended (PUHCA), 15 U.S.C. § 79z–5a (1994), and Subchapter T, Part 365 of the regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR Part 365.

Reliant Osceola, an indirect wholly-owned subsidiary of Reliant Energy Power Generation, Inc., is a Delaware limited liability company that intends to construct, own and operate an electric generating facility in Osceola County, Florida. Reliant Osceola states that it will be engaged directly, or indirectly through one or more affiliates, as defined in Section 2(a)(11)(B) of PUHCA, and exclusively in the business of owning and/or operating an eligible facility and selling electric energy at wholesale.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration to those that concern the adequacy or accuracy of the application.

5. South Carolina Electric & Gas Company

[Docket Nos. ER96–1085–004 and OA96–49–004]

Take notice that on July 30, 1999, South Carolina Electric & Gas Company (SCE&G), tendered for filing a refund report pursuant to the Commission's April 5, 1999 Order in Docket Nos. ER96–1085–000 and OA96–1086–000. This filing represents the compliance report showing information pertaining to refunds made as required in the order.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Southern California Edison Co., California; Independent System Operator Corp., El Segundo Power, LLC; Pacific Gas & Electric Co., Duke Energy Moss Landing, LLC, Duke Energy Oakland, LLC; San Diego Gas & Electric Co; Southern California Edison Co., Pacific Gas & Electric Co., San Diego Gas & Electric Co., Duke Energy Moss Landing, LLC, Duke and Energy Oakland, LLC

[Docket Nos. ER98–441–006, ER98–2550–003, ER98–495–006, ER98–1614–004, ER98–2145–004, ER98–2668–007, ER98–2669–006, ER98–4296–004, ER98–4300–004, ER98–496–005, ER98–2160–003, ER98–441–001, ER98–495–001, ER98–496–001, ER98–4300–001, ER98–2668–001, ER98–2669–001, ER98–4296–001, ER99–1127–005, and ER99–1128–005]

Take notice that, on July 30, 1999, Duke Energy Moss Landing, LLC and Duke Energy Oakland, LLC, tendered for filing a refund report in compliance with the Offer of Settlement filed in the above-captioned dockets on April 2, 1999 and approved by the Federal Energy Regulatory Commission (Commission) by letter order on May 28, 1999.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Maine Yankee Atomic Power Company

[Docket No. ER98–570–001]

Take notice that on July 30, 1999, Maine Yankee Atomic Power Company (Maine Yankee), tendered for filing a compliance filing pursuant to the Commission's letter order issued June 1, 1999, in the above captioned docket. The compliance filing contains a compliance report detailing the refund amounts and calculations including a summary of the refund amounts in total for the refund period, revenue data to reflect prior, present and settlement rates in total and by individual customer, and the monthly interest computation. As required by the FERC order of June 1, 1999, the company has furnished copies of such report to the affected wholesale customers and to each state commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER99–2270–000]

Errata Notice (August 4, 1999)

Take notice that the Notice of Filing issued on July 22, 1999, in Docket No. ER99–3612–000, should have been issued in Docket No. ER99–2270–000.

9. Commonwealth Edison Company

[Docket No. ER99–3859–000]

Take notice that on July 30, 1999, Commonwealth Edison Company (ComEd), tendered for filing a Non-Firm Service Agreement establishing the City of Rochelle (Rochelle), as a customer under the terms of ComEd's OATT.

ComEd requests an effective date of July 20, 1999, for the service agreement, and accordingly, seeks waiver of the Commission's notice requirements.

Copies of this filing were served on Rochelle.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. El Dorado Energy, LLC

[Docket No. ER99–3865–000]

Take notice that on July 30, 1999, El Dorado Energy, LLC (El Dorado), tendered for filing pursuant to section 205 of the Federal Power Act, 16 U.S.C. § 824d (1994), and part 35 of the Commission's Regulations, 18 CFR 35, its amended FERC Electric Rate Schedule No. 1 authorizing El Dorado to make sales of ancillary services at market-based rates to the California Independent System Operator Corporation (CAISO) and to entities that are self-supplying ancillary services to the CAISO, and outside the CAISO's control area consistent with the Commission's Order in Avista Corp., 87 FERC ¶ 61,223 (1999).

El Dorado owns a 492-megawatt combined cycle generating plant in Boulder City, Nevada that is expected to commence operations in the fall of 1999. El Dorado is an exempt wholesale generator and is authorized to sell electric energy and capacity at wholesale at market-based rates.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Southern Energy Lovett, L.L.C.

[Docket No. ER99–3869–000]

Take notice that on July 30, 1999, Southern Energy Lovett, L.L.C. (SE Lovett), tendered for filing a Master Index Purchase and Sale Agreement between Southern Company Energy Marketing L.P. and Southern Energy Bowline, L.L.C., Southern Energy Lovett, L.L.C., and Southern Energy NY-Gen, L.L.C.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Southern Energy NY-Gen, L.L.C.

[Docket No. ER99–3870–000]

Take notice that on July 30, 1999, Southern Energy NY-Gen, L.L.C. (SE NY-Gen), tendered for filing a Master Index Purchase and Sale Agreement between Southern Company Energy Marketing L.P. and Southern Energy Bowline, L.L.C., Southern Energy Lovett, L.L.C., and Southern Energy NY-Gen, L.L.C., under its Market Rate Tariff accepted by the Commission in Docket No. ER99–2045–000.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Southern Energy Bowline, L.L.C.

[Docket No. ER99–3871–000]

Take notice that on July 30, 1999, Southern Energy Bowline, L.L.C. (SE Bowline), tendered for filing a Master Index Purchase and Sale Agreement between Southern Company Energy Marketing L.P. and Southern Energy Bowline, L.L.C., Southern Energy Lovett, L.L.C., and Southern Energy NY-Gen, L.L.C., under its Market Rate Tariff accepted by the Commission in Docket No. ER99–2044–000.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. New England Power Pool

[Docket No. ER99–3872–000]

Take notice that on July 30, 1999, the New England Power Pool (NEPOOL) Participants Committee tendered for filing revisions to Market Rules 11 and Appendix I of Market Rule 20, and a new Appendix D to Market Rule 11.

The NEPOOL Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in the New England Power Pool.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. American Electric Power Service Corporation

[Docket No. ER99–3873–000]

Take notice that on July 30, 1999, the American Electric Power Service Corporation (AEPSC), tendered for filing executed Firm and Non-Firm Point-to-Point Transmission Service Agreements for FPL Energy Power Marketing, Inc. and for Old Mill Power Company, and a Firm Point-to-Point Transmission Service Agreement for Constellation Power Source, Inc. All of these agreements are pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT). The OATT has been designated as FERC Electric Tariff Original Volume No. 4, effective July 9, 1996.

AEPSC requests waiver of notice to permit the Service Agreements to be made effective for service billed on and after July 1, 1999.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Jersey Central Power & Light Company; Metropolitan Edison Company; and Pennsylvania Electric Company

[Docket No. ER99–3874–000]

Take notice that on July 30, 1999, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), tendered for filing an executed Service Agreement between GPU Energy and El Paso Power Services Company (El Paso Power), dated July 29, 1999. This Service Agreement specifies that El Paso Power has agreed to the rates, terms and conditions of GPU Energy's Market-Based Sales Tariff (Sales Tariff) designated as FERC Electric Rate Schedule, Second Revised Volume No. 5. The Sales Tariff allows GPU Energy and El Paso Power to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus capacity and/or energy.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of July 29, 1999, for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Carolina Power & Light Company

[Docket No. ER99–3875–000]

Take notice that on July 30, 1999, Carolina Power & Light Company (CP&L), tendered for filing an executed Service Agreement with LG&E Energy Marketing, Inc., under the provisions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4. This Service Agreement supersedes the un-executed Agreement originally filed in Docket No. ER98–3385–000 and approved effective May 18, 1998.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Montana Power Company

[Docket No. ER99–3876–000]

Take notice that on July 30, 1999, The Montana Power Company (Montana), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 an unexecuted Network Integration Transmission Service Agreement and Network Operating Agreement with Western Area Power Administration under Montana's FERC Electric Tariff, Fourth Revised Volume No. 5 (Open Access Transmission Tariff).

A copy of the filing was served upon Western Area Power Administration.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. California Independent System and Operator Corporation

[Docket No. ER99–3879–000]

Take notice that on July 30, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a proposed amendment (Amendment No. 20) to the ISO Tariff. Amendment No. 20 would make certain technical changes to the ISO Tariff to correctly state the manner in which charges for one Ancillary Service will be determined following the implementation of the Rational Buyer protocol approved by the Commission in its May 26, 1999, order in Docket Nos. ER98–2843–005, *et al.*

The ISO asks for waiver of Section 35.3 of the Commission's Regulations to permit Amendment No. 20, to become effective upon implementation of the Rational Buyer protocol.

The ISO states that this filing has been served upon the Public Utilities Commission of California, the California Energy Commission, the California Electricity Oversight Board, and all parties with effective Scheduling Coordinator Service Agreements under the ISO Tariff.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Florida Power Corporation

[Docket No. ER99–3880–000]

Take notice that on July 30, 1999, Florida Power Corporation (FPC), tendered for filing an executed service agreement between El Paso Power Services Company (El Paso) and FPC for service under FPC's Cost-Based

Wholesale Power Sales Tariff (CR–1), FERC Electric Tariff, Original Volume No. 9. The executed service agreement replaces the unexecuted service agreement with El Paso that FPC filed with the Commission in this Docket on July 7, 1999.

FPC renews the request made in its July 7, 1999 filing for a June 8, 1999 effective date for the service agreement.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Atlantic City Electric Company

[Docket No. ER99–3881–000]

Take notice that on July 30, 1999, Atlantic City Electric Company (Atlantic) and the City of Vineland, New Jersey (Vineland) jointly filed an amended and restated Interconnection Agreement between Atlantic and Vineland (Interconnection Agreement). The Interconnection Agreement is necessary to conform to the most recent PJM Interconnection, LLC (PJM) Operating Agreement, the PJM Reliability Assurance Agreement and the PJM Open Access Transmission Tariff as well as accommodate the ongoing business arrangements with Vineland.

Atlantic and Vineland requested waiver of the notice of filing requirements so that the Interconnection Agreement become effective on August 1, 1999.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Wisconsin Public Service Corporation

[Docket No. ER99–3882–000]

Take notice that on July 30, 1999, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Service Agreement with Avista Energy, Inc., providing for transmission service under FERC Electric Tariff, Volume No. 1.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Commonwealth Edison Company; and Commonwealth Edison Company of Indiana

[Docket No. ER99–3886–000]

Take notice that on July 30, 1999, Commonwealth Edison Company and Commonwealth Edison Company of Indiana (collectively ComEd), tendered for filing amendments to ComEd's Open Access Transmission Tariff (OATT) to accommodate the retail access program mandated by the State of Illinois under the Electric Service Customer Choice and Rate Relief Law of 1997.

ComEd requests an effective date of October 1, 1999 for the above-described amendments.

Copies of the filing were served upon ComEd's jurisdictional customers, interested state commissions, and on the parties to the Illinois Commerce Commission (ICC) Docket Nos. 98–0894 and 99–0117 proceedings now pending before the ICC.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. MidAmerican Energy Company

[Docket No. ER99–3887–000]

Take notice that on July 30, 1999, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, 28th Floor, Des Moines, Iowa 50303 tendered for filing proposed rate schedule changes to its Open Access Transmission Tariff (OATT).

MidAmerican states that the proposed changes (1) Reduce the loss factors in Sections 15.7 and 28.5; (2) unbundle the Schedule 1 charge for transmission customers taking service under the OATT; (3) reduce Schedule 7 rates for Long-Term Firm and Short-Term Firm Point-To-Point Transmission Service by approximately 22%; (4) modify Schedule 7 to state the method used to determine exceeded point-to-point transmission service reservations for Transmission Customers that serve unbundled retail customers in Illinois who do not have sufficient metering capability to determine an hourly demand, and to reflect adoption of the jurisdictional delineation recommended by the Illinois Commerce Commission (Illinois Commission) and the Iowa Utilities Board (IUB); (5) revise the ceiling rates in Schedule 8 for Non-Firm Point-To-Point Transmission Service; (6) modify Schedule 8 to state discounts on the OASIS, to state the method used to determine exceeded point-to-point transmission service reservations for Transmission Customers that serve unbundled retail customers in Illinois who do not have sufficient metering capability to determine hourly demand, and to reflect adoption of the jurisdiction delineation; (7) reduce the Annual Transmission Revenue Requirement stated in Attachment H for Network Integration Transmission Service by approximately 28%; (8) modify the formula in Attachment H for determining the Transmission Customer's Load Ratio Share credit, to reflect the adoption of the jurisdictional delineation and the unbundling of Schedule 1 charges; and (9) modify Attachment H to state the method used to determine a Transmission Customer's hourly usage coincident with MidAmerican's monthly system peak for load ratio share calculation purposes for Transmission Customers that serve unbundled retail customers in Illinois who do not have sufficient metering capability to determine hourly demand.

MidAmerican proposes that the rate schedule changes become effective on October 1, 1999.

A copy of the proposed rate schedule changes have been mailed to all Transmission Customers having service agreements under the OATT and to the IUB, the Illinois Commission and the South Dakota Public Service Commission.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. PP&L, Inc.

[Docket No. ER99–3888–000]

Take notice that on July 30, 1999, PP&L, Inc. (PP&L), tendered for filing with the Federal Energy Regulatory Commission a tariff sheet for inclusion in the PJM Open Access Transmission Tariff (PJM Tariff). The tariff sheet supplements Attachment H–8 of the PJM Tariff and sets forth rates for transmission service to wholesale customers utilizing PP&L's facilities at primary voltage levels of 12 kV through 23 kV.

PP&L requests an effective date of February 1, 1999 for the tariff sheet.

PP&L states that a copy of this filing has been provided to the Pennsylvania Public Utility Commission, the PJM Office of Interconnection and the wholesale customers to which the rate in the tariff sheet may apply.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Northbrook New York, LLC

[Docket No. ER99–3911–000]

Take notice that on July 30, 1999, Northbrook New York, LLC, a Delaware limited liability company (Northbrook), petitioned the Commission for acceptance of Northbrook New York, LLC Rate Schedule No. FERC No. 2; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

Northbrook intends to engage in wholesale electric power and energy transactions as a marketer. Northbrook is exclusively engaged in the acquisition, ownership and operation of an approximately 33 MW (net) hydroelectric facility in Glen Park, New York. Northbrook is owned 50% by Omega Energy, LLC., and 50% by NEO Corporation. NEO Corporation is an

indirect subsidiary of Northern States Power Company, a Minnesota electric utility company.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. Northern States Power Company (Minnesota); Northern States Power Company (Wisconsin); Public Service Company of Colorado; Cheyenne Light, Fuel and Power Company; Southwestern Public Service Company; New Century Services, Inc.; Northern States Power Company (Minnesota), and Northern States Power Company (Wisconsin); NRG Power Marketing, Inc.; Cabrillo Power I LLC; El Segundo Power, LLC; Long Beach Generation LLC; Somerset Power LLC; Cadillac Renewable Energy LLC; CogenAmerica Parlin Inc.; Arthur Kill Power LLC; Huntley Power LLC; Astoria Power LLC; Dunkirk Power LLC; E Prime, Inc.; Denver City Energy Associates, L.P.; and Front Range Energy Associates, L.L.C.

[Docket No. ER99–3914–000]

Take notice that on July 30, 1999, Northern States Power Company (Minnesota) (NSP–M), on behalf of itself and certain of its subsidiaries, and New Century Services, Inc. (NCS), on behalf of certain of its affiliates (NSP–M and NCS collectively the Applicants), filed a Joint Operating Agreement and Statement of Policy and Code of Conduct, which are to take effect upon the consummation of the proposed merger of NSP–M, itself a public utility company and the holding company parent of Northern States Power Company (Wisconsin), and New Century Energies, Inc., the registered holding company parent of Public Service Company of Colorado, Southwestern Public Service Company, and Cheyenne Light, Fuel and Power Company.

Applicants state that the filing is made in conjunction with three related filings consisting of (1) A merger application under section 203 of the Federal Power Act, (2) a joint Open Access Transmission Tariff under section 205 of the Federal Power Act, and (3) revised Standards of Conduct pursuant to 18 CFR Part 37.

Copies of the filing have been served on the affected state regulatory commissions and on each entity that is a party to any of the above-captioned Dockets.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. New England Power Pool

[Docket Nos. OA97–237–000; ER97–1079–000; ER97–3574–000; OA97–608–000; ER97–4221–000 and ER98–499–000]

Take notice that on July 30, 1999, New England Power Pool (NEPOOL) Participants Committee tendered for filing information relating to rate surcharges determined in accordance with formula rates of the NEPOOL Open Access Transmission Tariff. These materials describe the transmission charges that are in effect for the twelve month period commencing June 1, 1999.

The NEPOOL Participants Committee state that copies of these materials were sent to all persons identified in the Commission's official service lists for the captioned dockets, the New England state governors and regulatory commissions, and the NEPOOL Participants.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

29. El Paso Electric Company

[Docket No. ES99–54–000]

Take notice that on July 30, 1999, El Paso Electric Company (EPE), tendered for filing an application for authorization to issue up to 2,000,000 shares of its common stock pursuant to its 1999 Long-Term Incentive Plan. EPE states that its 1999 Long-Term Incentive Plan establishes a means of providing ownership of EPE's common stock to selected eligible participants in order to improve its ability to attract and retain the services of highly qualified individuals and to strengthen the commonality of interest between such individuals. EPE also requests an exemption from the competitive bidding and negotiated placement requirements of 18 CFR 34.2.

Comment date: August 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

30. UtiliCorp United Inc.

[Docket No. ES99–53–000]

Take notice that on July 30, 1999, UtiliCorp United Inc. (Applicant), filed an application seeking an order under section 204(a) of the Federal Power Act authorizing the Applicant to issue (1) Up to and including 4,500,000 shares of common stock, par value $1.00 per share, pursuant to the UtiliCorp United Inc. Amended and Restated 1986 Stock Incentive Plan, (2) up to and including 15,000,000 shares of common stock, (3) forward contracts or other financial instruments for up to and including 12,000,000 shares of common stock, and (4) up to and including $250 million of Trust Preferred Securities from time to time in one or more public offerings. Applicant also requests an exemption from the Commission's competitive bidding and negotiated placement requirements as it relates to the shares of common stock to be issued pursuant to the UtiliCorp United Inc. Amended and Restated 1986 Stock Incentive Plan.

Comment date: August 25, 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20758 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–3096–004, et al.]

Pepco Services, Inc., et al., Electric Rate and Corporate Regulation Filings

August 2, 1999.

Take notice that the following filings have been made with the Commission:

1. Pepco Services, Inc.

[Docket No. ER98–3096–004]

Take notice that on July 28, 1999, Pepco Services, Inc., tendered for filing a summary of activity for the quarter ending June 30, 1999 in compliance with the Commission's July 16, 1998 order issued in the above-referenced docket. This filing is available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

2. California Independent System Operator Corporation

[Docket Nos. ER98–1028–001, ER98–1029–001, ER98–1030–001, ER98–1032–001, ER98–2499–001, and ER98–3708–001]

Take notice that on July 28, 1999, the California Independent System Operator Corporation (California ISO), tendered for filing a Compliance Report as required by the Letter Order issued by the Commission on May 28, 1998.

Copies of the filing have been served upon each person designated on the official service list.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER99–2270–000]

Take notice that on July 28, 1999, Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing revised executed network integration transmission service and network operating agreements to replace previously submitted unexecuted documents for Monongahela Power Company's wholesale customers: the City of Philippi, Harrison Rural Electrification Association and the City of New Martinsville.

The effective date for each agreement corresponds to the dates authorized by the Commission in Docket No. ER99–1141–000.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Consolidated Edison Energy, Inc.

[Docket No. ER99–3414–000]

Take notice that on June 29, 1999, Consolidated Edison Energy, Inc. (CEEI), tendered for filing an amendment to Consolidated Edison Energy FERC Electric Rate Schedule No. 1, Market Based Rate Tariff to include the sale of ancillary services at market-based rates.

CEEI states that a copy of this filing has been served by mail upon The New York State Public Service Commission and those customers taking service under Consolidated Edison Energy FERC Electric Rate Schedule No. 1, Market Based Rate Tariff.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Southern Company Services, Inc.

[Docket No. ER99–3545–000]

Take notice that on July 28, 1999, Southern Company Services, Inc. (SCS), acting as agent for Alabama Power Company (APC), tendered for filing Exhibit A and Page 14 of the Interconnection Agreement between Mobile Energy Services Company, L.L.C., and APC filed with the Commission on July 12, 1999.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. South Glens Falls, LLC

[Docket No. ER99–3762–000]

Take notice that on July 26, 1999, South Glens Falls, LLC filed its quarterly report for the quarter ending June 30, 1999.

Comment date: August 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Entergy Services, Inc.

[Docket No. ER99–3763–000]

Take notice that on July 28, 1999, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc. (Entergy Arkansas), tendered for filing an Interconnection and Operating Agreement between Entergy Arkansas and Pine Bluff Energy LLC (Pine Bluff).

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Consumers Energy Company Docket

[Docket No. ER99–3764–000]

Take notice that on July 28, 1999, Consumers Energy Company (Consumers), tendered for filing an executed service agreement for Network Integration Transmission Service with Michigan Cooperative Coordinated Pool (Pool) pursuant to the Joint Open Access Transmission Service Tariff filed on December 31, 1996 by Consumers and The Detroit Edison Company (Detroit Edison).

The agreement has an effective date of July 1, 1999.

Copies of the filed agreement were served upon the Michigan Public Service Commission, Detroit Edison, and the Pool members.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Consumers Energy Company

[Docket No. ER99–3765–000]

Take notice that on July 28, 1999, Consumers Energy Company (Consumers), tendered for filing an executed service agreement for Firm Point-to-Point Transmission Service with PECO Energy Company (Customer) pursuant to the Joint Open Access Transmission Service Tariff filed on December 31, 1996 by Consumers and The Detroit Edison Company (Detroit Edison).

The agreement has an effective date of July 1, 1999.

Copies of the filed agreement were served upon the Michigan Public Service Commission, Detroit Edison, and the Customer.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER99–3766–000]

Take notice that on July 28, 1999, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Supplement No. 26, adding Southern Indiana Gas and Electric Company as a new Customer to the Market Rate Tariff under which Allegheny Power offers generation services.

Allegheny Power requests a waiver of notice requirements to make service available as of July 27, 1999, to Southern Indiana Gas And Electric Company.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Northeast Utilities Service Company

[Docket No. ER99–3767–000]

Take notice that on July 28, 1999, Northeast Utilities Service Company (NUSCO), tendered for filing, Service Agreement to provide Non-Firm Point-To-Point Transmission Service to DukeSolutions, Inc. under the NU

System Companies' Open Access Transmission Service Tariff No. 9.

NUSCO states that a copy of this filing has been mailed to DukeSolutions, Inc.

NUSCO requests that the Service Agreement become effective August 9, 1999.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER99–3768–000]

Take notice that on July 28, 1999, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Supplement No. 28 to add one (1) new Customer to the Market Rate Tariff under which Allegheny Power offers generation services.

Allegheny Power requests a waiver of notice requirements to make service available as of July 27, 1999, to Yadkin Inc.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER99–3769–000]

Take notice that on July 28, 1999, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Supplement No. 27, adding Wabash Valley Power Association, Inc., as a new Customer to the Market Rate Tariff under which Allegheny Power offers generation services.

Allegheny Power requests a waiver of notice requirements to make service available as of July 27, 1999, to Wabash Valley Power Association, Inc.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Consolidated Edison Company of New York, Inc.

[Docket No. ER99–3770–000]

Take notice that on July 28, 1999, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to NRG Power Marketing (NRG).

Con Edison states that a copy of this filing has been served by mail upon NRG.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Consolidated Edison Company of New York, Inc.

[Docket No. ER99–3771–000]

Take notice that on July 28, 1999, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide firm transmission service pursuant to its Open Access Transmission Tariff to Constellation Power Source, Inc., (CPS).

Con Edison states that a copy of this filing has been served by mail upon CPS.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Consolidated Edison Company of New York, Inc.

[Docket No. ER99–3772–000]

Take notice that on July 28, 1999, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide firm transmission service pursuant to its Open Access Transmission Tariff to Morgan Stanley Capital Group, Inc., (MS).

Con Edison states that a copy of this filing has been served by mail upon MS.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Consolidated Edison Company of New York, Inc.

[Docket No. ER99–3773–000]

Take notice that on July 28, 1999, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide firm transmission service pursuant to its Open Access Transmission Tariff to Morgan Stanley Capital Group, Inc., (MS).

Con Edison states that a copy of this filing has been served by mail upon MS.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Consolidated Edison Company of New York, Inc.

[Docket No. ER99–3774–000]

Take notice that on July 28, 1999, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide firm transmission service pursuant to its Open Access Transmission Tariff to PP&L Energy Marketing Center (PP&L).

Con Edison states that a copy of this filing has been served by mail upon PP&L.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Consolidated Edison Company of New York, Inc.

[Docket No. ER99–3775–000]

Take notice that on July 28, 1999, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide firm transmission service pursuant to its Open Access Transmission Tariff to PP&L Energy Marketing Center (PP&L).

Con Edison states that a copy of this filing has been served by mail upon PP&L.

Comment date: May 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Northeast Utilities Service Company

[Docket No. ER99–3776–000]

Take notice that on July 28, 1999, Northeast Utilities Service Company (NUSCO), tendered for filing, Service Agreement to provide Firm Point-To-Point Transmission Service to DukeSolutions, Inc., under the NU System Companies' Open Access Transmission Service Tariff No. 9.

NUSCO requests that the Service Agreement become effective August 9, 1999.

NUSCO states that a copy of this filing has been mailed to DukeSolutions, Inc.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Northeast Utilities Service Company

[Docket No. ER99–3777–000]

Take notice that on July 28, 1999, Northeast Utilities Service Company (NUSCO), tendered for filing a Service

Agreement with Reliant Energy Services, Inc. (Reliant), under the NU System Companies' Sale for Resale Tariff No. 7.

NUSCO requests that the Service Agreement become effective July 19, 1999.

NUSCO states that a copy of this filing has been mailed to TransAlta.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. PECO Energy Company

[Docket No. ER99–3778–000]

Take notice that on July 28, 1999, PECO Energy Company (PECO), tendered for filing under Section 205 of the Federal Power Act, 16 U.S.C. S 792 *et seq.*, a Transaction Letter dated July 27, 1999 with Horizon Energy Company d/b/a Exelon Energy (EXELON) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff).

PECO requests an effective date of August 1, 1999, for the Transaction Letter.

PECO states that copies of this filing have been supplied to EXELON and to the Pennsylvania Public Utility Commission.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. PP&L EnergyPlus Co., LLC

[Docket No. ER99–3779–000]

Take notice that on July 28, 1999, PP&L EnergyPlus Co., LLC (EnergyPlus), tendered for filing with the Commission an application to amend its Market-Based Rate Tariff, FERC Electric Tariff Original Volume No. 1, to allow EnergyPlus to sell specified ancillary services at market-based rates.

EnergyPlus requested waiver of Commission regulations to permit the tariff amendment to become effective on July 29, 1999.

EnergyPlus stated that it served a copy of the foregoing on the Pennsylvania Public Utility Commission and on those parties who take service under EnergyPlus' Market-Based Rate Tariff.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. California Power Exchange Corporation

[Docket No. ER99–3781–000]

Take notice that on July 28, 1999, the California Power Exchange Corporation (CalPX), tendered for filing revised tariff sheets to make two minor changes in its Power Exchange Settlement and Billing Protocol (PSABP). CalPX proposes to eliminate references to ''ancillary services'' from Section 1.6.1 of the PSABP and proposes an effective date of September 26, 1999 for that proposed change. CalPX proposes to change Section 1.6.4 of the PSABP to finalize payments or receipts to or from the California ISO 56 business days, as opposed to 65 calendar days, after the last day of the Trading Period.

CalPX requests waiver of the notice requirement to permit the second proposed change to become effective concurrently with the effective date of the Payments Calendar changes of the ISO's Amendment No. 17.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. California Power Exchange Corporation

[Docket Nos. ER99–3782–000 and ER99–3783–000]

Take notice that on July 28, 1999, the above-mentioned affiliated power producers and/or public utilities filed their quarterly reports for the quarter ending June 30, 1999.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company

[Docket No. ER99–3787–000]

Take notice that on July 28, 1999, Central and South West Services, Inc., as agent for Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, and Southwestern Electric Power Company (collectively, the CSW Operating Companies), tendered for filing a quarterly report under the CSW Operating Companies' market-based sales tariff. The report is for the period April 1, 1999 through June 30, 1999.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. Soyland Power Cooperative, Inc.

[Docket No. ES99–52–000]

Take notice that on July 28, 1999, Soyland Power Cooperative Inc. (Soyland), submitted an application under Section 204 of the Federal Power Act for authorization to issue and pledge an amount not to exceed $25,000,000 of debt securities. The Applicant also requested exemption from the competitive bidding and negotiated offer requirements. Soyland requests expedited treatment for its application.

Comment date: August 23, 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20638 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–576–000]

Williams Gas Pipelines Central, Inc.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Empire District Electric Company State Line Plant Project and Request for Comments on Environmental Issues

August 5, 1999.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Empire District Electric Company State Line Plant (Empire) Project involving construction and operation of facilities by Williams Gas Pipelines Central, Inc. (Williams) in Kay, Osage, and Washington Counties, Oklahoma; Labette and Cherokee Counties, Kansas; and Jasper County, Missouri.[1] These facilities would require the replacement of various minor facilities along about 84.3 miles of its Blackwell-Cotton

[1] Williams' application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

Valley pipeline (Blackwell-Cotton Uprate); the installation of about 36.8 miles of pipeline loop (Southern Trunk Loop); and the construction of measurement facilities at the Empire Electric Power Plant (Empire Facilities). This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company 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 1.[2]

Summary of the Proposed Project

Williams wants to expand the capacity of its facilities in Oklahoma, Kansas, and Missouri to transport an additional 55,000 decatherms per day of natural gas to Empire District Electric Company's (Empire) State Line Plant. (This would result in a total of 83,800 decatherms per day of natural gas to the State Line Plant.) Williams seeks authority to:

- Reclaim three mainline valves and two mainline drips, replace fine mainline valves and one mainline drip, replace 11 road crossings, and install a 16-inch-diameter pig launcher and appurtenant piping along the existing 16-inch-diameter, 85-mile-long Blackwell-Cotton Valley pipeline in Kay, Osage, and Washington Counties, Oklahoma;
- Upgrade 14 domestic meters, which would include upgrading/replacing regulators and valves as needed, along with Blackwell-Cotton Valley pipeline in Kay, Osage, and Washington Counties, Oklahoma;
- Increase the maximum allowable pressure along the Blackwell-Cotton Valley pipeline from 500 psig to 690 psig in Kay, Osage, and Washington Counties, Oklahoma;
- Extend the existing 20-inch-diameter Southern Trunk Loop an additional 36.8 miles in Labette and Cherokee Counties, Kansas;
- Relocate the existing 20-inch-diameter pig receiver to the end of the 36.8-mile Southern Trunk Loop and install two mainline valves in Cherokee County, Kansas;
- Install a dual 6-inch regulator setting, a dual 8-inch turbine meter setting, an 8-inch flow control setting, and about 450 feet of 16-inch-diameter pipeline at a new location within the existing Empire property area in Jasper County, Missouri; and
- Install a 4-inch flow control setting at Empire's existing site in Jasper County, Missouri.

The general location of the project facilities as well as a detailed version of the Southern Trunk Loop are shown in appendix 2.

Land Requirements for Construction

Construction of the proposed Blackwell-Cotton Uprate, Southern Trunk Loop, and Empire Facilities would require a total construction area of about 3.5, 401.5, and 1.2 acres of land respectively. The Blackwell-Cotton Uprate and the Southern Trunk Loop have no aboveground facilities associated with them. Construction of the Blackwell-Cotton Uprate would temporarily effect 3.5 acres. No new right-of-way would be created. Construction of the Southern Trunk Loop would disturb about 401.5 acres. Of this, only about 111.5 acres would convert to permanent right-of-way. Following construction, about 0.9 acre of the Empire Facilities would be maintained as new aboveground facility sites. The remaining 0.35 acre of the Empire Facilities land would be restored and allowed to revert to its former use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires 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 EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- Water resources, fisheries, and wetlands
- Vegetation and wildlife
- Endangered and threatened species
- Public safety
- Land use
- Cultural resources
- Air quality and noise
- Hazardous waste

We will also evaluate possible alternatives to the proposed or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section beginning on page 5.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Williams. This preliminary list of issues may be changed based on your comments and our analysis.

- Five streams would be crossed (using either horizontal directional drill or horizontal boring methods) by the Southern Trunk Loop; and
- One federally listed species may be present in the Neosho River. Among the five streams to be crossed, the Neosho River is designated as critical habitat for the federally threatened Neosho madtom.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations/routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Lable one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR–11.1;
- Reference Docket No. CP99–576–000; and
- Mail your comments so that they will be received in Washington, DC on or before September 7, 1999.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding know as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenros have the fight to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214) (see appendix 3). Only intervenors have the right to seek rehearing of the Commission's decision.

You do not need intervenor status to have your environmental comments considered. Additional information about the proposed project is available from Mr. Paul McKee of the Commission's Office of External Affairs at (202) 208–1088 or on the FERC website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' links, select ''Docket #'' 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 Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20759 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To Prepare an Environmental Impact Statement and Notice of Scoping Meetings, Site Visit, and Soliciting Scoping Comments

August 5, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No:* 2055–010.

c. *Date filed:* November 24, 1998.

d. *Applicant:* Idaho Power Company.

e. *Name of Project:* C.J. Strike.

f. *Location:* On the Snake River in Owyhee County, Idaho, between the towns of Grandview and Bruneau. This project utilizes about 3,000 acres of federal lands administered by the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Lewis Wardle, Hydro Relicensing Department, Idaho Power Company, P.O. Box 70, Boise, ID 83707, (208) 388–2964.

i. *FERC Contact:* John Blair, *john.blair@ferc.fed.us.* (202) 219–2845.

j. *Deadline for filing scoping comments:* October 15, 1999.

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 lists for the projects. 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:* This application is not ready for environmental analysis at this time.

l. *Description of the Project:*

The project consists of the following existing facilities: (1) A 3,220-foot-long earthfill dam with a maximum height of 115 feet, which includes a 340-foot-wide and 78-foot-high reinforced concrete spillway consisting of eight 34-foot-wide bays; (2) a 55-foot-wide, 158-foot-long, and 65-foot-high reinforced concrete intake structure located at the left abutment of the same, consisting of three intakes; (3) three riveted steel penstocks connecting the intakes to the generating units; (4) a 198-foot-long, 64-foot-wide, and 68-foot-high reinforced concrete powerhouse, located at the left abutment of the dam, containing 3 vertical fixed-blade turbines with a total nameplate capacity of 82.8 megawatts; (5) a reservoir extending about 32 miles upstream on the Snake River and about 12 miles upstream on the Bruneau River, with a surface area of about 7,500 acres at normal water surface elevation of 2,455 feet above mean sea level; and (6) two 138-kilovolt (kV) transmission lines extending from the project 65 miles northwesterly to the Caldwell terminal substation and about 25 miles northeasterly to the 138-kV lines near Mountain Home.

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, D.C. 20246, 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.

n. *Scoping Process:* The Commission has determined that issuance of a new license for the C.J. Strike Project would constitute a major federal action significantly affecting the quality of the human environment; therefore, the Commission intends to prepare an environmental impact statement (EIS) on the project, in accordance with the National Environmental Policy Act.

Scoping Meetings

The Commission will hold two scoping meetings, one in the morning and one in the evening, to help us

identify the scope of issues to be addressed in the EIS.

The morning scoping meeting will focus on resource agency concerns, while the evening scoping meeting is primarily for public input. All interested individuals, organizations, and agencies are invited to attend the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EIS. The times and locations of these meetings are as follows:

Morning Meeting: September 15, 1999, 9:00 a.m., Boise Centre, 850 West Front Street, Boise, Idaho, (208) 336–8900.

Evening Meeting: September 15, 1999, 7:00 p.m., Boise Centre, 850 West Front Street, Boise, Idaho, (208) 336–8900.

To help focus discussions, we will distribute a Scoping Document (SD1) outlining the subject areas to be addressed in the EIS to parties on the Commission's mailing list. Copies of the SD1 also will be available at the scoping meetings.

Site Visit

Idaho Power Company and the Commission staff will conduct a project site visit on September 14, 1999. We will meet at 7:30 a.m. in the Visitor Parking lot of Idaho Power Company's headquarters, 1221 W. Idaho Street, Boise, Idaho. If you would like to attend, please call Lewis Wardle, Idaho Power Company, at (208) 388–2964, no later than September 7, 1999.

Objectives

At the scoping meetings, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EIS; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EIS, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EIS; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Procedures

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission's proceedings for these projects.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meeting and to assist the staff in defining and clarifying the issues to be addressed in the EIS.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20765 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission

August 5, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Major New License.

b. *Project No.:* 2077–016.

c. *Date filed:* July 29, 1999.

d. *Applicant:* USGen New England, Inc.

e *Name of Project:* Fifteen Mile Falls Hydroelectric Project.

f. *Location:* Project is located on the Connecticut River,. in Grafton Co., New Hampshire, and Caledonia Co., Vermont. Project would not utilize any federal lands or facilities.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Cleve Kapala, USGen New England, Inc., 46 Centerra Parkway, Lebanon, NH 03766.

i. *FERC Contact:* Any questions on this notice should be addressed William Guey-Lee, E-mail address william.gueylee@ferc.fed.us, or telephone (202) 219–2808.

j. *Status of Environmental Review:* This application is not ready for environmental analysis at this time.

k. *Description of Project:* The project consists of the following: The Moore Development, located 283.5 miles from the mouth of the Connecticut River, consists of: An 11-mile-long, 3,490 surface-acre reservoir with 114,176 acre-feet storage capacity at 809.0 feet mean sea level (msl); an earth and concrete gravity dam with a length of 2,920 feet and a max. height of 178 feet; a 373-foot-long concrete spillway with 15-foot-wide by 20-foot-high sluice gate, four 50-foot bays of 17-foot-high stanchions, and three bays of 36 foot-wide by 30-foot-high Taintor gates; four steel penstocks each 296 feet-long; and a powerhouse with four Francis type turbines at a combined rating of 225,600 hp at a design head of 150 feet, for a plant capability of 191,960 kilowatts (kW). The Comerford Development, located 275.2 miles from the mouth of the Connecticut River, consists of: an 8-mile-long, 1,093 surface-acre reservoir with 29,356 acre-feet storage capacity at 650.0 feet msl; an earth and concrete gravity dam with a length of 2,253 feet and a max. height of 170 feet; an 850-foot-long concrete spillway with six 7-foot-wide by 9-foot-high sluice gates, four bays of 8-foot high flashboards and seven 10-foot-high stanchion bays; four steel penstocks each 150 feet-long; and a powerhouse with four Francis type turbines at combined rating of 216,800 hp at a design head of 180 feet, for a plant capability of 163,960 kW. The McIndoes Development, located 268.2 miles from the mouth of the Connecticut River, consists of: a 5-mile-long, 543 surface-acre reservoir with 4,581 acre-feet storage capacity at 454.0 feet msl; a concrete gravity dam with a length of 730 feet and a max. height of 25 feet; a 520-foot-long concrete spillway with a 12-foot wide by 13-foot high skimmer gate, three 24-foot-wide by 25-foot-high Taintor gates, a 300-foot long spillway flashboard section with 6 foot flashboards, and two 50-foot-wide by 18-foot-high stanchion bays; four steel penstocks each 150 feet-long; and a powerhouse with four Kaplan type turbines at combined rating of 3,800 hp at a design head of 29 feet, for a plant capability of 13,000 kW.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20784 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6418–1]

Adequacy Status of Submitted State Implementation Plans for Transportation Conformity Purposes: Metropolitan Washington, DC Area—Phase I Rate of Progress Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy status.

SUMMARY: In this document, EPA is announcing that the motor vehicle emissions budgets (hereafter referred to as ''budgets'') contained in the submitted Rate of Progress (ROP) Plan for the Metropolitan Washington DC ozone nonattainment area (comprised of the District of Columbia and portions of the State of Maryland and Commonwealth of Virginia) are adequate for transportation conformity purposes. As a result of our finding, the budgets from the submitted ROP plan may be used for future conformity determinations in the Metropolitan Washington DC ozone nonattainment area.

DATES: These budgets are effective August 26, 1999.

FOR FURTHER INFORMATION CONTACT: Paul T. Wentworth, U.S. EPA, Region III, 1650 Arch Street, Philadelphia, PA. 19103 at (215) 814–2183 or by e-mail at: wentworth.paul@.epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'', or ''our'' are used we mean EPA. The word ''budgets'' refers to the mobile source emission budget for volatile organic compounds (VOCs) and the mobile source emissions budget for nitrogen oxides (NO_X). The word SIP in this document refers to the State Implementation Plan revision submitted to satisfy the rate-of-progress requirements for 1999, commonly referred to as the Post 96 ROP plan.

On May 20, 1999, we received the Post 96 ROP Plan for the Metropolitan Washington DC ozone nonattainment area. The May 20, 1999 submittal is a revision to the previous ROP plan submitted in 1997. There are two mobile source emission budgets found in this plan for the year 1999. The emissions budget for VOCs is 128.5 tons/day and the emissions budget for NO_X is 196.4 tons/day. These two revised, adequate post-1996 budgets replace the adequate budgets in the previous rate-of-progress plan.

On March 2, 1999, the US District Court ruled that budgets contained in submitted SIPs cannot be used for conformity determinations until EPA has affirmatively found them adequate. In accordance with that ruling, on June 2, 1999, we posted a notice on our web site at: http://www.epa.gov/oms/traq stating that we were taking comments on the adequacy of motor vehicle emissions budget found in the May 20, 1999 submitted revised plan. The comment period closed on July 15, 1999, and we received no comments.

Today's notice is simply an announcement of a finding that we have already made. On July 28, 1999, EPA Region III sent letters to the Virginia Department of Environmental Quality, the Maryland Department of the Environment, and the Washington DC Environmental Regulation Administration stating that the motor vehicle emissions budgets found in Post 96 ROP plan submitted on May 20, 1999 for the Metropolitan Washington DC ozone nonattainment are adequate. The essential information in this notice will also be posted on EPA's conformity website: http://www.epa.gov/oms/traq (once there, click on the ''Conformity'' button, then look for ''Adequacy Review of Submissions for Conformity'').

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do so. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from EPA's completeness review, and EPA's review to determine if the SIP is approvable. Even if we find a budget adequate, the SIP could later be disapproved.

We have described our process for determining the adequacy of submitted SIP budgets in guidance memorandum dated May 14, 1999 and titled ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision''. We have followed this guidance in making this adequacy determination for the budgets contained in the revised Post 96 ROP plan submitted on May 20, 1999 for the Metropolitan Washington DC ozone nonattainment area. You may obtain a copy of this guidance from EPA's conformity web site: http://www.epa.gov/oms/traq (once there, click on the ''Conformity'' button) or by calling the contact name listed in ''For Further Information Contact'' section of this document.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 99–20705 Filed 8–10–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–100148; FRL–6095–1]

Computer Based Systems, Incorporated; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Computer Based Systems, Incorporated (CBSI) has been awarded a contract to perform work for the EPA Office of Pesticide Programs and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to CBSI consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(i)(2), and will enable CBSI to fulfill the obligations of the contract.

DATES: CBSI will be given access to this information no sooner than August 16, 1999.

FOR FURTHER INFORMATION CONTACT: By mail: Richard Schmitt Acting Director, Information Resources Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 703, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5484.

SUPPLEMENTARY INFORMATION: Under Contract No. 68–W–98–045, CBSI will provide technical support to EPA's Office of Pesticide Programs by abstracting and indexing incident reports received from pesticide chemical manufacturers and the public. Incident reports submitted by chemical manufacturers may include FIFRA CBI claims. This contract involves no subcontractors.

The Office Pesticide Programs has determined that the contract herein described involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

I. IMPORTANT INFORMATION

A. Does this apply to me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

B. How can I get additional information or copies of support documents?

1. *Electronically*. You may obtain electronic copies of this document and various support documents are available from the EPA Home Page at the **Federal Register**-Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/).

2. *In person*. The official record for this notice, as well as the public version, has been established under docket control number [OPP–100148], (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as CBI, is available for inspection in Room 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

II. INTRODUCTION

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3), the contract with CBSI, prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, CBSI is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officer for this contract in the EPA Office of Pesticide Programs.

All information supplied to CBSI by EPA for use in connection with this contract will be returned to EPA when CBSI has completed its work.

List of Subjects

Environmental Protection, Transfer of data.

Dated: July 28, 1999.

Richard D. Schmitt,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 99–20702 Filed 8-10-99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–100147; FRL–6094–9]

Eastern Research Group, Incorporated; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Eastern Research Group, Incorporated (ERG) has been awarded a contract to perform work for the EPA Office of Pollution Prevention and Toxics, and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to ERG consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(i)(2), and will enable ERG to fulfill the obligations of the contract.

DATES: ERG will be given access to this information no sooner than August 16, 1999.

FOR FURTHER INFORMATION CONTACT: By mail: Richard Schmitt, Information Resources Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 703, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5484; e-mail: schmitt.richard@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under Contract No. 68–W6–022 WA4–20, ERG will extract pesticide fate data required for the Endocrine Disruptor Priority Setting Database (Version 2) from a variety of sources located in the Office of Pesticide Programs. These sources include Reregistration Eligibility Decision reports available on the Internet, Environmental Fate and Effects Division files, antimicrobial pesticide files, Registration Division electronic files, and data for inert ingredients often used in pesticide products. ERG will enter extracted information into the Endocrine Disruptor Priority Setting Database (Version 2), and perform quality control/quality assurance on the information entered into the data base. This contract involves one subcontractor that will not have access to the FIFRA CBI subject to this notice.

The Office of Pollution Prevention and Toxics and the Office of Pesticide Programs have determined that the contract herein described involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

I. IMPORTANT INFORMATION

A. Does this apply to me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

B. How can I get additional information or copies of support documents?

1. *Electronically*. You may obtain electronic copies of this document and various support documents are available from the EPA Home Page at the **Federal Register**-Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/).

2. *In person*. The official record for this notice, as well as the public version, has been established under docket control number [OPP–100147], (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of any electronic comments, which does not

include any information claimed as CBI, is available for inspection in Room 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

II. INTRODUCTION

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3), the contract with ERG prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, ERG is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officers for this contract in the EPA Office of Pollution Prevention and Toxics.

All information supplied to ERG by EPA for use in connection with this contract will be returned to EPA when ERG has completed its work.

List of Subjects

Environmental Protection, Transfer of data.

Dated: July 29, 1999.

Richard D. Schmitt,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 99–20703 Filed 8-10-99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6418–2]

EPA Releases National Drinking Water Contaminant Occurrence Database (NCOD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In response to the Safe Drinking Water Act (SDWA) Amendments of 1996, the Office of Ground Water and Drinking Water (OGWDW) of U.S. Environmental Protection Agency (U.S. EPA) is announcing the July 30, 1999 release of the National Drinking Water Contaminant Occurrence Database (NCOD). The NCOD is a national level database that contains information on contaminants that occur or are likely to occur in public drinking supply systems. The database may be accessed on the internet at *www.epa.gov/ncod/*. There is a feedback form for questions and comments, or NCOD users may contact the Safe Drinking Water hot line at 1–800–426–4791 or E-mail to hotline-sdwa@epa.gov.

FOR FURTHER INFORMATION CONTACT: For other information on the NCOD, please contact Charles Job, at the U.S. Environmental Protection Agency, Phone: 202–260–7084, Fax: 202–260–3762, or use the feedback for on the web pages.

Dated: August 5, 1999.

Cynthia Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 99–20708 Filed 8–10–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6417–9]

Meeting of the Local Government Advisory Committee and the Small Community Advisory Subcommittee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Local Government Advisory Committee and the Small Community Advisory Subcommittee will meet on September 8–10, 1999, in Alexandria, VA. This will be a joint meeting between the Local Government Advisory Committee and its Small Community Advisory Subcommittee. The two panels will focus on exploring the role of local governments in the environmental protection efforts for water, air and land. In addition, the two advisory groups will consider recommendations concerning EPA's implementation of the Small Business Regulatory Enforcement Fairness Act amendments to the Regulatory Flexibility Act.

The Local Government Advisory Committee will hear comments from the public between 12 noon and 12:15 pm on Friday, September 10, 1999 and the Small Community Advisory Subcommittee will hear public comments between 3:30pm and 3:45 pm on Wednesday, September 8, 1999. Each individual or organization wishing to address the Committee will be allowed a minimum of three minutes. Please contact the Designated Federal Officer (DFO) at the numbers listed below to schedule agenda time. Time will be allotted on a first come, first serve basis.

This is an open meeting and all interested persons are invited to attend. Meeting minutes will be available after the meeting and can be obtained by written request from the DFO. Members of the public are requested to call the DFO at the number listed below if planning to attend so that arrangements can be made to comfortably accommodate attendees as much as possible. However, seating will be on a first come, first serve basis.

DATES: The Small Community Advisory Subcommittee meeting will begin at 8:00 a.m. on Wednesday, September 8th and conclude at 4:30 p.m. on the 9th. The Local Government Advisory Committee meeting will begin at 8:30 a.m. on Thursday, September 9th and conclude at 4:00 p.m. on the 10th.

ADDRESSES: The meetings will be held in Alexandria, Virginia at the Ramada Plaza Hotel—Old Town located at 901 Fairfax Street.

Requests for Minutes and other information can be obtained by writing to 401 M Street, SW (1306), Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: The DFO for the Local Government Advisory Committee (LGAC) is Denise Zabinski Ney (202) 260–0419 or the DFO for the Small Community Advisory Subcommittee (SCAS) Steve Wilson (202) 260–2294.

Dated: August 5, 1999.

Denise Zabinski Ney,

Designated Federal Officer, Local Government Advisory Committee.

Dated: August 5, 1999.

Steve Wilson,

Designated Federal Officer, Small Community Advisory Subcommittee.

[FR Doc. 99–20707 Filed 8–10–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30481; FRL–6095–2]

Certain Companies; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by September 10, 1999.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30481] and the file symbols to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under ''SUPPLEMENTARY INFORMATION.'' No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511C), listed in the table below:

Regulatory Action Leader	Office location/telephone number	Address
Denise Greenway	Rm. 9th Floor, CM #2, 703–308–8263, e-mail: greenway.denise@epa.gov	1921 Jefferson Davis Hwy, Arlington, VA
Anne Ball	Rm. 910W44, CM #2, 703–308–8717, e-mail: ball.anne@epa.gov	Do.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

I. Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 70950–E. Applicant: AVA Chemical Ventures, L.L.C., 80 Rochester Ave., Suite 214, Portsmouth, NH 03801. Product Name: Sucrose Octanoate [32.1%]. Biological Insecticide. Active ingredients: Sucrose octanoate (C_8 fatty acid mono-,di- and triesters of sucrose octanoate and sucrose dioctanoate (α-D-glucopyranoside, β-D-fructofuranosyl, monooctanoate and dioctanoate) at 32.1%. Proposed classification/Use: None. For use in greenhouses, nurseries, and on field crops. (D. Greenway)

2. File Symbol: 70950–R. Applicant: AVA Chemical Ventures, L.L.C. Product Name: Avachem Sucrose Octanoate Manufacturing Use Product [63%]. Biological Insecticide. Active ingredient: Sucrose octanoate (C_8 fatty acid mono-, di- and triesters of sucrose octanoate and sucrose dioctanoate) (α-D-glucopyranoside, β-D-fructofuranosyl, monooctanoate and dioctanoate) at 63%. Proposed classification/Use: None. For manufacturing use to formulate into biological insecticide end-use products. (D. Greenway)

3. File Symbol: 70299–G. Applicant: BioSafe Systems, 80 Commerce St., Glastonbury, CT 06033. Product Name: TerraCare Granular. Algaecide/Fungicide. Active ingredient: Sodium percarbonate at 40%. Proposed classification/Use: None. For use as a treatment for the prevention and control of horticultural diseases in commercial greenhouses, garden centers, landscapes, nurseries, and interiorscapes. (A. Ball)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

II. Public Record and Electronic Submissions

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP–30481] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official notice record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30481]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pest, Product registration.

Dated: July 30, 1999.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 99–20704 Filed 8–10–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6416–4]

Proposed Settlement Pursuant to Section 122(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, Regarding the Friedrichsohn's Cooperage, Inc. Superfund Site, Waterford, Saratoga County, New York

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed administrative settlement and opportunity for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9622(i), the U.S. Environmental Protection Agency (''EPA''), Region II, announces a proposed administrative *de minimis* settlement pursuant to section 122(g)(4) of CERCLA, 42 U.S.C. 9622(g)(4), relating to the Friedrichsohn's Cooperage, Inc. Superfund Site (''Site''), located at 153–155 Saratoga Avenue in the Town of Waterford, Saratoga County, New York. This document is being published pursuant to section 122(i) of CERCLA to inform the public of the proposed settlement and give the public the opportunity to comment.

The proposed settlement, between EPA and Jones Chemicals, Inc. and C.O. Jelliff Corporation (''Respondents''), has been memorialized in an Administrative Order on Consent (Index Number II–CERCLA–99–2014) (''Order'').

The Order will become effective after the close of the public comment period, unless comments received disclose facts or considerations which indicate the Order is inappropriate, improper, or inadequate, and EPA, in accordance with section 122(i)(3) of CERCLA, modifies or withdraws its consent to the Order. Under the settlement, Respondents will be obligated to make payment of $19,985.29 to the Hazardous Substance Superfund in reimbursement of EPA response costs relating to the Site. This payment is based on documentation indicating each company contributed minimal volumes of hazardous substances to the Site. In exchange, the settling companies will receive a covenant not to sue from EPA relating to liability for the Site under sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a).

DATES: Comments must be provided by September 10, 1999.

ADDRESSES: Comments should be addressed to the U.S. Environmental Protection Agency, Office of Regional Counsel, New York/Caribbean Superfund Branch, 17th Floor, 290 Broadway, New York, New York 10007–1866, and should refer to: ''Friedrichsohn's Cooperage, Inc. Superfund Site, U.S. EPA Index No. II–CERCLA–99–2014''. For a copy of the settlement document, contact the individual listed below.

FOR FURTHER INFORMATION CONTACT: Elizabeth Leilani Davis, Assistant Regional Counsel, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 17th Floor, 290 Broadway, New York, New York 10007. Telephone: (212) 637–3249.

Dated: July 16, 1999.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 99–20709 Filed 8–10–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1282–DR]

Iowa; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Iowa, (FEMA–1282–DR), dated July 22, 1999, and related determinations.

EFFECTIVE DATE: July 27, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Iowa is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 22, 1999:

Bremer, Cerro Gordo, Chickasaw, Floyd, and Worth Counties for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 99–20716 Filed 8–10–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1282–DR]

Iowa; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Iowa (FEMA–1282–DR), dated July 22, 1999, and related determinations.

EFFECTIVE DATE: July 22, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 22, 1999, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Iowa, resulting from severe storms and flooding beginning on July 2, 1999, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Iowa.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Public Assistance is later requested and warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Curtis D. Musgrave of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Iowa to have been affected adversely by this declared major disaster:

Black Hawk, Butler, Jones, and Woodbury Counties for Individual Assistance.

All counties within the State of Iowa are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 99–20717 Filed 8–10–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1281–DR]

Nevada; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Nevada (FEMA–1281–DR), dated July 20, 1999, and related determinations.

EFFECTIVE DATE: July 20, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 20, 1999, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Nevada, resulting from severe storms and flash flooding on July 8–16, 1999, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended (''the Stafford Act'').

I, therefore, declare that such a major disaster exists in the State of Nevada.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance, Public Assistance, and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Michael W. Lowder of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Nevada to have been affected adversely by this declared major disaster:

Clark County for Individual Assistance and Public Assistance.

All counties within the State of Nevada are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 99–20718 Filed 8–10–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1279–DR]

North Dakota; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of North Dakota (FEMA–1279–DR), dated June 8, 1999, and related determinations.

EFFECTIVE DATE: July 19, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective July 19, 1999.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 99–20719 Filed 8–10–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, 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 of this notice appears in the **Federal Register**.

Agreement No.: 202–011259–019.
Title: United States/Southern Africa Conference Agreement.
Parties:
A.P. Moller–Maersk Line
Lykes Lines Limited, LLC
Mediterranean Shipping Company S.A.
Safbank Line, Ltd.
Wallenius Wilhelmsen Lines AS (associate member)
Synposis: The proposed modification changes the name of the agreement to the U.S./Southern Africa Conference, provides for southbound service by associate members, provides authority to treat related but not wholly owned affiliates as a single member, and makes other administrative changes.

Agreement No.: 203–011453–001.
Title: Southern Africa/Oceania Agreement.
Parties:
Safbank Line Ltd.
A.P. Moller–Maersk Line (''Maersk Line'')
Mediterranean Shipping Co. S.A.
Synopsis: The proposed amendment would restate the Agreement and add Maersk Line as a party to the portion of the Agreement pertaining to Southern Africa and the Indian Ocean. The parties have requested a shortened review period.

Agreement No.: 232–011666.
Title: West Coast North America/Pacific Islands Vessel Sharing Agreement.
Parties:
Hamburg-Sudamerkanische Dampfschiffahrts-Gesellschaft
Eggert & Amsinck trading as South Seas Steamship Line
Polynesia Line Ltd.
Synopsis: The proposed Agreement permits the parties to charter space from one another in the trade between the Pacific Coast of the United States (including Hawaii) and points in the United States served via such ports and ports and points in the Society Islands, Tonga, Samoa, Kiribati, Vanuatu, Tuvalu, Cook Islands, Fiji, New Caledonia, Solomon Islands and Papua New Guinea.

Agreement No.: 217–011667.
Title: Lykes/Nordana Space Charter Agreement.
Parties:
Nordana Line (''Nordana'')
Lykes Lines Limited, LLC (''Lykes'').
Synopsis: The proposed Agreement would permit Lykes to charter space to Nordana on its vessels operating in the trade between United States Gulf Coast ports (including ports in Puerto Rico) and ports in the Dominican Republic, Mexico, Costa Rica, Panama, Venezuela, and the Caribbean Coast of Colombia. The parties would also be permitted to engage in related cooperative activities in the trade. The parties have requested a shortened review period.

Agreement No.: 224–201082.
Title: Port of Detroit Operators Association Marine Terminal Agreement.
Parties:
Nicholson Terminal and Dock Company
Detroit Marine Terminals, Inc.
Synopsis: The proposed agreement replaces FMC Agreement No. 009345 and re-states that agreement, incorporating all its existing amendments.

Agreement No.: 224–201083.
Title: San Francisco-South Seas Pier 80 Marine Terminal Agreement.
Parties: San Francisco Port Commission
South Seas Steamship Line.
Synopsis: The proposed agreement provides for the non-exclusive use of certain facilities at San Francisco's Pier 80. The agreement runs through August 31, 2004.

Agreement No.: 224–201084.
Title: San Francisco-Columbus Line Pier 80 Marine Terminal Agreement.
Parties: San Francisco Port Commission
Columbus Line USA, Inc.
Synopsis: The proposed agreement provides for the non-exclusive use of certain facilities at San Francisco's Pier 80. The agreement runs through August 31, 2004.

Dated: August 6, 1999.

By Order of the Federal Maritime Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 99–20697 Filed 8–10–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediaries pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants:

Adnyl Construction and Development Corporation, dba Adnyl Express Cargo Inc. 3653 San Gabriel River Parkway, Pico Rivera, CA 90660, Officers: Wilfredo J. Navarro, Jr., Vice President (Qualifying Individual), Hector G. Nuguit, President

Airgate Int'l (SFO) Corp, 484 Grandview Drive, South San Francisco, CA 94080, Officers: Alex Chan, Vice President, (Qualifying Individual), Joanna Chan, President

Ampac Shipping Inc., 5441 Cogswell Road, Suite F, Arcadia, CA 91006, Officers: Pauline Mark, Vice President, (Qualifying Individual), Adam Wang, Chief Executive Officer

Asiana Express (New York) Corp., 167–10 South Conduit Avenue, Suite 105, Jamaica, NY 11434, Officers: Sophia Lee, Vice President, (Qualifying Individual), Lee Soo Kim, President

Caribbean American Shipping Corp., 1801 SW 1st Avenue, Suite A, Ft. Lauderdale, FL 33315, Officers: Antonio Marcelli, President, (Qualifying Individual), Maurice Laroche, Jr., Vice President

Consolidated Freight & Shipping, Inc., 10025 NW 116th Way, Suite 14, Medley, FL 33178, Officers: Eraldo Sanguinetti, Director, Qualifying Individual), Paul Levy, Director

Doral Freight, Inc., 9300 NW 58th Street, Suite 213, Miami, FL 33178, Officers: Richard Hanks, Manager, (Qualifying Individual), Marcos A. Rodriguez, President

First Express (Los Angeles), Inc., 5353 West Imperial Highway, Suite 600, Los Angeles, CA 90045, Officer: Suk Jin Hong, President, (Qualifying Individual)

Fondocean Express (HK) Ltd., 59 Tai Yip Street, 1/f, Sunshine Cargo Center, Kowloon Bay, Hong Kong, Officers: Francis So, Executive Director, (Qualifying Individual), Ernie So, Vice President

Global Shipping, Inc., 2697 International Parkway, Parkway One, Suite 201, Virginia Beach, VA 23452, Officers: R. Timothy Jones, Vice President, (Qualifying Individual), J. Michael Gatchell, President

Kesco Shipping Inc., 11222 S. La Cienega Blvd., Suite 475, Inglewood, CA 90304, Officers: Kevin Che-Hwa Chang, President, (Qualifying Individual), Edmond Fon, Chief Executive Officer

Laser International Freight Transport, Corp., 3218 NW North River Drive, Miami, FL 33142, Officers: Santi Gabino, Director, (Qualifying

Individual), Mercedies Gabino, President

Lighthouse Shipping, Ltd., 1555 N. Michael Drive, Wood Dale, IL 60191, Officer: Anne V. Reilly, President, (Qualifying Individual)

MTS Transportation, Inc., 8054 E. Garvey Avenue, #101, Rosemead, CA 91770, Officers: Ben Chou, Manager, (Qualifying Individual), Shiao-Chuan Cheng, President

Oriental Air Transport Service Inc., 5777 W. Century Blvd., Suite 838 Los Angeles, CA 90045, Officers: Carol Wai-Fong Chan, Secretary, (Qualifying Individual), Scott Chen, President

Pro-Well Sea U.S.A. Inc., 5777 West Century Blvd., Suite 1195, Los Angeles, CA 90045, Officers: Benson Mao, Vice President (Qualifying Individual), Harris Mao, General Manager

Quality Freight International Services, Inc., 11383 NW 65 Street, Miami, FL 33172, Officer: Rosa Cecilia Maguina, President, (Qualifying Individual)

World Transport Services, 325 Corey Way, Suite 115, South San Francisco, CA 94080, Cynthia Wright, Sole Proprietor

World Transportation Services, Inc., d/b/a Global Express Line, 2723 Yale Street, Houston, TX 77008, Officers: Pam Garifalos Holdrup, Secretary, (Qualifying Individual) Jim Shaw, President

Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants:

Scotia Ocean Services Ltd., 2810 Silver Falls, Kingwood, TX 77339, Thomas M. McGovern, Sole Proprietor

ODE International Company, 13535 S. Figueroa Street, Los Angeles, CA 90061, Sook Ok Sue Demonte, Sole Proprietor

Albatrans, Inc., 149–10 183rd Street, Jamaica, NY 11413, Officers: Franco Ginepro, President, Giovanni Chiarelli, Vice President, (Qualifying Individual)

Universal Express International, 613 Hindry Avenue, Inglewood, CA 90301, Officer: Mike Mudallal, President, (Qualifying Individual)

L.G. Diamond International Shipping, Inc., 12619 Crenshaw Boulevard, Hawthorne, CA 90250, Officer: Lester Gatewood, President, (Qualifying Individual)

Logictrans Corporation, 3562 Market Street, St. Louis, MO 63103, Officers: William L. Hehr, President, (Qualifying Individual), Jeanne M. Clerc, Vice President

Z-Way Travel & Cargo Services, Inc., 8105 N. Austin Avenue, Morton Grove, IL 60053, Benjamin Suansing, President, Zenaida D. Suansing, Secretary, (Qualifying Individual)

Star Container Lines, Inc., 12919 S. Figueroa, Los Angeles, CA 90061, Officers: Jalal Boloorchi, President, Alex Ferasat, Vice President, (Qualifying Individual)

Ocean Freight Forwarders—Ocean Transportation Intermediary Applicants:

Trans-Group International Corporation, 155–06 South Conduit Avenue, #203, Jamaica, NY 11434, Officer: Yuxiong Zhang, President, (Qualifying Individual)

Trans-Am Air & Sea Freight (SFO) Inc., 1290 Bayshore Hwy., Suite 269, Burlingame, CA 94010, Officers: Sam Y.S. Lam, President, Raymond H.C. Fong, Vice President, (Qualifying Individual)

AFC Worldwide Express, Inc., 975 Cobb Place Boulevard, Suite 101, Kennesaw, GA 30144, Officers: Glenn S. Henderson, President, A.J. Scaturro, Vice President, (Qualifying Individual)

Nautica Cargo Services Inc., 7911 NW 72 Avenue, (Unit 110–A), Miami, FL 33166, Officers: Vivian Gonzalez, President, (Qualifying Individual), Christian A. Hernandez, President, (Qualifying Individual)

J-Lec Corp, 5405 NW 102nd Avenue, Suite 223, Sunrise, FL 33351, Officers: Eduardo G. Sardinha, President, (Qualifying Individual), Carlos DeCarlo, Vice President

Philippine Unimovers Express, 1325 West Willow Street, Long Beach, CA 90810, Emanuel Nacario, Sole Proprietor

Dated: August 3, 1999.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 99–20695 Filed 8–10–99; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Reissuance of License

Notice is hereby given that the following ocean freight forwarder license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app; 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License No.	Name/address	Date reissued
2896	Moving and Packing (M.A.P.) International, Inc., 2303 Nance Street, Houston, TX 77020.	April 7, 1999.

T.A. Zook,

Deputy Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 99–20696 Filed 8–10–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, August 16, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposals regarding a Federal Reserve Bank's building program.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: August 6, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–20838 Filed 8–9–99; 10:17 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of a Meeting of the National Bioethics Advisory Commission (NBAC)

SUMMARY: Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is given of a meeting of the National Bioethics Advisory Commission. The Commission will address (1) the international project and (2) the comprehensive system of human subjects protections. Some Commission members may participate by telephone conference. The meeting is open to the public and opportunities for statements by the public will be provided on September 16, 1999 from 11:30 am to 12 noon.

Dates/times	Location
September 16, 1999, 8:30 a.m.–5 p.m.	Holiday Inn National Airport, The Grand Ballroom, 1489 Jefferson Davis Highway, Arlington, Virginia.
September 17, 1999, 8:30 a.m.–12 Noon.	Same Location as Above.

SUPPLEMENTARY INFORMATION: The President established the National Bioethics Advisory Commission (NBAC) on October 3, 1995 by Executive Order 12975 as amended. The mission of the NBAC is to advise and make recommendations to the National Science and Technology Council, its Chair, the President, and other entities on bioethical issues arising from the research on human biology and behavior, and from the applications of that research.

Public Participation

The meeting is open to the public with attendance limited by the availability of space on a first come, first serve basis. Members of the public who wish to present oral statements should contact Ms. Patricia Norris by telephone, fax machine, or mail as shown below and as soon as possible at least 4 days before the meeting. The Chair will reserve time for presentations by persons requesting to speak and asks that oral statements be limited to five minutes. The order of persons wanting to make a statement will be assigned in the order in which requests are received. Individuals unable to make oral presentations can mail or fax their written comments to the NBAC staff office at least five business days prior to the meeting for distribution to the Commission and inclusion in the public record. The Commission also accepts general comments at its website at bioethics.gov. Persons needing special assistance, such as sign language interpretation or other special accommodations, should contact NBAC staff at the address or telephone number listed below as soon as possible.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Norris, National Bioethics Advisory Commission, 6100 Executive Boulevard, Suite 5B01, Rockville, Maryland 20892–7508, telephone 301–402–4242, fax number 301–480–6900.

Dated: August 5, 1999.

Eric M. Meslin,

Executive Director, National Bioethics Advisory Commission.

[FR Doc. 99–20629 Filed 8–10–99; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0040]

Agency Information Collection Activities; Announcement of OMB Approval; Regulations for In Vivo Radiopharmaceuticals Used for Diagnosis and Monitoring

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Regulations for In Vivo Radiopharmaceuticals Used for Diagnosis and Monitoring'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 17, 1999 (64 FR 26657), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0409. The approval expires on July 31, 2002. A copy of the supporting statement for this information collection is available on the Internet at ''http://www.fda.gov/ohrms/dockets''

Dated: August 4, 1999

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–20604 Filed 8–10–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–276]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration.

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.

Type of Information Collection Request: Revision of a currently approved collection;

Title of Information Collection: Prepaid Health Plan Cost Report;

Form No.: HCFA–276 (OMB# 0938–0165);

Use: These forms are needed to establish the reasonable cost providing covered services to the enrolled Medicare population of Health Maintenance Organizations and Competitive Medical Plans (HMO/CMP) in accordance with Section 1876 of the

Social Security Act and Health Care Prepayment Plans (HCPP) in accordance with Section 1833 of the Social Security Act;

Frequency: Quarterly, Annually;

Affected Public: Business or other for-profit;

Number of Respondents: 62;

Total Annual Responses: 327;

Total Annual Hours: 11,600.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: August 2, 1999.

John Parmigiani,

Manager, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–20624 Filed 8–10–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Project To Assess Ethnicity/Race and Services to Bi/Multilingual Populations in Community Health Centers—NEW

The Office of Minority and Women's Health (OMWH) in the Bureau of Primary Health Care (BPHC), Health Resources and Services Administration (HRSA), recognizes that full understanding of the ethnicity of clients and providers and the provision of language appropriate services are vital to guaranteeing full and effective health care. OMWH proposes to conduct a voluntary survey, the purpose of which will be two-fold: (1) To obtain detailed data on the ethnic/racial composition of health center users and providers, and (2) to collect information about the composition and provision of bimultilingual services. This information will be collected from a sample of approximately 128 health centers.

These data will provide HRSA with information which will be used to make resource and staffing decisions related to reducing barriers to health care often faced by ethnic/racial minorities an by non- or limited-English-speaking populations.

The burden estimate for this project is follows:

Form	Number of respondents	Responses per respondent	Total responses	Hours per response (minutes)	Total hour burden
Survey	128	1	128	20	42

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Wendy A. Taylor, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: August 3, 1999.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 99–20660 Filed 8–10–99; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: July 1999

AGENCY: Office of Inspector General, HHS

ACTION: Notice of program exclusions.

During the month of July 1999, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, city, state	Effective date
PROGRAM-RELATED CONVICTIONS	
ACOSTA, JORGE LUIS ..... EGLIN AFB, FL	08/19/1999
ADAMS, HANNAH ..... N MIAMI BEACH, FL	08/19/1999
ALONSO, EMMA ..... MIAMI, FL	08/19/1999
BRUMFIELD, RAMONA K ST JULIEN ..... ORANGE, TX	08/19/1999
CABRERA, RICHARD ..... HIALEAH, FL	08/19/1999
CAJETE, SALVADOR ..... MIAMI, FL	08/19/1999
CANTINE, SANDRA A ..... CLIFTON PARK, NY	08/19/1999
CLOUD, DAVID WAYNE ..... BEAUMONT, TX	08/19/1999
DE LA ROSA, AIDA VEGA ..... MARIANNA, FL	08/19/1999
DELGADO, JOEL ..... MIAMI, FL	08/19/1999
DIEGUEZ, JUAN MIGUEL ..... HOLLYWOOD, FL	08/19/1999
DIEGUEZ, ARMANDO ..... MIAMI, FL	08/19/1999

Subject, city, state	Effective date
DUMONT, KAREN B ..... WINSLOW, ME	08/19/1999
FERRIS, MILES ..... SARASOTA, FL	08/19/1999
FIELDS, FELISHA D ..... ST LOUIS, MO	08/19/1999
FUERTES, SYLVANNA MAYTE ..... HIALEAH, FL	08/19/1999
GASEL, ALAN ..... MIAMI, FL	08/19/1999
GOLDMAN, NORMAN ..... NISKAYUNA, NY	08/19/1999
GONZALEZ, JORGE LUIS ..... HIALEAH, FL	08/19/1999
GONZALEZ, ALBERTO ..... MIAMI, FL	08/19/1999
HARPER, JANELLA ..... COLUMBUS, OH	08/19/1999
HARRELL-HOUSE, DELORES FAYETTEVILLE, GA	08/19/1999
HERNANDEZ, GABRIELA M ... MIAMI, FL	08/19/1999
HOUSE, ROBERT ..... FAYETTEVILLE, GA	08/19/1999
HUSSAIN, RUQAIYA ..... PLANO, TX	08/19/1999
JALIL, ADDAE ..... FORT SMITH, AR	08/19/1999
JOHNSON, FELENCIA ..... FARMINGTON, NM	08/19/1999
LAWRENCE, JULES ..... JESUP, GA	08/19/1999
LILES, SANDRA RENEE ..... BATESVILLE, AR	08/19/1999
MARTIN, KAREN ..... SCOTIA, NY	08/19/1999
MATAUTIA, BEPE R ..... SEATTLE, WA	08/19/1999
MENDIETA, CESAR AUGUSTO ..... MIAMI, FL	08/19/1999
MURILLO, LUIS ..... MIAMI, FL	08/19/1999
PAMIDIMUKKALA, VIJAY KUMAR ..... EDISON, NJ	08/19/1999
PANG, SHING YIP ..... ARLINGTON, TX	08/19/1999
PITTMAN, LINDA BALD ..... PHILADELPHIA, PA	08/19/1999
PLOUCH, NAKISHA ANN ..... HENSLEY, AR	08/19/1999
PRICE, SHIRLEY ..... BRYAN, TX	08/19/1999
RICHARDSON, CHERYL E ..... WESTMINSTER, MD	08/19/1999
RUST, PAMELA EILEEN ..... BOONEVILLE, AR	08/19/1999
SANCHEZ, ORLANDO ..... MARIANNA, FL	08/19/1999
SCHAPIRA, HENRI J ..... WEST HAVEN, CT	08/19/1999
SHAFFER, ARREN KAY ..... VALE, OR	08/19/1999
SMITH, TOMAS GREENE ..... DENVER, CO	08/19/1999
STRONG, DIANE ..... ATLANTA, GA	08/19/1999
SULTAN, ISAAC AARON ..... NEW ROCHELLE, NY	08/19/1999
THOMAS, ELBERT EDWARD III	08/19/1999
SEAGOVILLE, TX	
TURNER, CAROL ..... PEKIN, IL	08/19/1999
URQUIJO, JOHN (JUAN) MANUEL ..... MIAMI, FL	08/19/1999
URQUIJO, GUSTAVO ADOLFO SR ..... PENSACOLA, FL	08/19/1999
VALERO, RALPH ..... HIALEAH, FL	08/19/1999
VOYE, ROBERTA ..... WEST PARIS, ME	08/19/1999
WILBANKS, DONNIE JO ..... HOUSE SPRINGS, MO	08/19/1999
ZOLTKOWSKI, MARIANNE ..... GANSEVOORT, NY	08/19/1999
FELONY CONVICTION FOR HEALTH CARE FRAUD	
KERR, MICHAEL T ..... MORGANTOWN, WV	08/19/1999
FELONY CONTROL SUBSTANCES CONVICTION	
ADDISON, JANET ..... GRAMPIAN, PA	08/19/1999
GUPTA, ANIL ..... MT VERNON, IL	08/19/1999
HORNOR, AVIS ANN ..... MANSFIELD, AR	08/19/1999
NOVAK, FREDDIE PATRICK .. PORTLAND, OR	08/19/1999
SEITZINGER, STEVEN L ..... ASHLAND, PA	08/19/1999
WEST, NADENE M ..... GREENSBURG, PA	08/19/1999
PATIENT ABUSE/NEGLECT CONVICTIONS	
ALMEIDA, ALLAN ..... MIDDLETOWN, RI	08/19/1999
ANDERSON, LEANNA ..... MCCOLL, SC	08/19/1999
ARAGON, MARIO ..... PROVO, UT	08/19/1999
BACHMAN, KIMBERLY K ..... COLUMBUS, OH	08/19/1999
BETHEA, HOWARD MICHAEL MAUMELLE, AR	08/19/1999
BISHOP, ADAM WESLEY ..... HELENA, OK	08/19/1999
BROWN, LOIS REESE ..... LAPLACE, LA	08/19/1999
COCKRELL, BRUCE ..... SALISBURY, MO	08/19/1999
DALKA, PATRICK ..... RHINELANDER, WI	08/19/1999
ELLIS, HELEN ..... SPARTANBURG, SC	08/19/1999
FLADGER, MARY ANN ..... FORK, SC	08/19/1999
FLETCHER, HARVEY G ..... DELHI, LA	08/19/1999
HARRIS, ROSIE ..... PITTSBORO, MS	08/19/1999
HILLIE, VAN ..... MERIDIAN, MS	08/19/1999
HUNT, LATRENA HERSEY ..... MERIDIAN, MS	08/19/1999
HUSEAS, SUZANNE ..... GREENBRIER, AR	08/19/1999
HUTCHINS, GLORIA ..... KOSCIUSKO, MS	08/19/1999
JACKSON, ALECIA RENEE .... PORT ARTHUR, TX	08/19/1999
JACKSON, TRACY M ..... DAYTON, OH	08/19/1999
KNIGHT, LONNIE RICHARD ... PAULS VALLEY, OK	08/19/1999
LASTER, JOYCE ..... MORTON, MS	08/19/1999
LEE, MICHAEL ANTHONY ..... WASHINGTON, DC	08/19/1999
LESURE, TASHA ..... NEW ALBANY, MS	08/19/1999
LEWIS, CLINTON A III ..... ELGIN, SC	08/19/1999
MOORE, ODESSA ..... GRENADA, MS	08/19/1999
POWELL, FRANCIS MARIE .... TAFT, OK	08/19/1999
RAMIREZ, FERNANDO ..... SALT LAKE CITY, UT	08/19/1999
THOMAS, PATRICIA FAYE ..... JESSUP, MD	08/19/1999
UHLENBERG, CAROLYN L ..... MOUNTAIN HOME, AR	08/19/1999
CONVICTION FOR HEALTH CARE FRAUD	
MEDINA, ARGENTINA ..... MIAMI, FL	08/19/1999
MEDINA, MARIA ..... MIAMI, FL	08/19/1999
MEJIA, AGRIPINA ..... MIAMI, FL	08/19/1999
MEJIA, ADOLFO ..... MIAMI, FL	08/19/1999
OCHOA, GERARDO ..... MIAMI, FL	08/19/1999
LICENSE REVOCATION/SUSPENSION/ SURRENDERED	
AGRO, LINDA ..... MILFORD, CT	08/19/1999
ALDAN, VICENTE SABLAN ..... SAIPAN, CA	08/19/1999
ALLEN, TINA MARIE ..... SAN FRANCISCO, CA	08/19/1999
AMBURGEY, KAREN SUE ..... SPANISH FORT, AL	08/19/1999
AMMONS, MICHAEL LEE ..... ENTERPRISE, AL	08/19/1999
BABALOLA, ADEBOWALE A .. PROVIDENCE, RI	08/19/1999
BALLARD, BEVERLY KAY ..... TUSCUMBIA, AL	08/19/1999
BALZORA, JACQUELINE VE-DETTE ..... ELMHURST, NY	08/19/1999
BAPTISTE, QUETLIE F JEAN BROOKLYN, NY	08/19/1999
BARKER, LESIA NELL ..... RED BAY, AL	08/19/1999
BARLOW, CHARLENE MARIA MACON, GA	08/19/1999
BATES, ALCIE MARIE ..... TRUSSVILLE, AL	08/19/1999
BATZ, ELIZABETH ANA ..... SUNNYVALE, CA	08/19/1999
BEHLKE, KATHLEEN FLAHERTY	08/19/1999

Subject, city, state	Effective date
HONESDALE, PA	
BHUTA, JAGDEEP V ..... JACKSONVILLE, FL	08/19/1999
BITONTI, JENNIFER BRIGHTWELL ..... BELLE VERNON, PA	08/19/1999
BLAIR, JOY L DUNCAN ..... BIRMINGHAM, AL	08/19/1999
BLUBAUGH, VICTORIA G ..... BELMONT, NH	08/19/1999
BOWERS, CANDICE DIANE ... FLORENCE, AL	08/19/1999
BREZEL, BRUCE S ..... SHELTON, WA	08/19/1999
BRODIE, WADE MARTIN ..... ATLANTA, GA	08/19/1999
BROOKS, ALICEMAE ..... PROVIDENCE, RI	08/19/1999
BROWN, MARY FRANCES MANGAN ..... SAVANNAH, GA	08/19/1999
BROWN, TANYA EDWINA ..... NEWTON, AL	08/19/1999
BURGESS, CLAUDE ..... SACRAMENTO, CA	08/19/1999
BUTTS, KENNETH C ..... WARRENTON, VA	08/19/1999
CADET, MARIE HERNANTE ... JAMAICA, NY	08/19/1999
CAHN, ELLSWORTH G ..... ALBANY, NY	08/19/1999
CALABRESE, PAULINE ..... W PITTSTON, PA	08/19/1999
CASSANI, JILLIAN B ..... ARLINGTON, VT	08/19/1999
CAUSEY, DENNIS MICHAEL .. SAN FRANCISCO, CA	08/19/1999
CAVANAGH, JAMES G ..... HAWTHORNE, NV	08/19/1999
CAVARRETTA, KATHRYN ..... S DAYTONA, FL	08/19/1999
CAWLEY, JENNIFER M ..... GREENFIELD, NH	08/19/1999
CENAC, PAUL EDWARD ..... BELLINGHAM, WA	08/19/1999
CHARLES, GUYLENE ..... BROOKLYN, NY	08/19/1999
CHARRON, KATHIE NADEAU JERICHO, VT	08/19/1999
CLEMENT, MICHAEL DARREN ..... BRENTWOOD, CA	08/19/1999
COLE, MARY E WETTACH ..... ST AUGUSTINE, FL	08/19/1999
CONINE, AGNES ANN ..... RUSSELLVILLE, AL	08/19/1999
CONLEY-BENJAMIN, GAYLE LOUISE ..... ELMIRA, NY	08/19/1999
CRAWFORD, CAROL A ..... PITTSBURGH, PA	08/19/1999
CRISWELL-POITIER, FRANCES L ..... OAKLAND, CA	08/19/1999
CROUDY, TROY R ..... LYNCHBURG, VA	08/19/1999
DAVID, NICOLE ..... ROSEDALE, NY	08/19/1999
DAVIS, MARY BETH ..... GRAFTON, WV	08/19/1999
DEAL, MICHELLE S ..... NORFOLK, VA	08/19/1999
DIUGUID, DENISE LEIGH ..... BIRMINGHAM, AL	08/19/1999
DOBYNS, DONALD RAOUL .... MARINA, CA	08/19/1999
DOMINIGUE, MARLENE ..... BROOKLYN, NY	08/19/1999
DOYLE, MICHAEL ..... WATERBURY, CT	08/19/1999
DRUMMOND, KIMBERLY ANN JASPER, AL	08/19/1999
DWIGHT, DAVID J ..... NORTHAMPTON, MA	08/19/1999
EASTERLING, JESSICA C SANDERS ..... BRYAN, GA	08/19/1999
EBBITT, DIANE M ..... WEST MIFFLIN, PA	08/19/1999
EDWARDS, MINITA EILEEN CARROLL ..... ANNISTON, AL	08/19/1999
ELETU, MICHELLE BURNS .... PROVIDENCE, RI	08/19/1999
ELLIOTT, WANDA J ROBINSON ..... BIRMINGHAM, AL	08/19/1999
EMMANUEL, CARLINE ..... BRENTWOOD, NY	08/19/1999
END, LINDSAY JEAN ..... SAN FRANCISCO, CA	08/19/1999
ERICKSON, CLAYTON D ..... SEATTLE, WA	08/19/1999
EVANS, ELIZABETH ANN ..... LODI, CA	08/19/1999
FLEURANTIN, MICHELINE ..... BROOKLYN, NY	08/19/1999
FOOT, DIANE U ..... SPRINGFIELD, IL	08/19/1999
FOXHALL, PAMELA LOUISE AUTREY ..... FRISCO CITY, AL	08/19/1999
FUQUA, FRANCES LEE ..... LANCASTER, CA	08/19/1999
GANTHIER, GHISLAINE ..... BROOKLYN, NY	08/19/1999
GARCIA, RAMON G ..... TAMPA, FL	08/19/1999
GARCIA, PHILIP ALAN ..... MODESTO, CA	08/19/1999
GOLBACH, DEBORAH J WILLIAMS ..... CUMMING, GA	08/19/1999
GONSALVES, NATALIA ..... SAN FRANCISCO, CA	08/19/1999
GRENIER, MARCELLE ..... BURLINGTON, CT	08/19/1999
GWATHNEY, BRENDA CAROL ..... HUNTSVILLE, AL	08/19/1999
HAAS, JOSEPHINE MARY ..... SACRAMENTO, CA	08/19/1999
HAGGERTY, LOIS G ..... MANCHESTER, NH	08/19/1999
HARBUT, BRENDA JOYCE ..... LANETT, AL	08/19/1999
HARDING, ESSIE RUTH O'NEAL ..... BIRMINGHAM, AL	08/19/1999
HARRIS, CHARLOTTE S ..... JACKSONVILLE, FL	08/19/1999
HARRISON, ELIZABETH MEREDITH ..... LANDRUM, SC	08/19/1999
HART, GORDON KEITH ..... PETALUMA, CA	08/19/1999
HEATON, KAREN E ..... ATLANTA, IL	08/19/1999
HENDRICKS, LISA M ..... PETERBOROUGH, NH	08/19/1999
HENOWITZ, MAURICE M ..... HAMDEN, CT	08/19/1999
HUBERT, YVETTE L ..... BRADLEY, IL	08/19/1999
HUGHES, KATHLEEN ..... RENO, NV	08/19/1999
HUSAIN, ZAFARUL ..... CORONA, CA	08/19/1999
JACQUES, JACQUELINE ..... BROOKLYN, NY	08/19/1999
JEAN-BAPTISTE, MARIE JOSE ..... BROOKLYN, NY	08/19/1999
JEAN-FELIX, LEA ..... BROOKLYN, NY	08/19/1999
JEAN-PAUL, MONIQUE ..... BROOKLYN, NY	08/19/1999
JENKINS, HIRAM JAMES ..... SUISUN CITY, CA	08/19/1999
JERJEES, NUJIM ALDEEN A .. BERWYN, IL	08/19/1999
JOHNSON, KAREN M ..... PROVIDENCE, RI	08/19/1999
JONES, TOBIN JACK ..... BOYDTON, VA	08/19/1999
JONES, SONJA ..... CHICAGO, IL	08/19/1999
JUCKEL, JANICE L ..... ANCHORAGE, AK	08/19/1999
KOSIN, MARGARET ..... HOFFMAN ESTATES, IL	08/19/1999
KULESZA, SHAWN J ..... CHICAGO, IL	08/19/1999
KULICK, DANIEL H ..... FT MYERS, FL	08/19/1999
KUZMAN, JOHN H ..... EDGEWOOD, KY	08/19/1999
LANE, MAUREEN A ..... BLOOMINGTON, IL	08/19/1999
LAROCHE, MARIE FREDINE .. BROOKLYN, NY	08/19/1999
LATHE, BARBARA J ..... NEWPORT, VT	08/19/1999
LEE, GERMAINE DOLEY ..... FARMVILLE, VA	08/19/1999
LENAHAN, GERALD SCOTT .. PEEKSKILL, NY	08/19/1999
LERMA, MARY ..... FRANKLIN PARK, IL	08/19/1999
LESPIER, MARY KATHLEEN .. STOCKTON, CA	08/19/1999
LIGHT, HOWARD WAYNE ..... SANTA ROSA, CA	08/19/1999
LOBBATO, VINCENT J JR ..... NEW YORK, NY	08/19/1999
LOVE, MARGARET A ..... JOLIET, IL	08/19/1999
LUKOVSKY, MICHAEL PETROVICH ..... BROOKLYN, NY	08/19/1999
MABON, MICHELLE ..... COUNTRY CLUB HILLS, IL	08/19/1999
MAIGNAN, CONSTANT ..... CAMBRIA HGTS, NY	08/19/1999
MALLIET, KRISTINE MARIE ... BOURBONNAIS, IL	08/19/1999
MARES, LESLIE DELIA MARTIN ..... LAWRENCEVILLE, GA	08/19/1999

Subject, city, state	Effective date
MATER, MARGARET LOUISE VACAVILLE, CA	08/19/1999
MATHIS, MICHAEL ROY MAGNOLIA, MS	08/19/1999
MAYS, SHEILA DENISE HANDY LAWRENCEVILLE, GA	08/19/1999
MCALLESTER, ESLIE E WILLIAMS AUGUSTA, GA	08/19/1999
MCAVOY, DAVID M OLDSMAR, FL	08/19/1999
MCCRACKEN, ROBERT HEBRON, CT	08/19/1999
MCFARLAND, JAMES ALAN AUBURN, CA	08/19/1999
MELGAREJO, PABLO E ORLANDO, FL	08/19/1999
MERVEILLE, MARIE CARMEN BROOKLYN, NY	08/19/1999
MILLER, GEORGE W MIAMI, FL	08/19/1999
MILORD, IRLANDE BROOKLYN, NY	08/19/1999
MONTINA, MIMOSE BROOKLYN, NY	08/19/1999
MOORE, GWENDOLYN CHICAGO, IL	08/19/1999
NEWMAN, LA VON NAPA, CA	08/19/1999
OBAS, SUZE M BROOKLYN, NY	08/19/1999
ODUM, CYNTHIA DENISE SAN ANTONIO, TX	08/19/1999
ONDASH, BERNARD S DAYTONA BEACH, FL	08/19/1999
ONUFRY, SUZANNE W OSSIPEE, NH	08/19/1999
OTTERNESS, SABRA JANEEN CRYSTAL SPRINGS, FL	08/19/1999
PEOPLES, LALENA SAN DIEGO, CA	08/19/1999
PHILLIPS, JOHN ALDRICK III CONYERS, GA	08/19/1999
PIERRE, LUDE BROOKLYN, NY	08/19/1999
PING, VICKIE BELL NEWARK, CA	08/19/1999
POE, RITA K CLAY CITY, IL	08/19/1999
PYLES, CARLENE B W FRANKFORT, IL	08/19/1999
RAMSEY, SHERI MARIE SALINAS, CA	08/19/1999
RASCON, KATHERINE E CHICAGO, IL	08/19/1999
ROSENTHAL, JUDITH Z COOPERSBURG, PA	08/19/1999
ROSS, ANNETTA BRADFORD, IL	08/19/1999
SAINT-JEAN, MARIE GEHANE JAMAICA, NY	08/19/1999
SANCHEZ, CARMENZA J KEENE, NH	08/19/1999
SANTELLI, MARIE JOSE FLUSHING, NY	08/19/1999
SHAPIRO, JEFFREY S N ANDOVER, MA	08/19/1999
SHEEHAN, JOHN P COCOA BEACH, FL	08/19/1999
SHUBIN, SHAROLYN JOYCE DESMOND FRESNO, CA	08/19/1999
SMITH, MAUREEN BRIDGETT DICKINSON, TX	08/19/1999
SMOOT, CASSANDRA L HARVEY, IL	08/19/1999
STANZIONE, KATHLEEN M WARREN, RI	08/19/1999
STEWART, JAMES A LOS ANGELES, CA	08/19/1999
STEWART, CHERYL ANN MODESTO, CA	08/19/1999
SWAILS, KELLEY RENEE LOWELL, FL	08/19/1999
SWEATT, DEBRA DIANE LOS ALAMITOS, CA	08/19/1999
TALBOT, KIMBERLEE BELLEVILLE, IL	08/19/1999
TAYLOR, LINDA LOUISE SAN FRANCISCO, CA	08/19/1999
THOMAS, BRENDA LEE W BRATTLEBORO, VT	08/19/1999
THOMPSON, RHONDA Y JOLIET, IL	08/19/1999
TURNER, MERLINE ELIZABETH S OZONE PARK, NY	08/19/1999
TURNER, JUDITH ANN HAMBURG, NY	08/19/1999
UHLIG, DONNA D WILTON, CA	08/19/1999
VORREYER, RICHARD DANIEL FORT VALLEY, GA	08/19/1999
WADLINGTON, STEPHEN DAVID TUSCALOOSA, AL	08/19/1999
WAGERS, AARON K EL CAJON, CA	08/19/1999
WEASE, PATRICIA JACKSONVILLE, IL	08/19/1999
WEATHERILL, LAURENCE JOSEPH YUBA CITY, CA	08/19/1999
WHITMAN, GAIL DANBURY, CT	08/19/1999
WOLFE, PEGGY J GUIN, AL	08/19/1999
WRIGHT, JOAN WINIFRED NEW YORK, NY	08/19/1999
YASSA, NOREEN BRONX, NY	08/19/1999
YOUENS, ROBYN CLARE SAN JOSE, CA	08/19/1999
FEDERAL/STATE EXCLUSION/SUSPENSION	
BARRETT, MARILYN VEAZIE, ME	08/19/1999
OWNED/CONTROLLED BY CONVICTED/EXCLUDED	
AMERICAN DIAGNOSTIC EXPRESS EGLIN AFB, FL	08/19/1999
ATLANTA X-RAY, INC CONYERS, GA	08/19/1999
BALANCED LIVING COUNSELING CLIFTON PARK, NY	08/19/1999
CHIROPRACTIC HEALTH & WELLNESS MILWAUKEE, WI	08/19/1999
CMC MEDICAL CARE, INC MIAMI, FL	08/19/1999
D & L MEDICAL SERVICES, INC MIAMI, FL	08/19/1999
G & M INTERNATIONAL, INC BROOKLYN, NY	08/19/1999
GLJ MEDICAL, INC MIAMI, FL	08/19/1999
J & L SERVICES, INC HIALEAH, FL	08/19/1999
MOBILE IMAGING SERVICES DENTON, TX	08/19/1999
PHYSICIAN'S SERVICE GROUP, INC MIAMI, FL	08/19/1999
PROFESSIONAL MEDICAL BILLERS DENTON, TX	08/19/1999
PROGRESSIVE CARE MED & SURGICAL MARIANNA, FL	08/19/1999
SHAWN JONAS CHIROPRACTIC KENT, WA	08/19/1999
TENDER LOVING CARE HOME HEALTH BATON ROUGE, LA	08/19/1999
WALLACE CHIROPRACTIC CENTER ARTESIA, NM	08/19/1999
DEFAULT ON HEAL LOAN	
CHA, CHRIS S GARDEN GROVE, CA	08/19/1999
MCALEES, RAYMOND M N PALM BEACH, FL	08/19/1999
MCCARTHY, MARK G BLAINE, MN	08/19/1999
MCMORRIS, BRUCE LONG BEACH, CA	08/19/1999
MOLINA, ROLANDO J MIAMI, FL	08/19/1999
MOORE, CHARZETTA DETROIT, MI	08/19/1999
NETT, MICHAEL L KINGSFORD, MI	08/19/1999
NEWBERRY-WALKER, PATRICIA J NASHVILLE, TN.	08/19/1999
NEWSOME, RAYMOND E DE SOTO, TX	08/19/1999
REED, DAVID E NEW ORLEANS, LA	08/19/1999
SAHM, ROGER A SNOHOMISH, WA	08/19/1999
SAINT-PHARD, GUERCY MASSAPEQUA, NY	08/19/1999
SANTAYANA, SUSAN A MIAMI, FL	08/19/1999
TRINITY CHIROPRACTIC CENTER E ELLIJAY, GA	08/19/1999
VU, GIANG H ANAHEIM, CA	08/19/1999
WEISMAN, ANNETTE F MOUNT SHASTA, CA	08/19/1999
WOODWARD, DAVID R WILLIAMSBURG, VA	08/19/1999

Dated: August 2, 1999.

Joanne Lanahan,

Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 99–20750 Filed 8–10–99; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO 310 1310 03–2410; OMB Approval Number 1004–0145]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). On June 11, 1999, the Bureau of Land Management (BLM) published a notice in the **Federal Register** (64 FR 29334) requesting comments on the collection. The comment period ended August 2, 1999. No comments were received. Copies of the proposed collection of information may be obtained by contacting the Bureau's Clearance Office at the telephone number listed below.

OMB is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration, your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0160), Office of Information and Regulatory Affairs, Washington, DC 20503, telephone (202) 395–7340. Please provide a copy of your comments to the Bureau Clearance Officer (WO–630) 1849 C St., NW, Room 401 LS Bldg., Washington, DC 20240.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the Bureau of Land Management, including whether the information will have practical utility;

2. The accuracy of BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility, and clarity of the information to be collected; and

4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Oil and Gas Exploration and Leasing.

OMB Approval Number: 1004–0145.

Abstract: Respondents supply information that will be used to determine the eligibility of an applicant to hold, explore for, and produce oil and gas on Federal lands. The information supplied allows the Bureau of Land Management to determine whether an applicant is qualified to conduct exploration and leasing activities and to hold a lease to obtain a benefit under the terms of the Mineral Leasing Act of 1920.

Form Number: N/A.

Frequency: On occasion.

Description of Respondents: Individuals, small businesses, and oil and gas exploration and drilling companies.

Estimated Completion Time: 1 hour.

Annual Responses: 1,400.

Annual Burden Hours: 1,400.

Bureau Clearance Officer: Carole J. Smith (202) 452–0367.

Dated: August 3, 1999.

Carole J. Smith,

Bureau Clearance Officer.

[FR Doc. 99–20626 Filed 8–10–99; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 930–1430–01; NMNM 92938]

Order Providing for the Opening of Public Land in Catron County, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This order will open 22.50 acres which were segregated for an exchange under the Federal Land Policy and Management of 1976 (43 U.S.C. 1716), as amended to the operation of the public land laws and the general mining laws. The exchange was consummated and this land was not conveyed out of Federal ownership and needs to be opened to entry. The land is described as follows:

New Mexico Principal Meridian

T. 10 N., R. 13 W.,
Sec. 24, W½1SE¼NE¼ and SW¼SE¼SE¼NE¼.
Containing 22.50 acres.

EFFECTIVE DATE: September 10, 1999.

FOR FURTHER INFORMATION CONTACT: Jeanette Espinosa, BLM, New Mexico State Office, P. O. Box 27115, Santa Fe, NM 87502–0115, (505) 438–7597.

At 10 a.m. on September 10, 1999 the land will be open to appropriation under the public land laws and mining laws, subject to valid existing rights and any other segregation of record.

Dated: August 2, 1999.

Richard A. Whitley,

Acting State Director.

[FR Doc. 99–20740 Filed 8–10–99; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

National Park Service Kaloko-Honokohau National Historical Park Advisory Commission; Notice of Meeting

Notice is given in accordance with the Federal Advisory Committee Act that a meeting of the Na Hoapili o Kaloko Honokohau, Kaloko Honokohau National Historical Park Advisory Commission will be held at 10 a.m. to 12 noon, September 4, 1999, at the King Kamehameha's Kona Beach Hotel, Hawaiian Resource Center, Kailua-Kona, Hawaii.

Superintendent's and Committee Reports will be presented.

This meeting is open to the public. It will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Advisory Commission. A transcript will be available after October 15, 1999. For copies of the minutes, contact the Kaloko-Honokohau National Historical Park Superintendent at (808) 329–6881.

Dated: July 30, 1999.

Bryan Harry,

Superintendent, Pacific Islands Support Office.

[FR Doc. 99–20641 Filed 8–10–99; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Manzanar National Historic Site Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Manzanar National Historic Site Advisory Commission will be held at 2 p.m. on Friday, August 27, 1999, at the Japanese American National Museum, 369 East First Street, Los Angeles, California, to hear presentations on issues related to the planning, development, and management of Manzanar National Historic Site. The meeting will be held

in the second floor Education Center, in Historic Building, First and Alameda Street.

The Advisory Commission was established by Public Law 102–248, to meet and consult with the Secretary of the Interior or his designee, with respect to the development, management, and interpretation of the site, including preparation of a general management plan for the Manzanar National Historic Site.

Members of the Commission are as follows:
Rose Ochi, Chairperson
William Michael, Vice Chairperson
Keith Bright
Martha Davis
Sue Kunitomi Embrey
Gann Matsuda
Vernon Miller
Mas Okui
Glenn Singley
Richard Stewart

The main agenda items at this meeting of the Commission will include the following:

(1) Status report on the development of Manzanar National Historic Site by Superintendent Ross R. Hopkins.

(2) General discussion of miscellaneous matters pertaining to future Commission activities and Manzanar National Historic Site development issues.

(3) Public comment period.

This meeting is open to the public. It will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Commission. A transcript will be available after October 1, 1999. For a copy of the minutes, contact the Superintendent, Manzanar National Historic Site, PO Box 426, Independence, CA 93526.

Dated: July 30, 1999.

Ross R. Hopkins,

Superintendent, Manzanar National Historic Site.

[FR Doc. 99–20640 Filed 8–10–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Advisory Commission for the San Francisco Maritime National Historical Park; Public Meeting

Agenda for the August 25, 1999 Public Meeting of the Advisory Commission for the San Francisco Maritime National Historical Park, Public Meeting, Presidio Golden Gate Club, 10:00 a.m.–12:30 p.m.

10:00 a.m.
Welcome—Neil Chaitin, Chairman
Opening Remarks—Neil Chaitin, Chairman
10:15 a.m.
Update—General Management Plan, Phase II Implementation, William Thomas, Superintendent
10:30 a.m.
Update—Haslett Warehouse, Stephen Crabtree, Concession Program, Management
10:45 a.m.
Status—SAFR Space needs for: Building E, Tom Mulhern, Museum Services Manager
11:00 a.m.
Status—Ship Preservation Update, Wayne Boykin, Ships Manager & Staff
11:15 a.m.
Status—Volunteer Program, Sue Schmidt, Volunteer Coordinator
11:30 a.m.
Update—National Maritime Museum Association Projects, Kathy Lohan, Chief Executive Officer
11:45 a.m.
Update—Associates of the National Maritime Museum Library, Peter Evans, President, Library Associates
12:00 p.m.
Public Comments and Questions
12:15 p.m.
Agenda items/Date for next meeting

William G. Thomas,

Superintendent.

[FR Doc. 99–20642 Filed 8–10–99 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains in the Possession of the South Dakota State Archaeological Research Center, Rapid City, SD

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains in the the possession of the South Dakota State Archaeological Research Center, Rapid City, SD.

A detailed assessment of the human remains was made by South Dakota State Archaeological Research Center (SARC) professional staff in consultation with representatives of the Rosebud Sioux Tribe of the Rosebud Indian Reservation and the Lower Brule Sioux Tribe of the Lower Brule Reservation.

Around 1870, human remains representing one individual were recovered in eastern Montana by B.C. Coleman of Spearfish, SD. In 1995, these human remains were discovered in the collections of the Adams Memorial Museum, Deadwood, SD and were transferred that same year to the South Dakota State Archaeological Research Center. No known individual was identified. No associated funerary objects are present.

Based on cranial morphology and dentition, this individual has been identified as Native American. Extensive copper staining on the cranium indicates a post–1700 AD date for this burial. Based on crainometric measurements, oral tradition, and historical evidence, the cultural affiliation of this individual from eastern Montana is most likely with the Brule division of the Lakota tribe. The Brule currently reside and are represented by the Rosebud Sioux Tribe of the Rosebud Indian Reservation and the Lower Brule Sioux Tribe of the Lower Brule Reservation.

Based on the above mentioned information, officials of the South Dakota State Archaeological Research Center have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the South Dakota State Archaeological Research Center have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and the Rosebud Sioux Tribe of the Rosebud Indian Reservation and the Lower Brule Sioux Tribe of the Lower Brule Reservation.

This notice has been sent to officials of the Rosebud Sioux Tribe of the Rosebud Indian Reservation and the Lower Brule Sioux Tribe of the Lower Brule Reservation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Renee Boen,

Curator, State Archaeological Center, South Dakota Historical Society, P.O. Box 1257, Rapid City, SD 57709–1257; telephone: (605) 394-1936, before September 10, 1999. Repatriation of the human remains to the Rosebud Sioux Tribe of the Rosebud Indian Reservation and the Lower Brule Sioux Tribe of the Lower Brule Reservation may begin after that date if no additional claimants come forward.

Dated: August 3, 1999.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 99–20643 Filed 8–10–99; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains in the Possession of the University of Pennsylvania Museum, University of Pennsylvania, Philadelphia, PA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains in the possession of University of Pennsylvania Museum, University of Pennsylvania, Philadelphia, PA.

A detailed assessment of the human remains was made by University of Pennsylvania Museum professional staff in consultation with representatives of the Klamath Indian Tribe of Oregon and the Modoc Tribe of Oklahoma.

At an unknown date, human remains representing one individual were removed from Ft. Klamath, OR by person(s) unknown. Prior to 1915, these human remains were received by the University of Pennsylvania Museum. In 1915, the control of these remains was transferred from the University of Pennsylvania Museum to the Wistar Institute. In 1961, control of the remains was transferred back to the University of Pennsylvania Museum. No known individual was identified. No associated funerary objects are present.

Based on accession information from the Wistar Institute, this individual has been identified as Native American of Modoc affiliation. No further information exists for this individual.

Based on the above mentioned information, officials of the University of Pennsylvania Museum have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Lastly, officials of the University of Pennsylvania Museum have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and the Klamath Indian Tribe of Oregon and the Modoc Tribe of Oklahoma.

This notice has been sent to officials of the Klamath Indian Tribe of Oregon and the Modoc Tribe of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Dr. Jeremy Sabloff, the Williams Director, University of Pennsylvania Museum of Archaeology and Anthropology, 33rd and Spruce Streets, Philadelphia, PA 19104–6324; telephone: (215) 898–4051, fax: (215) 898–0657, before September 10, 1999. Repatriation of the human remains to the Klamath Indian Tribe of Oregon may begin after that date if no additional claimants come forward.

The National Park Service is not responsible for the determinations within this notice.

Dated: August 3, 1999.

Francis P. McManamon,

Departmental Consulting Archeologist,

Manager, Archeology and Ethnography Program.

[FR Doc. 99–20644 Filed 8–10–99; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Privacy Act of 1974; Revisions to Existing System of Records

AGENCY: Bureau of Reclamation, Interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Department of the Interior is issuing public notice of its intent to amend the existing system of records managed by the Bureau of Reclamation (Reclamation) entitled ''Equipment, Supply, and Service Contracts, LBR–45.''

The notice is published in its entirety below.

DATES: Persons wishing to comment on the proposed revisions must do so by September 10, 1999.

Effective date: The proposed revised system of records will become effective without further notice on September 20, 1999, unless comments received result in a contrary determination. Reclamation will publish a new notice if changes are made based on review of comments received.

ADDRESSES: Interested individuals may comment on this publication by writing to the Reclamation Privacy Act Officer, Bureau of Reclamation, PO Box 25007, Denver, Colorado 80225–0007 or comments may be sent by facsimile transmission to fax No. 1–800–822–7651. Comments will be available for inspection at the Bureau of Reclamation, Denver Federal Center, Sixth Avenue and Kipling Street, Building 67, Room 112, Denver, Colorado, from 7:30 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: For information regarding ''Equipment, Supply, and Service Contracts, WBR–45'' contact Mr. Ronald Simonich, Procurement Analyst, Acquisition Operations Group at (303) 445–2447. For general information regarding Reclamation's Privacy Act program, call Mr. Casey Snyder at (303) 445–2048.

SUPPLEMENTARY INFORMATION: Recent Privacy Act Compilations list this system of records as Reclamation-45. When originally published in the **Federal Register** this system of records was identified as LBR–45. The content of the system of records is the same; the prefix on the system was changed to reflect organizational changes.

This system of records notice was previously published in the **Federal Register** on April 11, 1977 (42 FR 19109). This publication:

1. Revises the system location;

2. Adds routine uses and users to include the Internal Revenue Service, other Federal agencies, and debt collection agencies;

3. Updates information about storage of the system to include computerized system information;

4. Updates information concerning the retention and disposal of records in the system;

5. Updates the system manager and address; and

6. Adds a purpose statement which was not required when the original system of records notice was published.

All other changes proposed are editorial in nature.

Murlin Coffey,

Manager, Property and Office Services.

INTERIOR/WBR–45

SYSTEM NAME:

Equipment, Supply, and Service Contracts.

SYSTEM LOCATION:

Commissioner's Office, Reclamation Service Center, and Regional Offices: Pacific Northwest, Mid-Pacific, Lower Colorado, Upper Colorado, and Great Plains. See appendix for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have entered into contracts with the agency for equipment, supplies, and services. (The records contained in this system which pertain to individuals contain principally proprietary information concerning sole proprietorships. Some of the records in the system which pertain to individuals may reflect personal information, however. Only the records reflecting personal information are subject to the Privacy Act. The system also contains records concerning corporations and other business entities. These records are not subject to the Privacy Act.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Contracts for the procurement of equipment, supplies, materials, and services; including reports of compliance or noncompliance to labor and other laws governing contract administration.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Reclamation Act of June 17, 1902, as amended, 43 U.S.C. 371, *et seq.*, 40 U.S.C. 486(c), 31 U.S.C. 66a, 31 U.S.C. 7701(c); and 31 U.S.C. 3325(d).

PURPOSE(S):

The primary uses of the records are for administration of the contract. The information is also used by the contractor to report income tax. The Government uses these records to collect and report on business travel expenses, self-employment tax, depreciation, and any delinquent amounts arising out of the contractor's relationship with the Government. The records are also used to report certain contract information to the Federal Procurement Data System (FPDS) and payment information to the Internal Revenue Service.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Another Federal agency to enable that agency to respond to an inquiry by the individual to whom the record pertains;

(2) To the Internal Revenue Service to report payments;

(3) To the Department of Justice, or to a court, adjudicative or other administrative body, or to a party in litigation before a court or adjudicative or administrative body, when:

(a) One of the following is a party to the proceeding or has an interest in the proceeding:

(i) The Department or any component of the Department;

(ii) Any Departmental employee acting in his or her official capacity;

(iii) Any Departmental employee acting in his or her individual capacity where the Department or the Department of Justice has agreed to represent the employee; or

(iv) The United States, when the Department determines that the Department is likely to be affected by the proceeding; and

(b) The Department deems the disclosure to be:

(i) Relevant and necessary to the proceedings; and

(ii) Compatible with the purpose for which we compiled the information.

(4) To the appropriate Federal, State, tribal, local or foreign governmental agency that is responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, order or license, when we become aware of an indication of a violation or potential violation of the statute, rule regulation, order or license.

(5) To a congressional office in response to an inquiry to that office by the individual to whom the records pertains.

(6) To a collection agency for the purpose of debt collection.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders and on the Federal Financial System automated acquisition and reporting systems.

RETRIEVABILITY:

Indexed by name of individual or by purchase order number.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

In accordance with approved retention and disposal schedules, as included in the Federal Acquisition Regulation (FAR 9.805).

SYSTEM MANAGER(S) AND ADDRESS:

Acquisition and Assistance Management Services, Bureau of Reclamation, Denver Federal Center, PO Box 25007, Denver, Colorado 80225–0007.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained.

[FR Doc. 99–20652 Filed 8–10–99; 8:45 am]

BILLING CODE 4310–94–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–857–858 (Preliminary)]

Certain Paintbrushes From China and Indonesia

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping investigations Nos. 731-TA–857–858 (Preliminary) under section 733(a) of the Tariff Act of 1930 [1] (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an

[1] 19 U.S.C. 1673b(a).

industry in the United States is materially retarded, by reason of imports from China of synthetic filament paintbrushes, provided for in subheading 9603.40.4060 of the Harmonized Tariff Schedule of the United States (HTS), and imports from Indonesia of natural bristle and synthetic filament paintbrushes, provided for in subheadings 9603.40.4040 and 9603.40.4060 of the HTS that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act,[2] the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by September 16, 1999. The Commission's views are due at the Department of Commerce within five business days thereafter, or by September 23, 1999.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E,[3] and part 207, subparts A and B.[4]

EFFECTIVE DATE: August 2, 1999.

FOR FURTHER INFORMATION CONTACT: Fred Fischer (202–205–3179 or ffischer@usitc.gov), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on August 2, 1999, by the Paintbrush Trade Action Coalition (PATAC) whose member firms include EZ Paintr Corp., St. Francis, WI; Bestt Liebco, Philadelphia, PA; The Wooster Brush Co., Wooster, OH; Purdy Corp., Portland, OR; and Tru*Serv Manufacturing, Cary, IL.

[2] 19 U.S.C. 1673a(c)(1)(B).

[3] 19 CFR part 201.

[4] 19 CFR part 207.

Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties[5] who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 10:30 a.m. on August 23, 1999, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Fred Fischer (202–205–3179 or ffischer@ustic.gov) not later than August 18, 1999, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

[5] As defined in 19 U.S.C. 1677(9).

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before August 26, 1999, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: August 4, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–20720 Filed 8–10–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Public Meeting Concerning Heavy Duty Diesel Engine Consent Decrees

The Department of Justice and the Environmental Protection Agency announce a public meeting to be held on September 10, 1999 at 11:00 a.m. at 810 7th Street, NW., Main Conference Room (3102), Washington, DC. The subject of the meeting will be implementation of the provisions of seven consent decrees signed by the United States and diesel engine manufactures and entered by the United States District Court for the District of Columbia on July 1, 1999. In supporting entry by the court of the decrees, the United States committed to meet with states, industry groups, environmental groups, and concerned citizens to discuss consent decree implementation issues. This will be the first of a series of public meetings to be held quarterly

during the first year of implementation of the consent decrees and at least annually thereafter. Future meetings will be announced in the **Federal Register** and/or on EPA's Diesel Engine Settlement web page at: www.epa.gov/oeca/ore/aed/diesel.

This first meeting will likely focus on the United States' review of the Company Proposed project plans and in-use testing plans and implementation of the Low NO_X rebuild program. Interested parties may contact the Environmental Protection Agency prior to the meeting at the address listed below with questions or suggestions for other topics of discussion. During the week prior to the meeting, questions and suggestions for topics of discussion which have been received will also be posted on the EPA web site.

FOR FURTHER INFORMATION, PLEASE CONTACT: Anne Wick, EPA Diesel Engine Consent Decree Coordinator, U.S. Environmental Protection Agency (Mail Code 2242A), EPA Headquarters, Washington, DC 20460, e-mail: WICK.ANNE@EPA.GOV.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–20745 Filed 8–10–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Lead-Based Paint Hazard Act

Notice is hereby given that on July 15, 1999 a proposed consent decree in *United States* v. *Capitol Park Associates* (No. 1:99CV01901) was lodged with the United States District Court for the District of Columbia.

The consent decree settles claims concerning residential apartment buildings in the District of Columbia that were brought on behalf of the Department of Housing and Urban Development under the Residential Lead-Based Paint Hazard Reduction Act 42 U.S.C. § 4851 *et seq.* (''Lead Hazard Reduction Act''). The United States alleged in its complaint that defendants failed to provide information to tenants concerning lead-based paint hazards, and failed to disclose to tenants the presence of any known lead-based paint or any known lead-based paint hazards.

This consent decree settles claims against Capitol Park for violations of the Lead Hazard Reduction Act. Capitol Park owns three buildings in the District of Columbia, containing 936 apartment units. Under the consent decree, Capitol Park will provide the notices and disclosures required by the Lead Hazard Reduction Act, will perform abatement measures to make apartment units lead-safe, will pay $10,000 in administrative penalties, and will perform a Child Health Improvement Project which consists of $15,000 of funding to support the Upper Cardoza Center, a low-income health clinic in Washington, provide health care, intervention and education for non-English speaking Families with one or more lead-poisoned children.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General of the Environmental and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Capitol Park Associates* D.J. Ref. 90–5–1–1–06558/3.

The consent decree may be examined at the Department of Housing and Urban Development, Office of Lead Hazard Control, attention: Matthew E. Ammon, 490 L'Enfant Plaza S.W, Room 3206, Washington, D.C. 20410, (202) 755–1785. The consent decree may be obtained in person or by mail from the Department of Justice Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, (202) 624–0852, or on the Department of Justice website at: ''http://www.usdoj.gov/enrd/consent.html''. In requesting copies from the Consent Decree Library, please enclose a check for the copy production of the decree (25 cents per page) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–20742 Filed 8–10–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 U.S.C. 50.7, and in accordance with Section 122(d)(2) of CERCLA, 42 U.S.C. 9622(d)(2), notice is hereby given that a proposed Consent Decree in *United States v. Conklin Company, Inc., et al.* Civil Action No. *97–1372,* was Lodged on July, *30,* 1999, with the United States District Court for the Eastern District of Louisiana.

The Consent Decree settles an action brought under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. § 9607. The Consent Decree provides that Conklin will pay the United States $262,500 dollars for response costs incurred in conducting a removal action at the Malter International Site located in the City of Gretna, Jefferson Parish, Louisiana.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Conklin Company, Inc., et al.* DOJ Ref. #90–11–2–1247.

The proposed Consent Decree may be examined at the office of the United States Attorney, Eastern District of Louisiana, Hale Boggs Federal Building, 501 Magazine Street, Second Floor, New Orleans, Louisiana 70130; the Region VI Office of the Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of *$6.00* (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–20747 Filed 8–10–99 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Lead-Based Paint Hazard Act

Notice is hereby given that on July 15, 1999 a proposed consent decree in *United States* v. *Cornerstone Real Estate Management L.L.C.* (''Cornerstone'') (No. 1:99CV01906) was lodged with the United States District Court for the District of Columbia.

The consent decree settles claims concerning residential apartment buildings in the District of Columbia that were brought on behalf of the Department of Housing and Urban Development under the Residential Lead-Based Paint Hazard Reduction Act 42 U.S.C. §§ 4851 *et seq.* (''Lead Hazard Reduction Act''). The United States alleged in its complaint that defendants failed to provide information to tenants concerning lead-based paint hazards, and failed to disclose to tenants the presence of any known lead-based paint or any known lead-based paint hazards.

This consent decree settles claims against two defendants—1425 Park Avenue, L.L.C. and Cornerstone (collectively ''Cornerstone'')—for violations of the Lead Hazard Reduction Act. Cornerstone owns and manages four buildings containing 52 apartment units in the District of Columbia. Under the consent decree, Cornerstone will provide the notices and disclosures required by the Lead Hazard Reduction Act, will perform abatement measures to make apartment units lead-safe, will pay $2,000 in administrative penalties, and will perform a Child Health Improvement Project which consists of the purchase of three leadcare portable blood test analysis kits, valued at a total of $6,750, which will be donated to three low-income health clinics in the District of Columbia.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Cornerstone Real Estate Management L.L.C.* D.J. Ref. 90–5–1–1–06558/1.

The consent decree may be examined at the Department of Housing and Urban Development, Office of Lead Hazard Control, attention: Matthew E. Ammon, 490 L'Enfant Plaza S.W., Room 3206, Washington, D.C. 20410, (202) 755–1785. The consent decree may be obtained in person or by mail from the Department of Justice Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, (202) 624–0852, or on the Department of Justice website at: ''http://www.usdoj.gov/enrd/consent.html''. In requesting copies from the Consent Decree Library, please enclose a check for the copy production of the decree (25 cents per page) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–20743 Filed 8–10–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Lead-Based Paint Hazard Act

Notice is hereby given that on July 15, 1999 a proposed consent decree in *United States* v. *Crawford Edgewood Management, Inc.* (No. 1:99CV01904) was lodged with the United States District Court for the District of Columbia.

The consent decree settles claims concerning residential apartment buildings in the District of Columbia that were brought on behalf of the Department of Housing and Urban Development under the Residential Lead-Based Paint Hazard Reduction Act 42 U.S.C. 4851 *et seq.* (''Lead Hazard Reduction Act''). The United States alleged in its complaint that defendants failed to provide information to tenants concerning lead-based paint hazards, and failed to disclose to tenants the presence of any known lead-based paint or any known lead-based paint hazards.

This consent decree settles claims against Crawford Edgewood for violations of the Lead Hazard Reduction Act. Crawford Edgewood manages 12 buildings in the District of Columbia, containing 1588 apartment units. Under the consent decree, Crawford Edgewood will provide the notices and disclosures required by the Lead Hazard Reduction Act, will perform abatement measures to make apartment units lead-safe, will pay $25,000 in administrative penalties, and will perform $100,000 worth of Child Health Improvement Projects.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Crawford Edgewood Management, Inc.* D.J. Ref. 90–5–1–1–06558/4.

The consent decree may be examined at the Department of Housing and Urban Development, Office of Lead Hazard Control, attention: Matthew E. Ammon, 490 L'Enfant Plaza S.W., Room 3206, Washington, D.C. 20410, (202) 755–1785. The consent decree may be obtained in person or by mail from the Department of Justice Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, (202) 624–0852, or on the Department of Justice website at: ''http://www.usdoj.gov/enrd/consent.html''. In requesting copies from the Consent Decree Library, please enclose a check for the copy production of the decree (25 cents per page) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–20744 Filed 8–10–99 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Lead-Based Paint Hazard Act

Notice is hereby given that on July 15, 1999 a proposed consent decree in *United States* v. *Double H Housing, Inc.* (No. 1:99CV01907) was lodged with the United States District Court for the District of Columbia.

The consent decree settles claims concerning residential apartment buildings in the District of Columbia that were brought on behalf of the Department of Housing and Urban Development under the Residential Lead-Based Hazard Reduction Act 42 U.S.C. §§ 4851 *et seq.* (''Lead Hazard Reduction Act''). The United States alleged in its complaint that defendants failed to provide information to tenants concerning lead-based paint hazards, and failed to disclose to tenants the presence of any known lead-based paint or any known lead-based paint hazards.

This consent decree settles claims against eleven defendants (collectively ''Double H'') for violations of the Lead Hazard Reduction Act. Double H owns and manages 12 buildings in the District of Columbia and two buildings in Maryland containing 1,370 apartment units. Under the consent decree, Double H will provide the notices and disclosures provided by the Lead Hazard Reduction Act, will perform abatement measures to make apartment units lead-safe, will pay $50,000 in administrative penalties, and will perform $50,000 worth of Child Health Improvement Projects.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General of the

Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Double H Housing, Inc.* D.J. Ref. 90–5–1–06558/6.

The consent decree may be examined at the Department of Housing and Urban Development, Office of Lead Hazard Control, attention: Matthew E. Ammon, 490 L'Enfant Plaza SW., Room 3206, Washington, DC 20410, (202) 755–1785. The consent decree may be obtained in person or by mail from the Department of Justice Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington,DC 20005, (202) 624–0852, or on the Department of Justice website at: ''http://www.usdoj.gov/enrd/consent.html''. In requesting copies from the Consent Decree Library, please enclose a check for the copy production of the decree (25 cents per page) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–20741 Filed 8–10–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on July 21, 1999, the United States of America, on behalf of the United States Environmental Protection Agency (''EPA''), filed a complaint with the United States District Court for the District of Idaho alleging that defendants FMC Corporation (''FMC'') and the J.R. Simplot Company (''Simplot'') are liable under Sections 106 and 107 the Comprehensive Environmental, Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9606 & 9607, for the implementation of EPA's selected remedy for the Eastern Michaud Flats Superfund Site near Pocatello, Idaho (''the Site''), and for the reimbursement of all costs incurred by the United States on behalf of EPA in response to the release of hazardous substances at the Site. The action is styled *United States v. FMC Corporation*, Civil Action No. 99–296–E–BLW (D. Idaho). On the same day, the United States lodged with the United States District Court for the District of Idaho Consent Decrees with FMC and Simplot resolving the United States' claims in this action.

The Consent Decree requires FMC and Simplot to implement EPA's selected remedy for the Site, and to reimburse the United States for $614,456.11, which represents the full amount of unreimbursed costs incurred by the United States on behalf of EPA in response to releases of hazardous substances from the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decrees. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *FMC*, DOJ Ref. #90–7–1–889/1.

The proposed Consent Decrees may be examined at the Region 10 Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101 (206) 553–1504, and may be obtained from the Office of the United States Attorney for the District of Idaho, P.O. Box 32, Boise, Idaho 83707 (208) 334–1211. Copies of either or both of the proposed Consent Decrees may also be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005. In requesting copies please refer to *United States* v. *FMC*, No. C99–296–E–BLW (D. Idaho), and enclose a check payable to the Consent Decree Library in the amount of $20.75 for the Consent Decree with FMC (83 pages at 25 per page reproduction costs, not including attachments) and $18.50 for the Consent Decree with Simplot (74 pages at 25 cents per page reproduction costs not including attachments).

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resource Division.

[FR Doc. 99–20748 Filed 8–10–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Resource Conservation and Recovery Act of 1976 (RCRA) as Amended, 42 U.S.C. 6928

Under 28 CFR 50.7, notice is hereby given that on July 26, 1999, a proposed Consent Decree in *United States* v. *Skitec Corporation*, Civil Action No. C99–2071, was lodged with the United States District Court for the Northern District of Iowa.

In this action, the United States sought injunctive relief and penalties for violations by Skitec Corporation (Skitec) of the requirements of sections 3008 of RCRA, 42 U.S.C. 6928(a) and (g), and the regulations promulgated thereunder, in particular 40 CFR parts 264, 265, and 270, at its facility in Waverly, Iowa. This facility is a plant that conducts metal tubing fabrication activities and is located at 824 Industrial Road, Waverly, Iowa. The Consent Decree resolved the RCRA violations alleged in the Complaint filed simultaneously with the lodging of the Consent Decree, which stem primarily from Skitec's violations of hazardous waste treatment, storage and disposal requirements.

The injunctive relief required under the proposed Consent Decree requires Skitec to properly dispose of all contaminated soil at its aforementioned facility. Skitec also will pay a civil penalty to the United States of $9,500,00, plus interest accrued, as well as certify that the corrective measures, outlined in Attachment A to the Consent Decree, have been completed.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Skitec Corporation*, D.J. Ref. 90–7–1–915.

The Consent Decree may be examined at the Office of the United States Attorney, 401 1st Street SE., Cedar Rapids, Iowa, 52401, at U.S. EPA Region VII, U.S. 726 Minnesota Avenue, Kansas City, Kansas 66101, and at the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005, (202) 624–0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $12.50 (25 cents per page reproduction cost), with attachments a check in the amount of $20.75, payable to the Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–20749 Filed 8–10–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Department policy, 28 U.S.C. 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Texmark Chemicals, Inc.*, Civil Action No. *H–99–2437*, was lodged on July *29*, 1999, with the United

States District Court for the Southern District of Texas.

The Consent Decree settles an action brought under Sections 309(b) and (d) of the Clean Water Act (''the Act''), 33 U.S.C. 1319(b) and (d). The consent Decree provides for Texmark's payment of a civil penalty to the United States in the amount of $129,816, requires injunctive relief to bring Texmark into compliance with the Clean Water Act, and requires Texmark to implement and complete two Supplemental Environmental Projects (''SEPs'') costing in the aggregate $95,790 at its Galena Park, Harris County, Texas facility.

The Vacuum Pumps SEP involves the replacement of its two steam jets in the DCPD Distillation Process with two vacuum pumps thereby eliminating process wastewater in its process system. Because process wastewater will no longer be generated in the production of DCPD, the proposed SEP will reduce the average flow through outfall 001 by between 50% and 78%; process wastewater flow would concurrently be reduced by between 55% and 87%.

The Rail Car Overfill Prevention SEP will augment Texmark's existing rail car loading process to prevent the inadvertent overfilling of rail cars at the facility. The SEP will employ a micro-motion meter system which consists of a senor, transmitter, totalizer and probe. The sensor will measure mass, volume, density and temperature. The SEP will prevent spills occurring as the result of rail car filling thus benefitting the environment.

The Department of Justice will receive, for a period of thirty (30) days from the ate of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Texmark Chemicals, Inc.*, DOJ Ref. #90–5–1–1–4527.

The proposed Consent Decree may be examined at the office of the United States Attorney, Southern District of Texas, 910 Travis Suite 1500, Houston, Texas 77208; the Region VI Office of the Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas, and at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of *$6.75* (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–20746 Filed 8–10–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2006–99; AG Order No. 2240–99]

RIN 1115–AE26

Extension of Designation of Bosnia-Herzegovina Under the Temporary Protected Status Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice extends the Attorney General's designation of Bosnia-Herzegovina under the Temporary Protected Status (TPS) program until August 10, 2000. Eligible nationals of Bosnia-Herzegovina (or aliens having no nationality who last habitually resided in Bosnia-Herzegovina) may re-register for TPS and an extension of employment authorization. Re-registration is limited to persons who registered for the initial period of TPS, which ended on August 10, 1993,or who registered after that date under the late initial registration provision. Persons who are eligible for late initial registration may register for TPS during this extension.

EFFECTIVE DATES: The extension of the TPS designation for Bosnia-Herzegovina is effective August 11, 1999, and will remain in effect until August 10, 2000. The 30-day re-registration period begins August 11, 1999 and will remain in effect until September 10, 1999.

FOR FURTHER INFORMATION CONTACT: Michael Valverde, Residence and Status Services Branch, Adjudications, Immigration and Naturalization Service, Room 3214, 425 I Street, NW, Washington, DC 20536, telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

What Authority Does the Attorney General Have To Extend the Designation of Bosnia-Herzegovina Under the TPS Program?

Section 244(b)(3)(A) of the Immigration and Nationality Act, as amended (the Act), states that at least 60 days before the end of an extension or a designation, the Attorney General must review conditions in the foreign state for which the designation is in effect. 8 U.S.C. 1254a(b)(3)(A). Under section 244(b)(3)(C), the Attorney General may extend the initial TPS period based on a determination that the foreign state continues to meet the conditions for designation. 8 U.S.C. 1254a(b)(3)(C). Through such an extension, TPS continues to be available only to persons who have been continuously physically present and have continuously resided in the United States from the effective date of the initial designation, in this case since August 10, 1992.

Why Is the Attorney General Extending the TPS Designation for Bosnia-Herzegovina

On August 10, 1992, the Attorney General designated Bosnia-Herzegovina for TPS for a period of 12 months. 57 FR 35604. Since that date, the Department of State and the Department of Justice have annually reviewed conditions within Bosnia-Herzegovina and the Attorney General, based on these reviews, has extended TPS for that country each year. Based on this year's review, the Attorney General finds that extraordinary and temporary conditions that prevent nationals of Bosnia-Herzegovina from returning to their country in safety persist, and that, due to such conditions, extension of the designation of Bosnia-Herzegovina under the TPS program is warranted. 8 U.S.C. 1254a(b)(1)(C).

If I Currently Have TPS, How Do I Register for an Extension?

Persons previously granted TPS under the Bosnia-Herzegovina program may apply for an extension by filing a Form I–821, without the fee, during the re-registration period that begins August 11, 1999 and ends September 10, 1999. Additionally, you must file a Form I–765. See the chart below to determine whether or not you must submit the one-hundred dollars ($100) filing fee with the Form I–765.

If	Then
You are applying for employment authorization through August 10, 2000	You must complete and file the Form I–765, Application for Employment Authorization, with the one-hundred dollar ($100) fee.

If	Then
You already have employment authorization or do not require employment authorization	You must complete and file the Form I–765, Application for Employment Authorization, with no fee.
You are applying for employment authorization and are requesting a fee waiver	You must complete and file Form I–765, with a fee waiver request and affidavit (and any other information), in accordance with 8 CFR 244.20.

To re-register for TPS, you also must include two identification photographs (1½″ x 1½″) and supporting evidence, as provided in

8 CFR 244.9 (evidence of identity and nationality, and proof or residence).

Is Late Registration Possible?

Yes. In addition to timely re-registration, late initial registration is possible for some persons from Bosnia-Herzegovina under 8 CFR 244.2(f)(2). The requirements for late initial registration specify that an applicant for late initial registration must—

(1) Be a national of Bosnia-Herzegovina (or an alien having no nationality who last habitually resided in Bosnia-Herzegovina);

(2) Have been continuously physically present in the United States since August 10, 1992;

(3) Have continuously resided in the United States since August 10, 1992; and

(4) Be admissible as an immigrant, except as otherwise provided in section 244(c)(2)(A), and not ineligible under section 244(c)(2)(B) of the Act. 8 CFR 244.2(f)(2).

Additionally, the applicant must be able to demonstrate that, during the initial registration period from August 10, 1992, through August 10, 1993, he or she—

(1) Was in valid immigrant or nonimmigrant status, or had been granted voluntary departure status of any relief from removal;

(2) Had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal pending or subject to further review or appeal;

(3) Was a parolee or had a pending request for reparole; or

(4) Was the spouse or child of an alien currently eligible to be a TPS registrant. Id.

An applicant for late initial registration must register no later than sixty (60) days from the expiration or termination of the qualifying condition. Id.

Where Should I File for an Extension of TPS?

Persons seeking to extend their TPS must submit an application and accompanying materials to the Immigration and Naturalization local office that has jurisdiction over the applicant's place of residence.

When Can I File for an Extension of TPS?

The 30-day re-registration period begins August 11, 1999 and will remain in effect until September 10, 1999.

How Does an Application for TPS Affect My Application for Asylum or Other Immigration Benefits?

An application for TPS does not preclude or affect an application for asylum or any other immigration benefit. Any national of Bosnia-Herzegovina (or alien having no nationality who last habitually resided in Bosnia-Herzegovina) who is otherwise eligible for TPS and has applied for, or plans to apply for, asylum, but who has not yet been granted asylum or withholding of removal, may also apply for TPS. Denial of an application for asylum or any other immigration benefit does not affect an applicant's ability to register for TPS, although the grounds of denial may also lead to denial of TPS. For example, a person who has been convicted of an aggravated felony is not eligible for asylum or TPS.

Does This Extension Allow Nationals of Bosnia-Herzegovina (or Aliens Having No Nationality Who Last Habitually Resided in Bosnia-Herzegovina) Who Entered the United States After August 10, 1992, To File for TPS?

No. This is a notice of an extension of the TPS designation for Bosnia-Herzegovina. It is not a notice of redesignation for Bosnia-Herzegovina under the TPS program. An extension of TPS does not change the required dates of continuous physical presence and residence in the United States, and does not expand the TPS program to include nationals of Bosnia-Herzegovina (or aliens having no nationality who last habitually resided in Bosnia-Herzegovina) who arrived in the United States after the date of the initial designation, in this case since August 10, 1992.

Notice of Extension of the Designation of Bosnia-Herzegovina Under the TPS Program

By the authority vested in me as Attorney General under sections 244(b)(3)(A) and (C) of the Act, I have consulted with the appropriate agencies of the Government concerning whether the conditions under which Bosnia-Herzegovina was initially designated for TPS continue to exist. 8 U.S.C. 1254a(b)(3)(A), (C). As a result, I determine that the conditions for the initial designation of TPS for Bosnia-Herzegovina continue to be met. Accordingly, I order as follows:

(1) The designation of Bosnia-Herzegovina under section 244(b)(1)(C) of the Act is extended for an additional 12-month period from August 11, 1999, until August 10, 2000. 8 U.S.C. 1254a(b)(1)(C).

(2) I estimate that there are approximately 400 nationals of Bosnia-Herzegovina (or aliens having no nationality who last habitually resided in Bosnia-Herzegovina) who have been granted TPS and are eligible for re-registration.

(3) In order to maintain current registration for TPS, a national of Bosnia-Herzegovina (or alien having no nationality who last habitually resided in Bosnia-Herzegovina) who received a grant of TPS during the initial period of designation from August 10, 1992, until August 10, 1993, must re-register for TPS.

(4) Pursuant to section 244(b)(3)(A) of the Act, the Attorney General will review, at least 60 days before August 10, 2000, the designation of Bosnia-Herzegovina under the TPS program to determine whether the conditions for designation continue to be met. 8 U.S.C. 1254a(b)(3)(A). Notice of that determination and the reasons underlying it will be published in the **Federal Register**.

(5) Information concerning the TPS program for nationals of Bosnia-Herzegovina (or aliens having no nationality who last habitually resided in Bosnia-Herzegovina) will be available at local Service offices upon publication of this notice.

Dated: August 6, 1999.

Janet Reno,

Attorney General.

[FR Doc. 99–20852 Filed 8–9–99; 11:59 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

August 4, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Ira Mills ((292) 209–5096 ext. 143) or by E-Mail to Mills-Ira@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), on or before September 10, 1999.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Title: Strategic Partnerships for Worker Safety and Health.

OMB Number: 1218–0NEW.

Frequency: On occasion.

Affected Public: Business or other non-profit; Federal Government.

Number of Respondents: 500.

Estimated Time Per Respondent: 29.72 hours per year.

Total Burden Hours: 14,860.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: OSHA requires Strategic Partnerships for Worker Safety and Health information to assess the impact of partnerships. An OSHA Strategic Partnership aims to have a measurable, positive impact on workplace safety and health that goes beyond what historically has been achievable through traditional enforcement methods and through a focus on individual work sites.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 99–20662 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of July , 1999.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or protection of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–36,283, A, B, C; Hevi-Duty Electric, Mt. Vernon, IL, Pell City, AL, Cortland, NY, and Berwick, PA

TA–W–36,189; Gary Williams Energy Corp., Roosevelt, UT

TA–W–36,332; S & S Chemical and Oil, Inc., Williston, ND

TA–W–36,223; Dydrolex, Inc., Longview, TX

TA–W–35,959; Bonney Forge Cop., Allentown, PA

TA–W–36,232; Total Safety, Inc., Watford City, ND

TA–W–36,320; CAC, Inc., Edmund, OK

TA–W–36,214; Union Drilling, Inc., Roosevelt, UT

TA–W–36,211; Aquila Gas Pipeline Corp., San Antonio, TX

TA–W–36,133; MCM Enterprises, Inc. (A/k/A Midstates Wire), Crawfordsville, IN

TA–W–35,682; Newport Steel Corp., Newport, KY

TA–W–35,846; U.S. Axle, Inc., Pottstown, PA

TA–W–36,380; Smurfit-Stone Container Corp., Laporte, IN

TA–W–36,069; Thyssen Mining Construction, Inc. & Betty B. Coal Co., Inc., Coeburn, VA

TA–W–35,887; Hydroform USA, Inc., Carson, CA

TA–W–35,566; H & H Strandflex, Oriskany, NY

TA–W–36,408; Geo-Log, Inc., Granbury, TX

TA–W–35,857; Johnstown Corp., Johnstown, PA

TA–W–36,077; Graybec Lime, Inc., Central Quarry, Pleasant GAP, Formerly Bellefonte Lime Co., Bellefont, PA

TA–W–36,374; Rockwell Automation, Reliance Electric Custom Motors, Kings Mountain, NC

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–36,404; CXY Energy, Dallas, TX

TA–W–36,347; Great River Insurance Co., Accounting Dept. Meridian, MS

TA–W–36,353; Gdynia-America Line, Inc., Elizabeth, NJ

TA–W–36,405; First Reserve Oil and Gas Co., Midland, TX

TA–W–36,335; Kellogg Brown & Root, Odessa, TX

TA–W–36,474; Weyerhauser Co., Export Service, Coos Bay Chip Operations, North Bend, OR

TA–W–36,352; Triton Energy, Dallas, TX

TA–W–36,450; AMP, Inc., Metrology Group, Harrisburg, PA

TA–W–36,419; Inter-American Oil Works, Inc., Odessa, TX
TA–W–36,157 &A; Paramount Pictures, Hollywood, CA and Walt Disney Pictures & Television, Burbank, CA
TA–W–36,470; Cable Repair of Hobbs, Inc., d/b/a Cable Service Co. Hobbs, NM
TA–W–35,958; Jencraft Corp., McAllen, TX
TA–W–36,505; American Industrial Components, Inc., Breckenridge, TX
TA–W–36,497; Power Exploration, Inc., Tyler, TX
TA–W–36,519; Kramer Steel, Inc., Farmington Hills, MI
TA–W–36,503; Petron Industries, Inc., Alice, TX
TA–W–35,893 & A; Natchiq, Inc., Anchorage, AK and Houston, TX

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–35,893I; Omega service Industries, Operating Throughout the State of Louisiana and Gulf Coast Offshore
TA–W–35,714; Allegheny Ludlum Steel Corp., Allegheny Rodney Strip Div., Wallingford, CT
TA–W–36,267; Batesville Casket Co., Campbellsville, KY
TA–W–35,731; National Material Co., Arnold, PA
TA–W–36,276; Allergan Lenior, Lenoir, NC
TA–W–36,234; Northrop Grumman Corp., Commercial Aircraft Div., Job Families 7000, 7060, 7441 and 2180, Dallas, TX
TA–W–36,264; Batts, Inc., Zeeland, MI
TA–W–36,341; Nortel Carrier Solutions (Formerly Known as The Nortel Switching), Research Triangle Park, NC
TA–W–36,226; & A; Seagull Energy Corp. Headquartered in Houston, TX and Seagull Pipeline & Marketing Co., Liberty, TX
TA–W–36,226B; Seagull Energy E&P, Inc., Pampa, TX and C; Waskom, TX, D; Carthage, TX, E; Freeport, TX, F: Ratcliff, AR, G; Dubach, LA, H; Haughton, LA, I; Morgan City LA, J: Weatherford, OK
TA–W–36,226K; Seagull Freestone District, Oakwood, TX
TA–W–36,226L; Seagull Field Service, Kilgore, TX
TA–W–36,226M; Enstar Transmission & Distribution Center, Anchorage, AK
TA–W–36,140; Wellco Enterprises, Inc., Waynesville, NC
TA–W–36,351; National Wood Products, Glasgow, KY;
TA–W–35,812; Silicon Graphics, Inc., Chippewa Falls, WI and Eagan, MN
TA–W–36,075; Universal Welding, Inc., Export, PA
TA–W–36,393; Fruit of The Loom, Distribution Center, Campbellsville, KY
TA–W–36,279; Hazleton Knitwear, Hazleton, PA
TA–W–36,187; & A; Fluor Daniel, Inc., Sugar Land, TX and Tulsa, OK
TA–W–36,327; Fisher Rosemount, Inc., Burnsville, MN
TA–W–36,409; Barrett Resources Corp., Tulsa, OK
TA–W–36,434; Damascus Steel Casting Co., New Brighton, PA

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–35,893E & F; Houston Contracting Co. Operating Throughout The State of AK and Houston, TX

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–36,219; Matador Petroleum Corp., Dallas, TX
TA–W–35,893B and C; Alaska Petroleum Contractors, Anchorage, AK and Houston, TX
TA–W–36,893D; APC Wood LLC, Operating Througout the State of AK
TA–W–36,893G; Houston/NANA, J.N. Operating Throughout the State of AK
TA–W–36,393H; ASRC Parsons Engineering, LLC, Operating Throughout The State of AK

The investigation revealed that criteria (1) and criteria (2) have not been met. A significant number of proportion of the workers did not become totally or partially separated from employment as required for certification. Sales or production did not decline during the relevant period as required for certification.

TA–W–35,944; Wabash Technologies, Huntington, IN
TA–W–36,262A; Allsop, Inc., Laramie, WY

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification.

TA–W–36,458; R.L. Bolin, Wichita, Falls, TX
TA–W–36,495; Enron Oil and Gas Co., Tyler, TX

The investigation revealed that criteria (2) and criteria (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports or articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–36,382; Philips Electronics North America Corp., Philips Components Div., Dept 140, Saugerties, NY: May 19, 1998
TA–W–36,086, A,B,C,D; Maxus Energy Corp., Dallas, TX, Midgard Energy Co., Amarillo, TX, Dumas, TX, Canadian, TX and Perryton, TX: March 31, 1998.
TA–W–36,312; Master Lick Co., Milwaukee, WI; May 4, 1998.
TA–W–36,377; Modern Machine Works, Inc., Dudahy, WI: May 24, 1998.
TA–W–36,323; Royce Hosiery Mills, Inc., Conover, NC: May 14, 1998.
TA–W–35,251; Gary Drilling Co., Inc., Bakersfield, CA: April 19, 1998.
TA–W–35,292 & A; Santa Fe Energy Resources, Inc., d/b/a Santa Fe Snyder Corp., Houston and Midland, TX: May 10, 1998.
TA–W–36,296; Yale E, Key, A Div. of Key Energy Service, Inc., Odessa, TX: April 28, 1998.
TA–W–36,440; Pilkington Libbey-Owens-Ford a/k/a Libby Owen Ford, Sherman, TX: June 8, 1998.
TA–W–36,443; Penn Transfer LTD, West Hazleton, PA: June 11, 1998.
TA–W–36,062; Stonecutter Textiles, Inc., Spindale, NC: March 29, 1998.
TA–W–36,281; Rick Bar Processing, Inc., Bethlehem, PA: May 12, 1998
TA–W–36,106; Funtime Sportswear, Inc., Lansford, PA: April 12, 1998.
TA–W–36,429; Dyersburg Corp., Alamac Knit Fabrics, Hamilton, NC; June 2, 1998.
TA–W–36,413; Jantzen, Inc., Portland, Or: June 2, 1998.
TA–W–36,430; Gemini Fashions Partnership, Union City, NJ: May 26, 1998.
TA–W–36,435; May Tag & Label Corp. Div. of Acco Brands, Including Leased Workers of Agency Solutions Staffing Services, Hillside, NJ: May 13, 1998.
TA–W–36,316; Kellwood Co., Sportswear Div., Coffeeville, MS: May 1. 1998.
TA–W–36,334; Federal Mogul Friction Products & World Wide Aftermarket Distribution, Manila, AR: May 14, 1998.

TA–W–36,355 & A; Cresthill Industries, Inc., Yonkers, NY and New York, New York: May 20, 1998.
TA–W–35,249; Coastal Oil and Gas Corp., Amarillo, TX: April 10, 1998.
TA–W–36,124; Coastal Oil and Gas Corp., Altamont, UT: April 1, 1998.
TA–W–36,204; Madiera Twin Fashions, Inc., New Bedford, MA: April 20, 1998.
TA–W–36,182; Jackes-Evans Manufacturing Co., St. Louis, MO: April 22, 1998.
TA–W–36,295; Chevron USA Production Co (CPDN), A Div. of Chevron USA, Inc., Midland, TX and A; AK, B; CA, C; CO, D; LA, E; MS. F; NM, G; OK, H; TX, I; UT: April 27, 1998.
TA–W–36,289; Marathon Oil Co., Houston, TX, A; WY and B; MI: May 7, 1998.
TA–W–36,192; Nextrom, Inc., Perth Amboy, NJ: April 23, 1998.
TA–W–36,113; Twin Ridge Corp., Acton, ME: April 15, 1998.
TA–W–36,136; Lamesa Apparel, Lamesa, TX: April 19, 1998.
TA–W–36,293; Leamco-Ruthco, Inc., Div. Of Weatherford ALS, Perryton, TX: April 22, 1998.
TA–W–36,294; Lankford Oil and Gas, Graham, TX: May 6, 1998.
TA–W–36,109 & A; Johansen Brothers Shoe Co., Inc., Corning, AR and Harrisburg, AR: April 7, 1998.
TA–W–36,337 & A; House of Ronnie, New York, NY and Jasper Textiles, Jasper, FL: May 19, 1998.
TA–W–36,400; Elementis Pigments, Inc., East St. Louis, IL: May 21, 1998.
TA–W–36,395 A; Circle De Lumber Beaver Marsh Yard, Beaver Marsh, OR and Klamath Falls, OR: June 1, 1998.
TA–W–35,898; American Alloys, Inc., New Haven, WV: March 3, 1998.
TA–W–36,078; International Paper Co., Mobile, AL: March 30, 1998.
TA–W–36,315; Vesuvius USA Steel Div., Zelienople, PA: May 13, 1998.
TA–W–36,331; Victoreen, Inc., Component Dept., Solon, OH: May 7, 1998.
TA–W–36,132; J.H. Boone's Inc., Gainesville, FL: April 16, 1998.
TA–W–36,012; Rhone-Poulenc AG Co., Ambler, PA: March 25, 1998.
TA–W–36,083; Schneider Drilling Corp., Tyler, TX: March 25, 1998.
TA–W–36,145; K & B Manufacturing, Inc., Lake Havasu City, AZ: April 22, 1998.
TA–W–36,310; Holiday Products, Inc., El Paso, TX: May 8, 1999.
TA–W–36,397; Techneglas, Inc., Finishing Operation, Pittston, PA: May 18, 1998.
TA–W–36,031; Joe's Casing & Drilling, Inc., Williston, ND: March 22, 1998.
TA–W–36,225; A. B. Glen Enterprises, Inc., Reform Manufacturing Div., Reform, Al and Detroit Slack Div., Finishing and Pressing Dept, Detroit, Al and McCoy Manufacturing, Sulligent, Al: May 3, 1998.
TA–W–36,034; Gig Dog Driling, Midland, TX: April 6, 1998.
TA–W–36,246; Algroup Wheaton Molded Glass Operations, Millville, NJ: April 27, 1998.
TA–W–36,143; Glasgow & Sons, Inc., Perth Amboy, NJ: April 15, 1998.
TA–W–36,398; Majestic Lace Corp., Union City, NJ: May 27, 1998.
TA–W–36,358; Near Corp., New England Audo Resources, Lewiston, ME: May 26, 1998.
TA–W–36,252; Fina Oil & Chemical Co., Midland and Houston, TX: April 23, 1998.
TA–W–36,278; Mannor Corp., Bay Minette, AL: May 10, 1998.
TA–W–36,262; Allsop, Inc., Bellingham, WA: May 7, 1998.
TA–W–36,453; Offshore Diamond Drilling, Inc., Houston, TX: June 6, 1998.
TA–W–36,463; ITT Cannon, New Britain, CT: June 1, 1998.
TA–W–36,236; Yopp & Co., Inc., Florence, SC: April 22, 1998.
TA–W–36,253; Charles Komar & Sons, McAlester, OK: May 14, 1998.
TA–W–36,459; Medders Oil Co., Inc., Wichita Falls, TX: June 3, 1998.
TA–W–36,103; Lincoln Automotive Co. Including Leased Workers of Staffmark & Manpower, Jonesboro, AR: April 6, 1998.
TA–W–36,411; Apache Corp., Houston, TX: May 17, 1998.
TA–W–36,340; Beartrack Mine, Meridian Gold, Salmon, ID: May 20, 1998.
TA–W–36,354; Rama Group of Companies, Inc., Charm Graphics, Cheektowaga, NY: May 20, 1998.
TA–W–36,308; Amercord, Inc., Lumber City, GA: May 13, 1998.
TA–W–36,920; Soniform, El Cajon, CA: March 8, 1998.
TA–W–36,073; Mann Manufacturing Co., Inc., Walnut Grove, MS; April 8, 1998.
TA–W–36,161; Lab-Volt Systems, Inc., Wall, NJ: April 9, 1998.
TA–W–36,386; A.A. Fogley Co., Inc., Paris, AR: May 22, 1998.
TA–W–36,147; ITT Industries, Fluid Handling Systems, New Lexington, OH: April 19, 1998.
TA–W–36,365; Ashland Specialty Chemical Co., Plaquemine, LA: May 26, 1998.
TA–W–36,209 and A; Acorn Products Co., Inc. Hampden, ME and Lewiston, ME: May 3, 1998.
TA–W–36,886 & A, B, and C; Justin Boot Co., Sarcoxie, MO, Cashville, MO, Carthage, MO and Fort Forth TX: March 3, 1998.
TA–W–36,166; Weatherford International, Weatherford Completion & Oilfield Services Div., Kilgore, TX: April 9, 1998.
TA–W–36,241; Holston Defense Corp., Kingsport, TN: April 23, 1998.
TA–W–36,344; Crysteco, Inc., Welmington, OH: July 20, 1998.
TA–W–36,299; ABB Power T & D Co., Inc., Bloomington, IN: May 11, 1998.
TA–W–36,948; F. Schumacher & Co., Richburg, SC: May 10, 1998.
TA–W–36,005; The Cannondale Corp., Bedford, PA: March 20, 1998.
All workers engaged in work related to manufacturing bicycles separated on or after March 20, 1998.
All workers engaged in work manufacturing bicycle clothing and accessories are denied.
TA–W–36,917; Compaq Computer Corp., Network Productions Div., Irving, TX: March 8, 1998.
TA–W–36,515; Strasburg Manufacturing, Strasburg, VA: June 15, 1998.
TA–W–36,175; The Frog, Switch and Manufacturing Co., Carlisle, PA: April 15, 1998.
TA–W–36,311; Sew Crafters, LLC, Royston, GA: May 7, 1998
TA–W–36,325; Fasco Motors Group, Russellville, AR: May 7, 1998.
TA–W–36,020; Precision Circuits, Inc., Eatontown, NJ: March 19, 1998.
TA–W–36,230 & A; Johansen Brothers Shoe Co., Inc., Harrisburg, AR and Corning, AR: April 30, 1998.
TA–W–36,466; Delta Tanning Corp., North Bergen, NJ and Johnsontown, NY: June 8, 1998.
TA–W–36,066; Reach, Inc., Woodmill Div., Klamath Falls, OR: March 31, 1998.
TA–W–36,487; Praegitzer Indusries, Huntsville, AL Division, Madison, AL: June 18, 1998.
TA–W–36,326; C & J. Manufacturing, Inc., Blytheville, AR: May 12, 1998.
TA–W–36,387; Sylvia Hats, Inc. St. Louis, MO: May 27, 1998.
TA–W–36,138; ABB Vetco Gray, Inc., Houston, TX: April 20, 1998
TA–W–36,462; Lee County Textiles, Inc., Giddings, TX: May 28, 1998
TA–W–36,513; London International Group, Inc., Dothan Plant and Centre Plant, Dothan, AL: June 18, 1998.
All workers engaged in work manufacturing latex gloves separated on or after June 18, 1998;

and

All workers engaged in testing and packaging condoms are denied.

TA–W–36,188; Preferred Foundation, Freeport, NY: April 28, 1998

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.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 as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of July 1999.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–03201; Lockheed Martin Corp., Tactical Aircraft Systems, Fort Worth, TX

NAFTA–TAA–03294; EFTC Corp., Rocky Mountain Operations (RMO), Greeley, CO

NAFTA–TAA–03249; Lee County Textiles, Inc., Giddings, TX

NAFTA–TAA–03233; Rockwell Automation, Reliance Electric—Custom Motors, Kings Mountain, NC

NAFTA–TAA–03186; Smurfit-Stone Container Corp., Laporte, IN

NAFTA–TAA–03281; Willamette Industries, Inc., Engineered Wood Products Div., Woodburn, OR

NAFTA–TAA–03077; The Cannondale Corp., Bedford, PA

NAFTA–TAA–03226; MCM Enterprises, Inc., (A.K.A. Midstates Wire), Crawfordsville, IN

NAFTA–TAA–03189; Allergan Lenoir, Lenoir, NC

NAFTA–TAA–03229; Sylvia Hat, Inc., St. Louis, MO

NAFTA–TAA–03177; C & J Manufacturing, Inc., Blytheville, AR

NAFTA–TAA–03152 & A; Johansen Brothers Shore Co., Inc., Corning, AR and Harrisburg, AR

NAFTA–TAA–03066; Precision Circuits, Inc., Eatontown, NJ

NAFTA–TAA–03141; Fina Oil and Chemical Co., Midland, TX

NAFTA–TAA–03235; Apache Corp., Houston, TX

NAFTA–TAA–03215; Ingersoll-Dresser Pump Co., Phillipsburg, NJ

NAFTA–TAA–03165; SMS Textile Mills, Allentown, PA

NAFTA–TAA–03241; Ansell-Edmont Protective Products, Tarboro, NC

NAFTA–TAA–03231; Horn Textiles, Inc., Titusville, PA

NAFTA–TAA–03100; Pennsylvania Steel Technologies, Inc., A Subsidiary of Bethlehem Steel Corp., Steelton, PA

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–03194; Tubby's Auto Service, Inc., Auto Salvage Div., Houston, TX

NAFTA–TAA–03207; Bombardier Motor Corp., of America, Recreational Products Div., Wausau, WI

NAFTA–TAA–03287; Bauer Nike Hockey USA, Inc., Greenland, NH

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–03156; Chippenhook Corp., Stamping Department, McAllen, TX: May 5, 1998

NAFTA–TAA–03138; Apollo Tanning, Ltd., Camden, ME: April 30, 1998

NAFTA–TAA–03239; Collins & Aikman, Plastic Div., Homer, MI: April 20, 1998

NAFTA–TAA–03300; AZT Sewing, Commerce, CA: July 9, 1998

NAFTA–TAA–03302; The Bachman Co., Phoenixville Plant, Phoenixville, PA: July 8, 1998.

NAFTA–TAA–03150 & A; Acorn Products Co., Inc., Hampden, ME and Lewiston, ME: May 3, 1998.

NAFTA–TAA–03298 & A; Walls Industries, Inc., Merkel Walls Industries, Inc., Merkel, TX and Big Spring Walls Industries, Inc., Big Spring, TX: July 6, 1998

NAFTA–TAA–03171; Rosemount Analytical, Inc., Anaheim, CA: May 5, 1998.

NAFTA–TAA–03275; Cutler-Hammer, Sensors Business Unit, Everett, WA: June 28, 1998.

NAFTA–TAA–03286; Abitibi—Consolidated, West Tacoma Div., Steilacoom, WA: June 25, 1998

NAFTA–TAA–03243; Batts, Inc., Zeeland, MI: May 20, 1998.

NAFTA–TAA–03114; Lab-Volt Systems, Inc., Wall, NJ: April 9, 1998.

NAFTA–TAA–03273; Stuffed Shirt, Inc., New York, NY: June 24, 1998

NAFTA–TAA–03181; Fasco Motors Group, Russellville, AR: May 11, 1998

NAFTA–TAA–03224; Lincoln Automotive Co., Including Leased Workers of Staffmark & Manpower, Jonesboro, AR: May 17, 1998.

NAFTA–TAA–03079; Reach, Inc., Woodmill Div., Klamath Falls, OR: March 31, 1998.

NAFTA–TAA–03247; Proctor and Gamble Paper Products Co., Greenville Plant, Greenville, NC

NAFTA–TAA–03214; Algroup Wheaton, Molded Glass Operations, Millville, NJ: April 27, 1998.

NAFTA–TAA–03213; Associated Spring, Arden, NC: April 27, 1998.

NAFTA–TAA–03217 & A; Circle De Lumber, Beaver Marsh Yard, Beaver Marsh, OR and Klamath Falls, OR: June 2, 1998.

NAFTA–TAA–03159; Holiday Products, Inc., El Paso, TX: May 8, 1999

NAFTA–TAA–03262; Techneglas, Inc., Finishing Operation, Pittston, PA: May 18, 1998.

NAFTA–TAA–03227; Victoreen, Inc., Component Dept., Solon, OH: May 24, 1998

NAFTA–TAA–03258; Vesuvius USA, Steel Div., Zelienople, PA: June 11, 1998.

NAFTA–TAA–03126; Jackes-Evans Manufacturing Co., St. Louis, MO: April 26, 1998.

I hereby certify that the aforementioned determinations were issued during the months of July, 1999. Copies of these determinations are

available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 2, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–20682 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Boise Cascade Corporation, Paper Engineering Department, Boise, ID; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Boise Cascade Corporation, Paper Engineering Department, Boise, Idaho. 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–35,933; Boise Cascade Corporation, Paper Engineering Dept., Boise, Idaho (July 26, 1999)

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

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–20676 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,042]

Broughton Operating Corp., Houston, Texas; Notice of Negative Determination Regarding Application for Reconsideration

By application dated May 10, 1999, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on April 15, 1999, and published in the **Federal Register** on May 21, 1999 (64 FR 27810).

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.

The April 15, 1999, denial of TAA for workers of Broughton Operating Corp., Houston, Texas, was based on the finding that the workers provided a service and did not produce an article as required by Section 222(3) of the Trade Act of 1974, as amended.

The petitioner asserts that the subject firm is involved in the exploration and production of oil and gas, and explains that the petitioners provided personnel services including the review of oil and gas leases, paid rentals and performance of title work involved with those leases, and thus should be considered engaged in employment related to the production of oil and gas.

The investigation shows that the petitioning worker group was employed by Administaff which was contracted with the subject firm to provide certain personnel functions, which included lease analysts. The Department stands corrected that the workers in fact, performed administrative and lease analyst functions for Broughton Operating Corp. in Houston, Texas.

The petitioning workers (Administaff employees) were providing a service in the offices of Broughton Operating Corp. in Houston, Texas.

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, DC, this 20th day of July, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–20678 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,904]

Carhartt, Inc., McKenzie, Tennessee; Notice of Negative Determination Regarding Application for Reconsideration

By application dated May 6, 1999, the company requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on April 12, 1999, and published in the **Federal Register** on May 11, 1999 (64 FR 25371).

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.

The investigation findings for the April 12 denial of TAA for workers of Carhartt, Inc. producing insulated bib overalls in McKenzie, Tennessee showed that criterion (3) of the group eligibility requirements of Section 222 of the Trade Act was not met. There were no company or customer imports of bib overalls.

The petitioner asserts that when the subject firm plant closes some of the production will be transferred to the Carhartt plant in Camden, Tennessee. In turn, some of the Camden production is being shifted to Mexico. The petition investigation, however, revealed that the company does not import products like or directly competitive with that which was produced in McKinzie, Tennessee. Furthermore, the workers at Carhartt, Inc. in Camden, Tennessee have not petitioned for TAA eligibility.

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, DC, this 15th day of July 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–20666 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,816]

Chapman Services, Odessa, TX; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Chapman Services, Odessa, 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–35,816; Chapman Services, Odessa Texas (July 26, 1999)

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

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–20675 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,221]

Don-Nan Machine and Manufacturing Midland, Texas; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 10, 1999 in response to a worker petition which was filed on April 23, 1999 on behalf of workers at Don-Nan Machine and Manufacturing, Midland, Texas.

The investigation revealed that an investigation was initiated on February 1, 1999 in response to a previous petition (TA–W–35,572), filed on behalf of workers at Don-Nan Pump & Supply Company, Inc. Midland, Texas. The workers produced oilfield rod pump parts and related oilfield parts. The investigation also revealed that criterion (3) had not been met and was denied on February 24, 1999. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 22nd day of July, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–20670 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,417]

General Electric Company, Motors and Transformers Divisions, Fort Wayne, IN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 21, 1999, in response to a worker petition which was filed on behalf of workers at the General Electric Company, Motors and Transformers Division, Fort Wayne, Indiana.

All workers of the subject firm are covered under an existing certification under TA–W–33, 7783. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 27th day of July, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–20679 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,195]

Jahmpasa USA, Incorporated, Vass, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 10, 1999 in response to a worker petition which was filed on behalf of workers and former workers at Jahmpasa USA, Incorporated, located in Vass, North Carolina (TA–W–36,195).

The Department of Labor has determined that the petitioning group of workers are covered by an existing certification, as amended (TA–W–34,840A). Consequently, further investigation in this matter would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 23rd day of July, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–20680 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35, 213, TA–W–35, 213A]

Lady Carol Dresses, a Subsidiary of Duryea Industries; Duryea, PA, New York, NY; 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 February 5, 1999, applicable to workers of Lady Carol Dresses, a subsidiary of Duryea Industries, located in Duryea, Pennsylvania. The notice was published in the **Federal Register** on May 11, 1999 (64 FR 25372).

At the request of the UNITE union, the Department reviewed the certification for workers of the subject firm. New information received by the company shows that worker separations occurred at the New York, New York location of Lady Carol Dresses when the company closed in October 1988. The New York, New York location was the sales office, administration and showroom for Lady Carol's production facility in Duryea, Pennsylvania. The workers were engaged in the production of ladies' dresses.

The intent of the Department's certification is to include all workers of Lady Carol Dresses who were adversely affected by increased imports of ladies' dresses. Accordingly, the Department is amending the certification to cover the workers of Lady Carol Dresses, New York, New York.

The amended notice applicable to TA–W–35, 213 is hereby issued as follows:

All workers of Lady Carol Dresses, a subsidiary of Duryea Industries, Duryea, Pennsylvania (TA–W–35, 213) and New York, New York (TA–W–35, 213A) who became totally or partially separated from employment on or after October 23, 1997 through February 5, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 26th day of July, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–20665 Filed 8–10–99; 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 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 Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 23, 1999.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 23, 1999.

The petitions filed in this case are available for inspection at the Office of the 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 12th day of July, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 07/12/1999]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
36,527	PGS Ocean Bottom Seismic (Comp).	Houston, TX	06/15/1999	Marine Seismic Exploration.
36,528	ASM America, Inc (Comp)	Phoenix, AZ	06/30/1999	Capital Equipment for Semiconductors.
36,529	Steward Cable Repair, Inc. (Wrks).	Midland, TX	05/22/1999	Produce and Repair Seismic Cables.
36,530	Newcom, Inc (Wrks)	W. Lake Village, CA	06/25/1999	Computer Modems.
36,531	BHP Copper North America (Comp).	Tucson, AZ	07/03/1999	Copper Mining.
36,532	McClatchy Bros., Inc (Wrks)	Midland, TX	06/29/1999	Truck Hauling—Oilfield.
36,533	Eastham Forge, Inc (Wrks)	Beaumont, TX	06/15/1999	Forgings for Oilwell Parts.
36,534	Thomaston Mills, Inc (Comp)	Thomaston, GA	06/29/1999	Industrial Denim Fabrics.
36,535	Cooper Tools (Comp)	Madison, ME	06/29/1999	Wooden Lathes.
36,536	Martin County Residential (Comp).	Williamston, NC	06/18/1999	Collars and Welts for Knit Shirts.
36,537	Ocean Beauty Seafood (ISFU)	Chinook, WA	06/26/1999	Seafood.
36,538	Texas Oil Co. (The) (Wkrs)	Houston, TX	05/13/1999	Oil and Gas.

[FR Doc. 99–20672 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,967]

Siemens ICN a/k/a Siemens Information Communications Networks, Inc., Cherry Hill, NJ; Notice of Negative Determination Regarding Application for Reconsideration

By application dated May 7, 1999, petitioners requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on April 20, 1999, and published in the **Federal Register** on May 21, 1999 (64 FR 27810).

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.

The investigation findings for the April 20 denial of TAA for workers of Siemens ICN producing communication and voice messaging servers and business telephones in Cherry Hill, New Jersey showed that criterion (3) of the group eligibility requirements of Section 222 of the Trade Act was not met. The work performed in Cherry Hill was transferred to another domestic facility. Sales at the subject plant increased prior to the shift in production.

The petitioners assert that the business phones manufactured in Austin, Texas were to be transferred to Cherry Hill. Siemens ICN, however, opted to import the product from Germany. The Department's investigation revealed that the business phones manufactured and imported from Germany are not like or directly competitive with those which were produced in Cherry Hill, New Jersey.

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, DC, this 19th day of July 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–20667 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,202 & TA–W–36,202A]

Thunderbird Mining Eveleth and Forbes, Minnesota; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Thunderbird Mining, Eveleth and Forbes, Minnesota. 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–36,202 & TA–W–36,202A; Thunderbird Mining Eveleth and Forbes, Minnesota (July 26, 1999)

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

Grant D. Beale,

Program Manager, Office of trade Adjustment Assistance.

[FR Doc. 99–20674 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigation 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 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 Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 23, 1999.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 23, 1999.

The petitions filed in this case are available for inspection at the Office of the 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 9th day of July, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistanace.

APPENDIX

[Petitions instituted on 07/19/1999]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
36,539	VECO Pacific (Co.)	Bellingham, WA	07/06/1999	Engineers, Designers, and Drafters.
36,540	Dalzell Corporation (Wkrs)	New Martinsville, WV	01/27/1999	Handmade Glassware.
36,541	Phelps Dodge Magnet Wire (UAW).	Hopkinsville, KY	07/01/1999	Magnet Wire.
36,542	Willamette Industries (Wkrs)	Woodburn, OR	06/29/1999	Wood I Beams.
36,543	Bon Worth, Inc (Co.)	Victoria, VA	06/28/1999	Ladies' Apparel.
36,544	Guidon, Inc (IAMAW)	Muskegon, MI	07/07/1999	Loose Needle Rollers.
36,545	Bombardier Motor Corp. (Wkrs)	Wausau, WI	06/28/1999	Technical Assistance & Distribution.
36,546	Shape Global Technology (Co.)	Dadeville, AL	06/23/1999	3–D Jewel Boxes.
36,547	Spalding Sports Worldwide (Wkrs).	Johnstown, NY	06/29/1999	Golf Clubs, Sets and Singles.
36,548	Caterpillar Work Tools (Wkrs)	Dallas, OR	06/24/1999	I.T. Coupler, Pallet Forks.
36,549	F and M Manufacturing (Co.)	Westminster, MD	06/25/1999	Cast Iron Compression Cylinders.
36,550	Brintons Carpets (USA) (Wkrs)	Paramus, NJ	06/27/1999	Carpets.
36,551	Winer Industries, Inc (UNITE)	Paterson, NJ	07/02/1999	Ladies' Garment Samples.
36,552	Dixon Ticonderoga Co. (Co.)	Deer Lake, PA	06/30/1999	Writing Instruments and Artist Kits.
36,553	JPN Service Co (Co.)	Denver City, TX	07/01/1999	Construct Oilfield Facilities.
36,554	Hamilton Standard (Co.)	Colorado Spring, CO	07/02/1999	Electronic Aircraft Assemblies.
36,555	Beloit Corporation (Wkrs)	Portland, OR	06/29/1999	Pulp-Making Equipment.
36,556	Hydralift, Inc. (Co.)	Houston, TX	06/30/1999	Oil Drilling Equipment.
36,557	McCoy Cove Mine (Co.)	Battle Mountain, NV	06/30/1999	Gold and Silver Mine.
36,558	McDermott Engineering (Wkrs)	Houston, TX	06/27/1999	Design & Engineer Offshore Platforms.
36,559	Allison Manufacturing Co (Wkrs)	McAllen, TX	07/01/1999	Children's Clothing.
36,560	Viskase Corporation (Wkrs)	Chicago, IL	06/12/1999	Meat Casings.
36,561	Oxford International (Wkrs)	Chicago, IL	06/29/1999	Automotive Loudspeakers.
36,562	Baker Oil Tools, West Tx (Co.)	Odessa, TX	05/26/1999	Oilfield Services.
36,563	Walls Industries (Co.)	Merkel, TX	07/06/1999	Insulated Coveralls.
36,564	Vision Ease Corp. (Wkrs)	St. Cloud, MN	07/07/1999	Vision Lenses.
36,565	Husky Injuection Molding (Co.)	Pittsfield, MA	06/28/1999	Plastic Injection Molding Machines.
36,566	EFTC (Wkrs)	Greeley, CO	06/29/1999	Circuit Board Assemblies.
36,567	Rust Tractor Co. (Co.)	Silver City, NM	07/07/1999	Sell and Service Caterpillar Equipment.
36,568	Boeing Corporation (UAW)	Long Beach, CA	07/09/1999	Commercial Aircraft.

APPENDIX—Continued

[Petitions instituted on 07/19/1999]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
36,569	West Texas Drilling (Co.)	Midland, TX	06/30/1999	Drilling Fluids and Chemicals.
36,570	Bachman Company (The) (BCT)	Phoenixville, PA	07/08/1999	Potato Chips.
36,571	Mallard JC, Inc. (Co.)	McPherson, KS	06/02/1999	Oil and Gas Well Drilling.
36,572	Rhone Poulenc Ag Co. (Co.)	Mt. Pleasant, TN	06/25/1999	Bromoxynil Octanoate.
36,573	Gerber Childrenswear (Co.)	Lumberton, NC	07/07/1999	Children's Underwear.
36,574	Ametek March Electric (IAMAW)	Cambridge, OH	07/12/1999	Electric Motors.
36,575	Landmark Graphics (Co.)	Houston, TX	07/08/1999	Oil and Gas.
36,576	Texas Pipe Coupling (Wkrs)	Hughes Springs, TX	07/07/1999	Oilfield Drilling Parts.
36,577	Statoil Exploration (US) (Wkrs)	Houston, Tx	07/07/1999	Deepwater Exploration.
36,578	Carpentas Oilfield Const. (Wkrs)	Denver City, TX	06/25/1999	Oilfield Construction.
36,579	Continental Natural Gas (Wkrs)	Tulsa, OK	06/29/1999	Natural Gas Liquids.
36,580	Scientific Drilling (Wkrs)	Oklahoma City, OK	06/24/1999	Oil and Gas Drilling.

[FR Doc. 99–20664 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–3301]

Camco Inc., REDA Division, Midland, TX; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 13, 1999, in response to a worker petition which was filed by a company official on behalf of workers at Camco Inc., REDA Division, Midland, Texas.

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 26th day of July, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–20681 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–03297]

International Business Corporation (IBM) Storage Systems Division (SSD) San Jose, California; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.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 June 24, 1999 in response to a petition filed on behalf of workers at the Storage Systems Division (SSD) of International Business Corporation (IBM), located in San Jose, California (NAFTA–03297).

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (NAFTA–03283). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C. this 26th day of July 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–20673 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–70–M

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 (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 250(b)(1) 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 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 P.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 Director of OTAA at the U.S. Department of Labor (DOL) in Washington, DC provided such request if filed in writing with the Director of OTAA not later than August 23, 1999.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of OTAA at the address shown below not later than August 23, 1999.

Petitions filed with the Governors are available for inspection at the Office of the Director, OTAA, ETA, DOL, Room C–4318, 200 Constitution Avenue, NW, Washington, DC 20210.

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

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

APPENDIX

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Phelps Dodge Magnet Wire (UAW)	Hopkinsville, KY	07/08/1999	NAFTA–3,292	Copper and Aluminum magnet wire.
Continental Natural Gas (Wkrs)	Tulsa, OK	07/09/1999	NAFTA–3,293	Natural gas.
EFTC Corporation (Wkrs)	Greeley, CO	07/08/1999	NAFTA–3,294	Medical, industrial & avionic products.
Dixon Ticonderoga (Co.)	Deer Lake, PA	07/07/1999	NAFTA–3,295	Writing instruments.
Guidant Intermedics (Co.)	Angleton, TX	07/06/1999	NAFTA–3,296	Lead.
International Business Machines (Wkrs)	San Jose, CA	06/24/1999	NAFTA–3,297	Hard disk drives & tape products.
Walls Industries (Co.)	Merkel, TX	07/08/1999	NAFTA–3,298	Insulated clothing.
Walls Industries (Co.)	Big Spring, TX	07/08/1999	NAFTA–3,298	Insulated clothing.
Texas Jeans (Wkrs)	El Paso, TX	07/12/1999	NAFTA–3,299	Jean products.
AZT Sewing (Wkrs)	Commerce, CA	07/09/1999	NAFTA–3,300	Denim jeans.
Camco (Co.)	Midland, TX	07/13/1999	NAFTA–3,301	Electrical pumps.
Bachman Company (The) (BCTGM)	Phoenixville, PA	07/14/1999	NAFTA–3,302	Potato chips.
Motorola (Wkrs)	Boynton Beach, FL	06/02/1999	NAFTA–3,303	Pagers.
Gerber Childrenswear	Greenville, SC	07/08/1999	NAFTA–3,304	Children's underwear.
Stuart Entertainment (Co.)	McAllen, TX	07/14/1999	NAFTA–3,305	Bingo cards and bingo ink markers.
Pacific Softwoods—WTD Industries (Wkrs).	Philomath, OR	07/19/1999	NAFTA–3,306	Wood products.
Chief Supply—American Resources (Wkrs).	Eugene, OR	07/19/1999	NAFTA–3,307	Sewn products.
HG Bass (Co.)	S. Porland, ME	07/19/1999	NAFTA–3,308	Footwear.
Newcom (Wkrs)	Westlake Village, CA.	07/01/1999	NAFTA–3,309	CD Rom's, modems.
Shaer Shoe (Wkrs)	Farmington, ME	07/19/1999	NAFTA–3,310	Women's shoes.
N.G.K. Locke Insulator (UE)	Baltimore, MD	06/18/1999	NAFTA–3,311	Porcelain high voltage insulators.
Western Gas Resources (Wkrs)	Midland, TX	07/20/1999	NAFTA–3,312	Natural gas.
Bunger Steel (Wkrs)	Phoenix, AZ	07/19/1999	NAFTA–3,313	Machinery.
Southwestern Cutting (Wkrs)	El Paso, TX	07/13/1999	NAFTA–3,314	Garment, jeans.
Justin Boot (Co.)	Fort Worth, TX	07/21/1999	NAFTA–3,315	Western boots.
Contact Apparel (Co.)	El Paso, TX	07/19/1999	NAFTA–3,316	Clothing.
Weathervane Window (Wkrs)	Brighton, MI	07/22/1999	NAFTA–3,317	Glass.
Pabst Engineering (Wkrs)	Onalaska, WI	07/22/1999	NAFTA–3,318	Models and tooling.
Justin Boot (Wkrs)	Carthage, MO	07/26/1999	NAFTA–3,319	Boots
Paramount Headwear	Bourbon, MO	07/26/1999	NAFTA–3,320	Headwear, caps, hats.
American National Can (IBT)	Longview, TX	07/26/1999	NAFTA–3,321	Aluminum cans.
Jet Composites (GMP)	Bluffton, TN	07/26/1999	NAFTA–3,322	Hoodliners, dash insulators, heat shields.
Supreme Tooling (Co.)	Fremont, IN	07/23/1999	NAFTA–3,323	Blow molds and fixturing.
Modine Tooling (Co.) Holdings (Wkrs)	Merced, CA	07/26/1999	NAFTA–3,324	Heat transfer equipment.
Levi Strauss (Co.)	El Paso, TX	07/27/1999	NAFTA–3,325	Jeans and dockers.
Alcatel Data Networks (Wkrs)	Mt. Laurel, NJ	07/21/1999	NAFTA–3,326	Printed circuit boards.
AMI—DDC (IBEW)	Cedar Knolls, NJ	07/21/1999	NAFTA–3,327	Rivets.
Walker McDonald (Wkrs)	Greenville, TX	07/27/1999	NAFTA–3,328	Drill bits
Total Petroleum (Wkrs)	Alma, MI	06/24/1999	NAFTA–3,329	Crude oil, refined crude oil.
AMP—A TYCO International (Co).	Lowell, NC	07/28/1999	NAFTA–3,330	Electric connectors.
Invensys Appliance Controls (USWA)	New Stanton, PA	07/28/1999	NAFTA–3,331	Controls for cooking and Refrigeration.
Lincoln Industrial (IAMAW)	St. Louis, MO	07/26/1999	NAFTA–3,332	Screw machine.
Biotech Immuno Systems (Wkrs)	Allentown, PA	07/28/1999	NAFTA–3,333	Hematology instruments.
Phelps Dodge Refinery (Co.)	El Paso, TX	07/28/1999	NAFTA–3,334	Copper cathode.

[FR Doc. 99–20677 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–03202]

Robertshaw Controls Co. Including Leased Workers of Volt Services Group Fort Collins, Colorado; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(A), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on June 14, 1999, applicable to all workers of Robertshaw Controls Co., located in Fort Collins, Colorado. The notice was published in the **Federal Register** on June 30, 1999 (64 FR 35186).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by the State shows that some workers of Robertshaw Controls Co. were leased from Volt Services Group to produce ignition controls at the Fort Collins, Colorado facility.

Based on these findings, the Department is amending the certification to include workers of Volt

Services Group, Fort Collins, Colorado leased to Robertshaw Controls Co., Fort Collins, Colorado.

The intent of the Department's certification is to include all workers of Robertshaw Controls Co. adversely affected by imports from Mexico.

The amended notice applicable to NAFTA–03202 is hereby issued as follows:

All workers of Robertshaw Controls Co., Fort Collins, Colorado and leased workers of Volt Services Group, Fort Collins, Colorado engaged in employment related to the production of ignition controls for Robertshaw Controls Co., Fort Collins, Colorado who became totally or partially separated from employment on or after May 18, 1998 through June 14, 2001 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C. this 2nd day of July, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–20671 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA—02990]

Siebe Appliance Controls (Currently Known as Invensys Appliance Controls) Cooking and Refrigeration Division Including Roger Walter Thomas Winterset, Iowa; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Worker Adjustment Assistance

In accordance with Section 250(a), Subchapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on April 15, 1999, applicable to workers of Siebe Appliance Controls, Cooking and Refrigeration Division, Winterset, IA. The notice was published in the **Federal Register** on May 11, 1999 (64 FR 25373).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the manufacture of electronic range controls. New information shows that in April, 1999 Siebe Appliance Controls became known as Invensys Appliance Controls. Findings also show that Roger Walter Thomas, an independent contractor, will be separated from employment when the Winterset, Iowa location of Siebe Appliance Controls, currently known as Invensys Appliance Controls closes in August, 1999. Mr. Thomas provides computer programming services to support the production of electronic range controls at the Winterset, Iowa facility.

The intent of the Department's certification is to include all workers of Siebe Appliance Controls adversely affected by imports of Mexico.

Accordingly, the Department is amending the certification determination to properly reflect these matters.

The amended notice applicable to NAFTA–2990 is hereby issued as follows:

All workers of Siebe Appliance Controls, (currently known as Invensys Appliance Controls), Cooking and Refrigeration Division, Winterset, Iowa, including Roger Walter Thomas who provides computer programming services to support the production of electronic range controls for Siebe Appliance Controls, (currently known as Invensys Appliance Controls), Cooking and Refrigeration Division, Winterset, Iowa who became totally or partially separated from employment on or after March 4, 1998 through April 15, 2001 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 30th day of July, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–20663 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration

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 preclearance 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 Employment Standards Administration is soliciting comments concerning the proposed extension of two information collections: the OWCP–1, Agreement and Undertaking (Office of Workers' Compensation Programs); and the WH–201 MIS, Application for Authority for an Institution of Higher Education to Employ its Full-Time Students at Subminimum Wages Under Regulations 29 CFR Part 519 (Wage and Hour). A copy of the proposed information collection requests can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before October 15, 1999.

ADDRESSES: Ms. Patricia A. Forkel, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0339 (this is not a toll-free number), fax (202) 693–1451.

SUPPLEMENTARY INFORMATION:

Agreement and Undertaking

I. Background

The OWCP–1, Agreement and Undertaking, is a joint use form (Longshore and Black Lung Programs) completed by employers to provide the Secretary of Labor with authorization to sell securities or to bring suit under indemnity bonds deposited by the self-insured employers in the event there is a default in the payment of benefits.

II. Review Focus

The Department of Labor 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.

III. Current Actions

The Department of Labor is seeking an extension of authority to collect this information in order to carry out its responsibility to insure that the correct amount of negotiable securities are deposited or an indemnity bond is purchased and that, in case of default, OWCP can exercise their authority to utilize the securities or bond to meet the company's financial responsibility for coal mine or longshore benefits.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Agreement and Undertaking.

OMB Number: 1215–0034.

Agency Number: OWCP–1.

Affected Public: Businesses or other for-profit.

Total Respondents: 300.

Frequency: On occasion.

Total Responses: 300.

Average Time per Response: 15 minutes.

Estimated Total Burden Hours: 75.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Application for Authority for an Institution of Higher Education to Employ Its Full-Time Students at Subminimum Wages Under Regulations 29 CFR Part 519

I. Background

Section 14(b)(3) of the Fair Labor Standards Act (FLSA) authorizes the Secretary of Labor to provide certificates authorizing the employment of full-time students at subminimum wages in institutions of higher education to the extent necessary in order to prevent curtailment of opportunities for employment. This section also sets limits on such employment and protects the full-time employment opportunities of other workers. The WH–201–MIS is used by employers seeking such authorization.

II. Review Focus

The Department of Labor 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.

III. Current Actions

The Department of Labor seeks the extension of approval to collect this information in order to make a determination whether to grant or deny subminimum wage authority to the applicant.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Application for Authority for an Institution of Higher Education to Employ Its Full-Time Students at Subminimum Wages Under Regulations 29 CFR Part 519.

OMB Number: 1215–0080.

Agency Number: WH–201–MIS.

Affected Public: Businesses or other for-profit; Individuals or households.

Total Respondents: 15.

Frequency: Annually.

Total Responses: 15.

Average Time per Response: 15 to 30 minutes.

Estimated Total Burden Hours: 5.

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 will also become a matter of public record.

Dated: August 5, 1999.

Margaret J. Sherrill,

Chief, Branch of Management Review and Internal Control, Division of Financial Management Office of Management, Administration and Planning Employment Standards Administration.

[FR Doc. 99–20668 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–27–P

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.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before October 12, 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).

FOR FURTHER INFORMATION CONTACT: Karin G. Kurz, BLS Clearance Officer. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Proposed Collection

Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed reinstatement of the ''Displaced Workers, Job Tenure, and Occupational Mobility Supplement to the Current Population Survey (CPS).'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual

listed in the Addresses section of this notice.

II. Background

The February 2000 Displaced Workers, Job Tenure, and Occupational Mobility Supplement to the Current Population Survey (CPS) is sponsored by the Department of Labor, Employment and Training Administration (ETA). This supplement previously was conducted in conjunction with the February 1998 CPS and has been conducted biennially since 1984. Additional data on occupational mobility will be collected in the February 2000 supplement.

The information will be used to determine the size and nature of the population affected by job displacements and, hence, the needs and scope of programs serving adult displaced workers. The information collected also will be used to assess employment stability by determining the length of time workers have been with their current employer and estimating the incidence of occupational change over the course of a year. In addition, data on job tenure for all workers are needed to calculate the incidence of displacement among various worker groups so that comparisons can be made over time and among different affected groups. Combining the questions on displacement, job tenure, and occupational mobility will enable analysts to obtain a more complete picture of employment stability.

III. Current Actions

The questions concerning displacement among workers will help define the size of the readjustment problem faced by individual workers and the economy including: (a) Workers who have lost their jobs or have received notice that they soon will lose their jobs due to a permanent plant closing; (b) laid-off workers who are unlikely to return to their previous industry or occupation; and (c) the long-term unemployed with little prospect of reemployment. Policy planning has to take into account the industries with the most severe displacement problem and the retraining needs of affected workers.

This supplement also will provide data regarding:

1. The economic impact of job displacements. For those workers who have been reemployed, data will be collected to compare current earnings with those from the lost job.

2. Information on the receipt of unemployment compensation, the loss of health insurance coverage, and the time spent without a job. In combination, these supplemental data will provide the information needed to assess the economic hardship experienced by displaced workers.

3. The types of jobs that displaced workers have been able to find. This will assist in developing training programs that will provide other displaced workers with the skills necessary to adjust to the changing economic environment.

4. The extent to which displaced workers received advance notice of job cutbacks or the closing of their plant or business. The President, Congress, and private organizations have shown significant interest in this area.

5. The length of time workers (including those who have not been displaced) have been with their current employer. Tenure data are used to calculate displacement rates for long-tenured workers so that comparisons can be made over time and among different worker groups. Information on job tenure also is important because of the effect seniority has on wage levels, the receipt of employee benefits such as vacations and pensions, and other facets of the employment relationship.

6. The incidence and nature of occupational changes in the year prior to the survey. Such information is useful in assessing the training and educational needs of the workforce.

Type of Review: Reinstatement with change of a previously approved collection for which approval has expired.

Agency: Bureau of Labor Statistics.

Title: Displaced Worker, Job Tenure, and Occupational Mobility Supplement to the Current Population Survey (CPS).

OMB Number: 1220–0104.

Affected public: Households.

Total Respondents: 48,000.

Frequency: One-time.

Total Responses: 48,000.

Average Time Per Response: 9 minutes.

Estimated Total Burden Hours: 7,200 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, DC, this 5th day of August, 1999.

W. Stuart Rust, Jr.,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 99–20621 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–99–13]

Portable Fire Extinguishers (Hydrostatic Test Certification Record); Extension of the Office of Management and Budget's (OMB) Approval of an Information Collection (Paperwork) Requirement

AGENCY: Occupational Safety and Health Administration (OSHA); Labor.

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits comments concerning the proposed extension of the information collection requirement contained in the provision in the standard on Portable Fire Extinguishers (Hydrostatic Test Certification Record) (29 CFR 1910.157(f)(16)).

Request for Comment

The Agency seeks comments on the following issues:

- Whether the information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated, electronic, mechanical, and other technological information and transmission collection techniques.

DATES: Submit written comments on or before October 12, 1999.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–99–13, Occupational Safety and Health Administration, US Department of Labor, Room N–2625, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Theda Kenney, Directorate of Safety Standards Programs, Occupational Safety and Health Administration, US Department of Labor, Room N–3605, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693–2222. A copy of the Agency's Information Collection Request (ICR)

supporting the need for the information collection requirement (hydrostatic test certification record) contained in the Portable Fire Extinguishers standard (29 CFR 1910.157(f)(16)) is available for inspection and copying in the Docket Office, or mailed on request by telephoning Theda Kennedy at (202) 693–2222 or Barbara Bielaski at (202) 693–2444. For electronic copies of the ICR, contact OSHA on the Internet at http://www.osha-slc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is correct.

The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents. (29 U.S.C. 657.) In this regard, the information collection requirement (hydrostatic test certification record) in the Portable Fire Extinguishers standards (29 CFR 1910.157(f)(16)) ensures that employers properly inform employees about the condition of fire extinguishers they may be using in the workplace. Failure of the employer to collect and distribute the information collection under this requirement will affect significantly OSHA's effort to control and reduce injuries and fatalities in the workplace.

II. Proposed Actions

OSHA proposes to retain its earlier estimate of 318,750 burden hours for the standard on Portable Fire Extinguishers (Hydrostatic Test Certification Record) (29 CFR 1910.157(f)(16)).

OSHA will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of the information collection requirement contained in the above standard.

Type of Review: Extension of currently approved information collection requirement.

Agency: Occupational Safety and Health Administration.

Title: Portable Fire Extinguishers (Hydrostatic Test Certification Record) (29 CFR 1910.157(16)).

OMB Number: 1218–0218.

Affected Public: Business or other for-profit; Federal government; state, local or tribal government.

Number of Respondents: 1,275,000.

Frequency: Varies (on occasion; annually).

Average Time per Response: 15 minutes (0.25 hour).

Estimated Total Burden Hours: 318,750.

III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), Secretary of Labor's Order No. 6–96 (62 FR 111), and 29 CFR part 1911.

Signed at Washington, DC, this 4th day of August 1999.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 99–20618 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–99–16]

Crawler, Locomotive, and Truck Cranes (Inspection Certification Records) (29 CFR 1910.180(d), (g)(1) and (g)(2)(ii); Extension of the Office of Management and Budget's (OMB) Approval of an Information Collection (Paperwork) Requirement

AGENCY: Occupational Safety and Health Administration (OSHA); Labor.

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits comments concerning the proposed decrease and extension of the information collection requirements (inspection certification records) contained in the standard on Crawler, Locomotive, and Truck Cranes (29 CFR 1910.180).

REQUEST FOR COMMENT:

The Agency seeks comments on the following issues:

- Whether the information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated, electronic, mechanical, and other technological information and transmission collection techniques.

DATES: Submit written comments on or before October 12, 1999.

ADDRESSES: Submit written comments to the Docket Office, Docket, No. ICR–99–16, Occupational Safety and Health Administration, US Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Theda Kenney, Directorate of Safety Standards Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3605, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693–2222. A copy of the Agency's Information Collection Request (ICR) supporting the need for the information collection requirements in 29 CFR 1910.180 (inspection certification records) is available for inspection and copying in the Docket Office, or mailed on request by telephoning Theda Kenney at (202) 693–2222 or Barbara Bielaski at (202) 693–2444. For electronic copies of the ICR, contact OSHA on the Internet at http://www/osh.gov/comp-links.html, and click on ''Information Collection Requests.''

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and

OSHA's estimate of the information collection burden is correct.

The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents. (29 U.S.C. 657.) The major purpose of the information collection requirements in 29 CFR 1910.180 is to provide information for properly maintaining crawler, locomotive and truck cranes and, therefore, to ensure safe operating conditions for employees. Specifically, employers must establish certification records to demonstrate that crane inspections comply with the requirements specified in the standard. Failure of the employer to collect and distribute the information collected under the requirements contained in the standard will affect significantly OSHA's effort to control and reduce injuries and fatalities in the workplace.

II. Proposed Actions

OSHA proposes to decrease its earlier estimate of 174,015 burden hours for the information collection requirements in 29 CFR 1910.180(d), (g)(1), and (g)(2)(ii) to 174,000 burden hours.

OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information collection requirements contained in the above provisions.

Type of Review: Extension of currently approved information collection requirement.

Agency: Occupational Safety and Health Administration.

Title: Crawler, Locomotive, and Truck Cranes (Inspection Certifications) (29 CFR 1910.180(d), (g)(1), and (g)(2(ii)).

OMB Number: 128–0221.

Affected Public: Business or other for-profit; Federal government; state, local or tribal government.

Number of Respondents: 1,900.

Frequency: Monthly.

Average Time per Response: Varies from 15 minutes (0.25 hour) to 30 minutes (0.50 hour).

Estimated Total Burden Hours: 174,000.

III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), Secretary of Labor's Order No. 6–96 (62 FR 111), and 29 CFR part 1911.

Signed at Washington, DC, this 4th day of August 1999.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 99–20619 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–99–15]

Shipyard Certification Records (29 CFR 1915.113(b)(1) and 1915.172(d)); Extension of the Office of Management and Budget's (OMB) Approval of an Information Collection (Paperwork) Requirement

AGENCY: Occupational Safety and Health Administration (OSHA); Labor.

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits comments concerning the proposed increase in estimated burden hours and extension of the shipyards certification record requirements contained in 29 CFR 1916.113(b) and 1915.172(d).

REQUEST FOR COMMENT:

The Agency seeks comments on the following issues:

- Whether the information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated, electronic, mechanical, and other technological information and transmission collection techniques.

DATES: Submit written comments on or before October 12, 1999.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–99–15, Occupational Safety and Health Administration, US Department of Labor, Room N–2625, 200 Constitution Avenue NW, Washington, DC 10210; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Theda Kenney, Directorate of Safety Standards Program, Occupational Safety and Health Administration, US Department of Labor, Room N–3605, 200 Constitution Avenue, N.W., Washington, DC 20210; telephone (202) 693–2222. A copy of the Agency's Information Collection Request (ICR) supporting the need for the information collection requirements in 29 CFR 1915.113(b) and 1915.172(d) (shipyard certification records) is available for inspection and copying in the Docket Office, or mailed on request by telephoning Theda Kenney at (202) 693–2222 or Barbara Bielaski at (202) 693–2444. For electronic copies of the ICR, contact OSHA on the Internet at http://www/osha-slc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1994 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is correct.

The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses,and accidents. (29 U.S.C. 657.) In this regard, the information collection requirements contained in 29 CFR 1915.113(b)(1) and 29 CFR 1915.172(d) (shipyard certification records) ensures that employers properly inform employees about the condition of shackles and hooks, and portable air receivers and other unfired pressure vessels, in shipyards. Failure of the employer to collect and distribute the information collected under this requirement will affect significantly OSHA's effort to control and reduce injuries and fatalities in shipyards.

II. Proposed Actions

OSHA proposes to increase its earlier estimate of 1,846 burden hours for the information collection requirements in 29 CFR 1915.113(b) and 1915.172(d) (shipyard certification records) to 4,461 burden hours.

OSHA will summarize the comments submitted in response to this notice,

and will include this summary in the request to OMB to extend the approval of the information collection requirement contained in the above provisions.

Type of Review: Extension of currently approved information collection requirement.

Agency: Occupational Safety and Health Administration.

Title: Shipyard Certification Records (29 CFR 1915.113(b)(1) and 1915.172(d)).

OMB Number: 1218–0220.

Affected Public: Business or other-for-profit; Federal government, state, local or tribal government.

Number of Respondents: 900.

Frequency: Varies (on occasion, quarterly, annually).

Average Time per Response: Varies for 3 minutes (0.05 hours) to 20 minutes (0.33 hour).

Estimated Total Burden Hours: 4,461.

III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), Secretary of Labor's Order No. 6–96 (62 FR 111), and 29 CFR part 911.

Signed at Washington, DC, this 4th day of August 1999.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 99–20620 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–99–12]

Hazard Communication Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA); Labor.

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits comments concerning the extension of the information collection requirements contained in the standard on Hazard Communication (29 CFR 1910.1200; 1915; 1917; 1918; 1926; 1928).

Request for Comment

The Agency is particularly interested in comments on the following issues:

- Whether the information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply, for example, by using automated, electronic, mechanical, and other technological information and transmission collection techniques.

DATES: Submit written comments on or before October 12, 1999.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–99–12, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2350. Commenters may transmit written comments 10 pages or less in length by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Todd R. Owen, Directorate of Policy, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3627, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2444. A copy of the Agency's Information Collection Request (ICR) supporting the need for the information collection requirements in the Hazard Communication Standard is available for inspection and copying in the Docket Office, or mailed on request by telephoning Todd R. Owen or Barbara Bielaski at (202) 693–2444. For electronic copies of the ICR on Hazard Communication, contact OSHA on the Internet at http://www.osha-slc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is correct.

The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents. (29 U.S.C. 657.) In this regard, the information collection requirements in the Hazard Communication Standard ensures that employers and employees know about work hazards and how to protect themselves; this should help to reduce the incidence of chemical source illness and injury.

II. Proposed Actions

OSHA proposes to extend the Office of Management and Budget (OMB) approval for the collections of information, paperwork, contained in the Hazard Communication Standard 29 CFR 1910.1200; 1915; 1917; 1918; 1926; 1928.

The Hazard Communication Standard's collection of information requirements are designed to ensure that the hazards of all chemicals produced or imported are evaluated and that information concerning their hazards is transmitted to employees and downstream employers. The standard requires chemical manufacturers and importers to evaluate chemicals they produce or import to determine if they are hazardous; for those chemicals determined to be hazardous, material safety data sheets and warning labels must be developed. Employers are required to establish a hazard communication program, to transmit information on the hazards of chemicals to their employees by means of labels on containers, material safety data sheets and training programs. Implementation of these collection of information requirements will ensure all employees have the ''right-to-know'' the hazards and identities of the chemicals they work with and will reduce the incidence of chemically-related occupational illness and injuries.

OSHA will summarize the comments submitted in response to this notice and will include this summary in the request of OMB to extend the approval of the information collection requirements contained in the Hazard Communication Standard.

Type of Review: Extension of currently approved information collection requirements.

Agency: Occupational Safety and Health Administration.

Title: Hazard Communication Standard.

OMB Number: 1218–0072.

Affected Public: Business or other for-profit; Federal government; state, local or tribal government.

Number of Respondents: 5,041,918.

Frequency: On Occasion.

Average Time per response: Time for response ranges from approximately 10 minutes for establishments to obtain and maintain material safety data sheets to 8 hours for manufacturers or importers to conduct a hazard determination.

Estimated Total Burden Hours: 7,301,762.

III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), Secretary of Labor's Order No. 6–96 (62 FR 111), and 29 CFR part 1911.

Signed at Washington, DC, this 4th day of August 1999.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 99–20669 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10244, et al.]

Proposed Exemptions; Massachusetts Mutual Life Insurance Company (MM)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, US Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, US Department of Labor, Room N–5507, 200 Constitution Avenue, NW, Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Massachusetts Mutual Life Insurance Company (MM) Located in Springfield, Massachusetts

[Application No. D–10244]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).

Section I. Covered Transactions

If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: the sale and/or exchange by MM of a partial or complete interest in certain properties (the Properties) from its general investment account assets to one or more separate investment accounts, for which MM shall receive as consideration cash and/or a corresponding interest in such separate account or separate accounts (the Separate Account Transaction), provided the conditions set forth in section II are satisfied.

Section II. Conditions

(A) The sale and exchange of the Properties is a one-time transaction with respect to each separate account of MM which will be established for the Properties; i.e., all Properties transferred in that transaction will be conveyed at the same time, and no further properties will be transferred from MM to such separate account;

(B) In no event shall MM provide any financing with respect to any sale or exchange transaction which is the subject of the exemption proposed herein;

(C) Before the subject transaction is consummated, (i) An independent appraisal firm will have valued each Property to be transferred by MM to one or more separate accounts; (ii) the value of each Property so appraised will be confirmed by the appraiser as of a date not more than two weeks prior to the issuance of interests to third party investors in the separate accounts, and if a material change has occurred the appraiser will revise its appraisal to reflect that new value; (iii) an independent fiduciary for each employee benefit plan subject to the Act (collectively, the Plans) will, prior to agreeing to invest in the separate account, be provided with all information regarding the Properties to

be sold to the separate account, including third party appraisals and a private placement memorandum or other offering document, which will describe the legal structure and include risk disclosures, a summary of principal terms and a schedule of fees; and (iv) such independent fiduciary will have reviewed all pertinent terms of the sale and exchange of the properties to the separate accounts and will have concluded that the transaction is in the best interest of the Plan; and

(D) Only Plans with total assets having an aggregate fair market value of at least $50 million are permitted to engage in the Covered Transactions, provided, however, that—

(1) In the case of two or more Plans which are maintained by the same employer, controlled group of corporations or employee organization, whose assets are commingled for investment purposes in a single master trust or any other entity the assets of which are ''plan assets'' under 29 CFR section 2510.3–101 (the Plan Asset Regulation), which entity engages in a Covered Transaction, the foregoing $50 million requirement shall be deemed satisfied if such trust or other entity has aggregate assets which are in excess of $50 million; provided that if the fiduciary responsible for making the investment decision on behalf of such group trust or other entity is not the employer or an affiliate of the employer, such fiduciary has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

(2) In the case of two or more Plans which are not maintained by the same employer, controlled group of corporations or employee organization, whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are ''plan assets'' under the Plan Asset Regulation, which engages in a Covered Transaction, the foregoing $50 million requirement is satisfied if such trust or other entity has aggregate assets which are in excess of $50 million (excluding the assets of any Plan with respect to which the fiduciary responsible for making the investment decision on behalf of such group trust or other entity or any member of the controlled group of corporations including such fiduciary is the employer maintaining such Plan or an employee organization whose members are covered by such Plan). However, the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(i) Has full investment responsibility with respect to Plan assets invested therein; and

(ii) Has total assets under its management and control, exclusive of the $50 million threshold amount attributable to Plan investment in the commingled entity, which are in excess of $100 million. (In addition, none of the entities described above are formed for the sole purpose of engaging in the Covered Transactions.)

Summary of Facts and Representations

1. MM is a mutual life insurance company organized under the laws of the Commonwealth of Massachusetts and subject to supervision and regulation by the Insurance Commissioner of Massachusetts. On February 29, 1996, Connecticut Mutual Life Insurance Company (CM), a mutual life insurance company organized under the laws of the State of Connecticut, was merged with and into MM.

2. MM conducts business in all 50 states, as well as in the District of Columbia and Puerto Rico. Presently, MM has more than 2 million policyholders. MM, either directly or through its affiliates, offers a complete portfolio of life and health insurance, asset accumulation products, and health and pension employee benefits to its employees (including former employees of CM) and investment management services. As of December 31, 1998, MM had $67 billion in assets, and the assets under its management as of that date approximate $176 billion.

3. MM performs a wide variety of services for Plans. As part of these activities, MM enters into arrangements with other employers for the administration of their Plans and the investment of their Plan assets. In addition, MM sponsors retirement plans for its own employees, including the MassMutual Employee Pension Plan (the MM Plan), a defined benefit plan adopted in 1948. MM also sponsors the retirement plan for the benefit of CM employees prior to the merger and to which MM succeeded as a result of the merger.

4. MM has been involved in real estate mortgage investing for more than 50 years and in equity real estate investing for more than 30 years. As of December 31, 1998, MM estimates that it had commercial mortgage loan assets of approximately $4.7 billion, residential mortgage loan pool investments of $1.4 billion and commercial real estate equity investments of approximately $1.9 billion.

5. In 1994, MM created a wholly-owned subsidiary, Cornerstone Real Estate Advisors, Inc. (Cornerstone), to offer investment management services for MM's real estate equity portfolio, as well as to third parties. Cornerstone is registered as an investment adviser under the Investment Adviser's Act of 1940, as amended.

6. The exemption proposed herein involves a transaction relating to the sale for cash and/or exchange for units of one or more separate accounts maintained by MM of certain real estate, i.e. the Properties, from the general account of MM to those separate accounts. The transaction, the Separate Account Transaction, relates to certain Properties which MM proposes to transfer to one or more separate investment accounts of MM and in exchange for which MM shall receive cash and an interest in such separate investment account or accounts. For the Separate Account Transaction, no financing will be provided by MM's general account. Moreover, no commissions or similar payment will be paid in connection with the sale or exchange of the Properties.

7. *The Separate Account Transaction*—The transfer of the Properties will be structured in one of two ways: (1) The separate account(s) will acquire the entire interest of MM's general account in the Properties, and, in return, MM's general account will receive cash and/or units in the separate account(s); or (2) the separate account(s) will purchase a partial interest in the Properties for cash from the general account, and the general account will retain the remaining interest in the Properties. In each instance, the consideration received by MM will equal the fair market value of the interest of the Properties transferred. The transaction will occur simultaneously with or prior to the investment in the separate account(s) by third party investors.

8. The fair market value of each of the Properties will be determined by an independent appraiser as of the date of the sale or exchange. The independent appraiser will be a recognized real estate expert in the type and geographic area of the Properties.

9. Units or interests in such separate accounts will also be marketed to tax-exempt entities, including Plans. The minimum investment in such separate accounts has not been determined, but in no event will be less than $1 million. The determination of any Plan or other entity to make an investment in such separate accounts will be in the sole discretion of that Plan or entity and neither MM nor any affiliate of MM shall serve in any fiduciary capacity to any such Plan or entity in determining

whether an investment in such separate account shall be made. Prior to agreeing to invest in the separate account, an independent fiduciary for each Plan will have before it all the information regarding the properties to be sold to the separate account, including third party appraisals and a private placement memorandum or other offering document which will describe the legal structure and include risk disclosures, a summary of principal terms and a schedule of fees. The applicant represents that independent fiduciaries for the Plans will have all information necessary to make their decisions prior to their agreement to invest in the separate account. The applicant further represents that Plans investing in the separate accounts will be large, sophisticated Plans that will equal or exceed $50 million in assets (or be part of a group trust of that size which also meets other tests).

10. In any particular Covered Transaction, the real estate Properties in the portfolio to be sold to the separate account will be determined and disclosed to an independent fiduciary for each Plan before the transaction occurs. Appraisals of the Properties to be included in the portfolio, performed by appraisers independent of MM, will be available to each such fiduciary. The value of each Property so appraised will be confirmed by the appraiser as of a date not more than two weeks prior to the issuance of interests to third party investors in the separate accounts, and if a material change has occurred the appraiser will revise its appraisal to reflect that new value. Each Covered Transaction will be a one-time transaction (i.e., all Properties transferred in that transaction will be conveyed at the same time, and no other Properties will be transferred by MM to that separate account) with respect to a portfolio of Properties and a particular ''start-up'' separate account of MM which will invest in such Properties. Any purchase, sale, or exchange of property between MM's general account and any MM separate account will independently meet the conditions of the exemption proposed herein.

11. In summary, the applicant represents that the subject transactions satisfy the criteria contained in section 408(a) of the Act for the following reasons: (a) The sale and exchange of the Properties is contemplated as a one-time transaction with respect to each separate account of MM which will be established for the Property group (*i.e.*, all Properties transferred in that transaction will be conveyed at the same time, and no other Properties will be transferred by MM to that separate account); (b) in no event shall MM provide any financing with respect to any sale or exchange transaction which is the subject of the exemption proposed herein; (c) before the subject transactions are consummated, (i) An independent appraisal firm will have valued each Property to be transferred by MM to one or more separate accounts; (ii) the value of each Property so appraised will be confirmed by the appraiser as of a date not more than two weeks prior to the issuance of interests to third party investors in the separate accounts, and if a material change has occurred the appraiser will revise its appraisal to reflect that new value; (iii) an independent fiduciary for each Plan will, prior to agreeing to invest in the separate account, be provided with all information regarding the Properties to be sold to the separate account, including third party appraisals and a private placement memorandum or other offering document, which will describe the legal structure and include risk disclosures, a summary of principal terms and a schedule of fees; and (iv) such independent fiduciary will have reviewed all pertinent terms of the sale and exchange of the properties to the separate accounts and will have concluded that the transaction is in the best interest of the Plan; and (d) Plans investing in the separate accounts will be large, sophisticated Plans that will equal or exceed $50 million in assets (or be part of a group trust of that size which also meets other tests).

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Modern Woodmen of America Employees' Savings Plan (the Plan) Located in Rock Island, Illinois

[Application No. D–10518]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the past sale, on March 23, 1998, by the Plan of certain commercial mortgages and bonds (the Securities) to Modern Woodmen of America (the Employer), a party in interest with respect to the Plan, provided that the following conditions were satisfied: (1) The sale was a one-time transaction for cash; (2) the Plan paid no commissions nor other expenses relating to the sale; (3) for each Security, the Plan received an amount equal to the highest, as of the date of the sale, of (a) the par value, (b) the book value, or (c) the fair market value of the Security, as determined by a qualified, independent appraiser; and (4) the Plan received the accrued but unpaid interest that was due on each Security at the time of the transaction.

Effective date: The proposed exemption, if granted, will be effective as of March 23, 1998.

Summary of Facts and Representations

1. The Plan was a defined contribution plan sponsored by the Employer, a fraternal life insurance society. As of June 30, 1997, the Plan had approximately 1,141 participants and beneficiaries. As of that same date, the Plan had total assets of approximately $37,541,533.40. Until April 1, 1998, the trustee of the Plan was the Savings Plan Investment Committee (the Committee), comprised of five employees of the Employer having responsibility for investment of the Plan's assets. Effective April 1, 1998, the Plan was merged into a new 401(k) Plan providing for individually directed accounts that is being administered by Vanguard Funds.

2. Among the assets of the Plan were the Securities, which consisted of 21 privately placed commercial mortgages and bonds. Each of the Securities was purchased by the Plan at various times between 1989 and 1996 from various unrelated brokers. The amount paid by the Plan for the Securities in each case was either the par value or the book value. The Committee believed that the Plan's acquisition of these Securities was consistent with the Plan's investment objectives at the time. Since the Securities were not publicly traded, there was no ready market for the Securities.[1] As a result of the need to liquidate the Securities quickly, in order to implement the merger of the Plan into a new 401(k) Plan on April 1, 1998, the Employer filed an exemption application with the Department seeking to purchase the Securities from the Plan. On March 23, 1998, the

[1] The Department expresses no opinion herein as to whether the acquisition and holding of the Securities by the Plan violated any of the provisions of Part 4 of Title I in the Act. However, the Department notes that section 404(a) of the Act requires, among other things, that a plan fiduciary act prudently and solely in the interest of the plan and its participants and beneficiaries when making investment decisions on behalf of the plan.

Employer purchased the Securities from the Plan for a total of $5,685,534.46.

3. The applicant represents that the terms of the sale were at least as favorable to the Plan as terms the Plan could have obtained in an arm's length transaction with an unrelated party. For each Security, the Employer paid the Plan an amount equal to the highest, as of March 23, 1998, of (a) the par value,[2] (b) the book value,[3] or (c) the fair market value of the Security, as determined by a qualified, independent appraiser.

With respect to the fair market value of the Security, the highest quotation obtained from three reputable independent mortgage banking firms was used. The appraisals of the mortgages were conducted by (i) Cauble & Company, located in Charlotte, North Carolina, (ii) Rob Wolf & Associates, located in San Francisco, California, and (iii) Venture Mortgage, located in Edina, Minnesota. The appraisals of the bonds were conducted by (i) Piper Jaffray, located in Minneapolis, Minnesota, and (ii) John G. Kinnard & Co., located in Minneapolis, Minnesota. Each of the entities which appraised the value of the Securities was a dealer who would have bought or sold such Securities in the ordinary course of its business. The appraised value amounts assume that there is a willing third party buyer to purchase the security, although there is no active market for the Securities.

The sale of the Securities by the Plan to the Employer was a one-time transaction for cash. The Plan paid no commissions nor other expenses relating to the sale of the Securities, which represented a significant savings to the Plan in transaction costs.

4. The assets purchased by the Employer from the Plan, which included 10 mortgages and 11 bonds, are individually listed below.

Description	Net rate (percent)	Maturity	Par	Book value	FMV	Accured interest	Purchase price
Mortgages							
Butler Family Partnership, Walgreen's (Lessee), Missouri City, TX	7.375	01/10/16	$607,021.21	$576,670.15 95.00	$623,410.78 102.70	$1,616.62	$625,027.40
Ervin & Susanne Bard, K-Mart (Lessee), Huntington, IN	8.75	07/01/12	486,562.87	486,562.87 100.00	531,472.62 109.23	2,601.76	534,074.38
The Byrd Companies, Inc., First Alabama Bank (Lessee), Vestavia Hills, AL	9.375	03/01/11	362,572.72	362,572.72 100.00	412,498.98 113.77	1,227.46	413,726.44
JRL Amerivest, Ameritech Michigan (Lessee), Auburn, MI	7.75	03/10/01	461,784.70	461,784.70 100.00	481,410.55 104.25	1,292.36	482,702.91
Stockbridge Property Co., (Jonathan P. Rosen), Good Year Tire & Rubber (Lessee), Stockbridge, GA	9.75	02/10/07	279,470.04	279,470.04 100.00	308,702.61 110.46	983.97	309,686.58
Bogel Investments, Inc., The City of Irving, TX, Irving, TX	7.75	07/10/06	770,194.00	770,194.00 100.00	802,696.19 104.22	2,155.47	804,851.66
Argonne Forest Partnership, (Al Payne & Joel O'Connor), ALCO Standard (Lessee), Spokane, WA	8.00	01/01/05	478,512.11	478,512.11 100.00	494,207.31 103.28	2,339.39	496,546.70
Dr. Fred Wurlitzer, (Rezan, L.P.), May Dept. Stores (Lessee), Plano, TX	8.625	01/10/03	250,547.01	250,547.01 100.00	260,368.45 103.92	780.35	261,149.80
Morro Palmes Shopping Ctr., Winn-Dixie (Lessee), Abbeville, SC	8.125	04/10/01	385,577.12	385,577.12 100.00	397,915.59 103.20	1,131.29	399,046.88
Audrey Weedn, Toys "R" Us (Lessee), Houston, TX	9.00	05/01/99	110,143.11	108,469.57 98.50	112,103.66 101.78	605.79	112,709.45
Total			4,192,384.89	4,160,360.29	4,424,786.74	14,734.46	4,439,521.20

[2] The par value of each Security was the face value of the Security at the time of the transaction. For example, a bond selling at par is worth the same dollar amount for which it was issued or at which it will be redeemed at maturity, typically $1,000 per bond.

[3] The book value of each Security was the value at which it was carried on the Plan's balance sheet. For example, a bond is typically considered to have a book value equal to its outstanding principal balance plus accrued but unpaid interest.

Description	Net rate (percent)	Maturity	Par	Book value	FMV	Accured interest	Purchase price
Corporate Issues							
Railroads:							
Baltimore & Ohio	8.75	10/15/99	$100,826.94	$101,661.28 100.90	103,473.65 102.625	$3,872.03	107,345.68
Chesapeake & Ohio	8.75	10/15/99	50,597.13	51,002.52 100.90	51,925.30 102.625	1,943.07	53,868.37
Chicago & Northwestern Transportation	6.65	06/15/99	25,862.20	25,862.20 100.00	25,862.20 100.00	468.18	26,330.38
Denver & Rio Grande	6.65	06/15/99	19,216.34	19,216.34 100.00	19,216.34 100.00	347.87	19,564.21
Kansas City Southern	6.65	06/15/98	2,358.07	2,358.07 100.00	2,358.07 100.00	42.69	2,400.76
Railbox	9.357	01/10/99	56,255.48	54,526.84 96.90	57,380.59 102.00	190.08	57,570.67
Seaboard Systems	8.75	11/15/99	50,800.74	51,371.18 101.20	52,578.77 103.50	1,580.47	54,159.24
Industrials, Utilities & Governments:							
Shelby Funding Corp.	8.00	10/01/05	259,877.99	259,877.99 100.00	263,334.37 101.33	9,933.11	273,267.48
Third Sixth Mont	8.00	07/01/05	275,786.99	231,661.07 100.00	275,786.99 100.00	5,025.45	280.812.44
Maine Public Service	7.12	05/01/98	178,000.00	177,303.53 100.00	178,000.00 100.00	5,002.54	183,002.54
Fairchild Farms (FmHA)	8.75	04/15/07	181,218.51	181,218.51 100.00	181,218.51 99.40	6,472.98	187,691.49
Total			1,200,800.39	1,200,185.45	1,211,134.79	34,878.47	1,246,013.26
Grand Totals (Mortgages & Bonds)			5,393,185.28	5,360,545.74	5,635,921.53	49,612.93	5,685,534.46

As indicated by the chart above, the Plan received a price for each Security equalling the Security's current fair market value. However, with respect to four of the 11 bonds sold by the Plan, the fair market value was determined to be equal to both the bond's par value and book value. In addition, with respect to two of the bonds, the fair market value was equal to the bond's par value. All of the other bonds and all 10 of the mortgages had a fair market value which exceeded either their par value or their book value at the time of the transaction.

The Plan also received the accrued but unpaid interest that was due on the Security at the time of the transaction.

The applicant represents that the sale was in the best interests of the Plan and of its participants and beneficiaries because it enabled the Plan to divest itself of illiquid assets at the best possible price. In addition, the sale permitted Plan participants to timely direct the investment of the full value of their individual accounts, as of the effective date of the reconstituted Plan (i.e., April 1, 1998).

5. In summary, the applicant represents that the subject transaction satisfied the statutory criteria for an exemption under section 408(a) of the Act for the following reasons: (1) The sale of the Securities by the Plan to the Employer was a one-time transaction for cash; (2) the Plan paid no commissions nor other expenses relating to the sale of the Securities; (3) for each Security, the Plan received an amount equal to the highest, as of March 23, 1998, of (a) par value, (b) book value, or (c) the fair market value of the Security, as determined by a qualified, independent appraiser; (4) the Plan received the accrued but unpaid interest that was due on each Security at the time of the transaction; and (5) the Plan divested itself of illiquid assets, thus permitting Plan participants to timely direct the investment of the full value of their individual accounts in the new 401(k) Plan.

Notice to Interested Persons

Notice of the proposed exemption shall be given to all interested persons by personal delivery or by first-class mail within five days of the date of publication of the notice of pendency in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and/or request a hearing with respect to the proposed exemption. Comments and requests for a hearing are due within 35 days of the date of publication of this notice in the **Federal Register**.

For Further Information Contact: Ms. Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Fleet Bank (RI), National Association (Fleet) Located in Providence, Rhode Island

[Exemption Application No. D–10643]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990).

Section I—Transactions

A. Effective as of the date this proposed exemption is published in the **Federal Register**, the restrictions of

sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the trust, the sponsor or an underwriter and an employee benefit plan subject to the Act or section 4975 of the Code (a plan) when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to Section I.A.(1) or (2).

Notwithstanding the foregoing, Section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan, as defined in Section III.K. below, by any person who has discretionary authority or renders investment advice with respect to the assets of the Excluded Plan that are invested in certificates. [4]

B. Effective as of the date this proposed exemption is published in the **Federal Register**, the restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(E) of the Code, shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the trust, the sponsor or an underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to receivables contained in the trust constituting 0.5 percent or less of the fair market value of the aggregate undivided interest in the trust allocated to the certificates of the relevant series, or (b) an affiliate of a person described in (a); if

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group, as defined in Section III.L., and at least 50 percent of the aggregate undivided interest in the trust allocated to the certificates of a series is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates of a series does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition;

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice is invested in certificates representing the aggregate undivided interest in a trust allocated to the certificates of a series and containing receivables sold or serviced by the same entity; [5] and

(v) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice is invested in certificates representing an interest in the trust, or trusts containing receivables sold or serviced by the same entity. For purposes of paragraphs B.(1)(iv) and B.(1)(v) only, an entity shall not be considered to service receivables contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that conditions set forth in Section I. B.(1)(i) and (iii) through (v) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to Section I.B.(1) or (2).

C. Effective as of the date this proposed exemption is published in the **Federal Register**, the restrictions of sections 406(a), 406(b) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust, including reassigning receivables to the sponsor, removing from the trust receivables in accounts previously designated to the trust, changing the underlying terms of accounts designated to the trust, adding new receivables to the trust, designating new accounts to the trust, the retention of a retained interest by the sponsor in the receivables, the exercise of the right to cause the commencement of amortization of the principal amount of the certificates, or the use of any eligible swap transactions, provided that:

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing agreement;

(2) The pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust; [6]

(3) The addition of new receivables or designation of new accounts, or the removal of receivables in previously-designated accounts, meets the terms and conditions for such additions, designations or removals as are described in the prospectus or private placement memorandum for such certificates, which terms and conditions have been approved by Standard & Poor's Ratings Services, Moody's Investors Service, Inc., Duff & Phelps Credit Rating Co., or Fitch IBCA, Inc., or their successors (collectively, the Rating Agencies), and does not result in the certificates receiving a lower credit rating from the Rating Agencies than the then current rating of the certificates; and

(4) The series of which the certificates are a part will be subject to an ''Economic Pay Out Event'' (as defined in Section III.BB.), which is set forth in the pooling and servicing agreement and described in the prospectus or private placement memorandum associated with the series, the occurrence of which will cause any revolving period, scheduled amortization period or scheduled accumulation period

[4] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3–21(c).

[5] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[6] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions. For purposes of this exemption, all references to ''prospectus'' include any related supplement thereto, and any documents incorporated by reference therein, pursuant to which certificates are offered to investors.

applicable to the certificates to end, and principal collections to be applied to monthly payments of principal to, or the accumulation of principal for the benefit of, the certificateholders of such series until the earlier of payment in full of the outstanding principal amount of the certificates of such series or the series termination date specified in the prospectus or private placement memorandum.

Notwithstanding the foregoing, Section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act, or from the taxes imposed under section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(E) or (F) of the Code, for the receipt of a fee by the servicer of the trust, in connection with the servicing of the receivables and the operation of the trust, from a person other than the trustee or sponsor, unless such fee constitutes a ''qualified administrative fee'' as defined in Section III.U. below.

D. Effective as of the date this proposed exemption is published in the **Federal Register**, the restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by sections 4975(a) and (b) of the Code, by reason of sections 4975(c)(1)(A) through (D) of the Code, shall not apply to any transaction to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider as described in section 3(14)(F), (G), (H) or (I) of the Act or section 4975(e)(2)(F), (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

Section II—General Conditions

A. The relief provided under Section I will be available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as such terms would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating at the time of such acquisition that is either: (i) In one of the two highest generic rating categories from any one of the Rating Agencies; or (ii) for certificates with a duration of one year or less, the highest short-term generic rating category from any one of the Rating Agencies; provided that, notwithstanding such ratings, this exemption shall apply to a particular class of certificates only if such class (an Exempt Class) is at the time of such acquisition part of a series in which credit support is provided to the Exempt Class through a senior-subordinated series structure or other form of third-party credit support which, at a minimum, represents five (5) percent of the outstanding principal balance of certificates issued for the Exempt Class, so that an investor in the Exempt Class will not bear the initial risk of loss;

(4) The trustee is not an affiliate of any other member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the consideration received by the sponsor as a consequence of the assignment of receivables (or interests therein) to the trust, to the extent allocable to the class of certificates purchased by a plan, represents not more than the fair market value of such receivables (or interests); and the sum of all payments made to and retained by the servicer, to the extent allocable to the class of certificates purchased by a plan, represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith;

(6) The plan investing in such certificates is an ''accredited investor'' as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission (SEC) under the Securities Act of 1933;

(7) The trustee of the trust is a substantial financial institution or trust company experienced in trust activities and is familiar with its duties, responsibilities, and liabilities as a fiduciary under the Act (i.e. ERISA). The trustee, as the legal owner of, or holder of a perfected security interest in, the receivables in the trust, enforces all the rights created in favor of certificateholders of such trust, including plans;

(8) Prior to the issuance by the trust of any new series, confirmation is received from the Rating Agencies that such issuance will not result in the reduction or withdrawal of the then current rating of the certificates held by any plan pursuant to this exemption;

(9) To protect against fraud, chargebacks or other dilution of the receivables in the trust, the pooling and servicing agreement and the Rating Agencies require the sponsor to maintain a seller interest of not less than two (2) percent of the principal balance of the receivables contained in the trust;

(10) Each receivable added to a trust is an eligible receivable, based on criteria of the relevant Rating Agency(ies) and as specified in the pooling and servicing agreement. The pooling and servicing agreement requires that any change in the terms of the cardholder agreements must be made applicable to the comparable segment of accounts owned or serviced by the sponsor which are part of the same program or have the same or substantially similar characteristics;

(11) The pooling and servicing agreement limits the number of the sponsor's newly originated accounts to be designated to the trust, unless the Rating Agencies otherwise consent in writing, to the following: (i) With respect to any consecutive three-month period commencing in January, April, July and October of each calendar year, 15 percent of the number of existing accounts designated to the trust as of the first day of the calendar year during which such monthly period commenced, and (ii) with respect to any calendar year, 20 percent of the number of existing accounts designated to the trust as of the first day of such calendar year;

(12) The pooling and servicing agreement requires the sponsor to deliver an opinion of counsel confirming the validity and perfection of each transfer of receivables in newly originated accounts to the trust for each interim addition;

(13) The pooling and servicing agreement requires the sponsor and the trustee to receive confirmation from a Rating Agency that no Ratings Effect will result from (i) a Required Addition (as defined in Section III.MM.) in excess of the limits in paragraph B.(11) above, or (ii) any Restricted Additions (as defined in Section III.NN.);

(14) If a particular class of certificates held by any plan involves a Ratings Dependent or Non-Ratings Dependent Swap entered into by the trust, then each particular swap transaction relating to such certificates:

(a) Shall be an Eligible Swap;

(b) Shall be with an Eligible Swap Counterparty;

(c) In the case of a Ratings Dependent Swap, shall include as an early payout event, as specified in the pooling and servicing agreement, the withdrawal or reduction by any Rating Agency of the swap counterparty's credit rating below a level specified by the Rating Agency where the servicer (as agent for the trustee) has failed, for a specified period after such rating withdrawal or reduction, to meet its obligation under the pooling and servicing agreement to:

(i) Obtain a replacement swap agreement with an Eligible Swap Counterparty which is acceptable to the Rating Agency and the terms of which are substantially the same as the current swap agreement (at which time the earlier swap agreement shall terminate); or

(ii) Cause the swap counterparty to establish any collateralization or other arrangement satisfactory to the Rating Agency such that the then current rating by the Rating Agency of the particular class of certificates will not be withdrawn or reduced;

(d) In the case of a Non-Ratings Dependent Swap, shall provide that, if the credit rating of the swap counterparty is withdrawn or reduced below the lowest level specified in Section III.II. hereof, the servicer, as agent for the trustee, shall within a specified period after such rating withdrawal or reduction:

(i) Obtain a replacement swap agreement with an Eligible Swap Counterparty, the terms of which are substantially the same as the current swap agreement (at which time the earlier swap agreement shall terminate); or

(ii) Cause the swap counterparty to post collateral with the trustee of the trust in an amount equal to all payments owed by the counterparty if the swap transaction were terminated; or

(iii) Terminate the swap agreement in accordance with its terms; and

(e) Shall not require the trust to make any termination payments to the swap counterparty (other than a currently scheduled payment under the swap agreement) except from ''Excess Finance Charge Collections'' (as defined below in Section III.LL.) or other amounts that would otherwise be payable to the servicer or the sponsor;

(15) Any class of certificates, to which one or more swap agreements entered into by the trust applies, may be acquired or held in reliance upon this exemption only by Qualified Plan Investors.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, nor any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Section I, if the provision in Section II.A.(6) above is not satisfied for the acquisition or holding by a plan of such certificates, provided that:

(1) Such condition is disclosed in the prospectus or private placement memorandum; and

(2) In the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees shall be required to make a written representation regarding compliance with the condition set forth in Section II.A.(6).

Section III—Definitions

For purposes of this proposed exemption:

A. ''Certificate'' means a certificate:

(1) That (i) represents a beneficial ownership interest in the assets of a trust and entitles the holder to payments denominated as principal, interest and/or other payments made as described in the applicable prospectus or private placement memorandum and in accordance with the pooling and servicing agreement in connection with the assets of such trust, to the extent allocable to the series of certificates purchased by a plan, either currently or after a revolving period during which principal payments on assets of the trust are reinvested in new assets, or (ii) is denominated as a debt instrument that represents a regular interest in a financial asset securitization investment trust (FASIT), within the meaning of section 860L(a) of the Code, and is issued by and is an obligation of the trust.

For purposes of this exemption, references to ''certificates representing an interest in a trust'' include certificates denominated as debt which are issued by a trust; and

(2) With respect to which (a) Fleet or any of its affiliates is the sponsor, and (b) Fleet, any of its affiliates, or an ''underwriter'' (as defined in Section III.C.) is the sole underwriter or the manager or co-manager of the underwriting syndicate or a selling or placement agent.

B. ''Trust'' means an investment pool, the corpus of which is held in trust and consists solely of:

(1) Either:

(a) Receivables (as defined in Section III.V.); or

(b) Participations in a pool of receivables (as defined in Section III.V.) where such beneficial ownership interests are not subordinated to any other interest in the same pool of receivables;[7]

(2) Property which has secured any of the assets described in paragraph B.(1) above;[8]

(3) Undistributed cash or permitted investments made therewith maturing no later than the next date on which distributions are to be made to certificateholders, except during a Revolving Period (as defined herein) when permitted investments are made until such cash can be reinvested in additional receivables described in paragraph B.(1)(a) above;

(4) Rights of the trustee under the pooling and servicing agreement, and rights under any cash collateral accounts, insurance policies, third-party guarantees, contracts of suretyship and other credit support arrangements for any certificates, swap transactions, or under any yield supplement agreements,[9] yield maintenance agreements or similar arrangements; and

(5) Rights to receive interchange fees received by the sponsor as partial compensation for the sponsor's taking credit risk, absorbing fraud losses and funding receivables for a limited period prior to initial billing with respect to accounts designated to the trust.

Notwithstanding the foregoing, the term ''trust'' does not include any investment pool unless: (i) The investment pool consists only of receivables of the type which have been included in other investment pools; (ii) certificates evidencing interests in such other investment pools have been rated in one of the two highest generic rating categories by at least one of the Rating Agencies for at least one year prior to the plan's acquisition of certificates

[7] The Department notes that no relief would be available under the exemption if the participation interests held by the trust were subordinated to the rights and interests evidenced by other participation interests in the same pool of receivables.

[8] Fleet states that it is possible for credit card receivables to be secured by bank account balances or security interests in merchandise purchased with credit cards. Thus, the exemption should permit foreclosed property to be an eligible trust asset.

[9] In a series involving an accumulation period (as defined in Section III.Z.), a yield supplement agreement may be used by the Trust to make up the difference between (i) the reinvestment yield on permitted investments, and (ii) the interest rate on the certificates of that series.

pursuant to this exemption; and (iii) certificates evidencing an interest in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. ''Underwriter'' means an entity which has received from the Department an individual prohibited transaction exemption which provides relief for the operation of asset pool investment trusts that issue asset-backed pass-through securities to plans that is similar in format and substance to this exemption (each, an Underwriter Exemption);[10] any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with such entity; and any member of an underwriting syndicate or selling group of which such firm or affiliated person described above is a manager or co-manager with respect to the certificates.

D. ''Sponsor'' means Fleet, or an affiliate of Fleet that organizes a trust by transferring credit card receivables or interests therein to the trust in exchange for certificates.

E. ''Master Servicer'' means Fleet or an affiliate that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the receivables in the trust pursuant to the pooling and servicing agreement.

F. ''Subservicer'' means Fleet or an affiliate of Fleet, or an entity unaffiliated with Fleet which, under the supervision of and on behalf of the master servicer, services receivables contained in the trust, but is not a party to the pooling and servicing agreement.

G. ''Servicer'' means Fleet or an affiliate which services receivables contained in the trust, including the master servicer and any subservicer or their successors pursuant to the pooling and servicing agreement.

H. ''Trustee'' means an entity which is independent of Fleet and its affiliates and is the trustee of the trust. In the case of certificates which are denominated as debt instruments, ''trustee'' also means the trustee of the indenture trust.

I. ''Insurer'' means the insurer or guarantor of, provider of other credit support for, or other contractual counterparty of, a trust. Notwithstanding the foregoing, a swap counterparty is not an insurer, and a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. ''Obligor'' means any person, other than the insurer, that is obligated to make payments with respect to any receivable included in the trust.

K. ''Excluded Plan'' means any plan with respect to which any member of the Restricted Group is a ''plan sponsor'' within the meaning of section 3(16)(B) of the Act.

L. ''Restricted Group'' with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The trustee;

(5) Each servicer;

(6) Each swap counterparty;

(7) Any obligor with respect to receivables contained in the trust constituting more than 0.5 percent of the fair market value of the aggregate undivided interest in the trust allocated to the certificates of a series, determined on the date of the initial issuance of such series of certificates by the trust; or

(8) Any affiliate of a person described in paragraphs L.(1) through (7) above.

M. ''Affiliate'' of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. ''Control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person will be ''independent'' of another person only if:

(1) Such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. ''Sale'' includes the entrance into a forward delivery commitment (as defined in Section III.Q. below), provided that:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. ''Forward Delivery Commitment'' means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificates from, the other party).

R. ''Reasonable Compensation'' has the same meaning as that term is defined in 29 CFR 2550.408c–2.

S. ''Pooling and Servicing Agreement'' means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust and any supplement thereto pertaining to a particular series of certificates. In the case of certificates which are denominated as debt instruments, ''pooling and servicing agreement'' also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

T. ''Series'' means an issuance of a class or various classes of certificates by the trust all on the same date pursuant to the same pooling and servicing agreement, and any supplement thereto and restrictions therein.

U. ''Qualified Administrative Fee'' means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing with respect to the receivables;

(2) The servicer may not charge the fee absent the act or failure to act referred to in paragraph U.(1) above;

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement or described in all material respects in the prospectus or private placement memorandum provided to the plan before it purchases certificates issued by the trust; and

(4) The amount paid to investors in the trust is not reduced by the amount of any such fee waived by the servicer.

V. ''Receivables'' means secured or unsecured obligations of credit card holders which have arisen or arise in Accounts designated to a trust. Such obligations represent amounts charged

[10] For a listing of Underwriter Exemptions, see the description provided in the text of the operative language of Prohibited Transaction Exemption (PTE) 97–34 (62 FR 39021, July 21, 1997).

by cardholders for merchandise and services and amounts advanced as cash advances, as well as periodic finance charges, annual membership fees, cash advance fees, late charges on amounts charged for merchandise and services and certain other fees (such as bad check fees, cash advance fees, and other fees specified in the cardholder agreements) designated by card issuers (other than a qualified administrative fee as defined in Section III.U.).

W. ''Accounts'' are revolving credit card accounts serviced by Fleet or an affiliate, which were originated or purchased by Fleet or an affiliate, and are designated to a trust such that receivables arising in such accounts become assets of the trust.

X. ''Revolving Period'' means a period of time, as specified in the pooling and servicing agreement, during which principal collections allocated to a series are reinvested in newly generated receivables arising in the accounts.

Y. ''Amortization Period'' means a period of time specified in the pooling and servicing agreement during which a portion of the principal collections allocated to a series will commence to be paid to the certificateholders of such series in installments.

Z. ''Accumulation Period'' means a period of time specified in the pooling and servicing agreement during which a portion of the principal collections allocated to a series will be deposited in an account to be distributed to certificateholders in a lump sum on the expected maturity date.

AA. ''Pay Out Event'' means any of the events specified in the pooling and servicing agreement or supplement thereto that results (in some instances without further affirmative action by any party) in the early commencement of either an amortization period or an accumulation period, including (1) The failure of the sponsor or the servicer, whichever is subject to the relevant obligation under the pooling and servicing agreement, (i) To make any payment or deposit required under the pooling and servicing agreement within five (5) business days after such payment or deposit was required to be made, or (ii) to observe or perform any of its other covenants or agreements set forth in the pooling and servicing agreement, which failure has a material adverse effect on holders of investor certificates of the relevant series and continues unremedied for 60 days; (2) a breach of any representation or warranty made by the sponsor or the servicer in the pooling and servicing agreement that continues to be incorrect in any material respect for 60 days; (3) the occurrence of certain bankruptcy events relating to the sponsor or the servicer; (4) the failure by the sponsor to convey to the trust additional receivables to maintain the minimum seller interest that is required by the pooling and servicing agreement and the Rating Agencies; (5) the failure to pay in full amounts owing to investors on the expected maturity date; and (6) the Economic Pay Out Event.

BB. An ''Economic Pay Out Event'' occurs automatically when the portfolio yield for any series of certificates, averaged over three consecutive months (or such other period approved by one of the Rating Agencies) is less than the base rate of the series averaged over the same period. Portfolio yield for a series of certificates for any period is equal to the sum of the finance charge collections and other amounts treated as finance charge collections less total defaults for the series divided by the outstanding principal balance of the investor certificates of the series, or such other measure approved by one of the Rating Agencies. The base rate for a series of certificates for any period is the sum of (i) Amounts payable to certificateholders of the series with respect to interest, (ii) servicing fees allocable to the series payable to the servicer, and (iii) any credit enhancement fee allocable to the series payable to a third party credit enhancer, divided by the outstanding principal balance of the investor certificates of the series, or such other measure approved by one of the Rating Agencies.

CC. ''CCA'' or ''Cash Collateral Account'' means that certain account established in the name of the trustee that serves as credit enhancement with respect to the investor certificates and holds cash and/or permitted investments (as defined below in Section III.KK.) which conform to applicable provisions of the pooling and servicing agreement.

DD. ''Group'' means a group of any number of series offered by the trust that share finance charge and/or principal collections in the manner described in the applicable prospectus or private placement memorandum.

EE. ''Ratings Effect'' means the reduction or withdrawal by a Rating Agency of its then current rating of the certificates held by any plan pursuant to this exemption.

FF. ''Principal Receivables Discount'' means, with respect to any account designated by the sponsor, the portion of the related principal receivables that represents a discount from the face value thereof and that is treated under the pooling and servicing agreement as finance charge receivables.

GG. ''Ratings Dependent Swap'' means an interest rate swap, or (if purchased by or on behalf of the trust) an interest rate cap contract, that is part of the structure of a series of certificates where the rating assigned by the Rating Agency to any senior class of certificates held by any plan is dependent on the terms and conditions of the swap and the rating of the swap counterparty, and if such certificate rating is not dependent on the existence of the swap and rating of the swap counterparty, such swap or cap shall be referred to as a ''Non-Ratings Dependent Swap''. With respect to a Non-Ratings Dependent Swap, each Rating Agency rating the certificates must confirm, as of the date of issuance of the certificates by the trust, that entering into an Eligible Swap with such counterparty will not affect the rating of the certificates.

HH. ''Eligible Swap'' means a Ratings Dependent or Non-Ratings Dependent Swap:

(1) Which is denominated in U.S. Dollars;

(2) Pursuant to which the trust pays or receives, on or immediately prior to the respective payment or distribution date for the senior class of certificates, a fixed rate of interest, or a floating rate of interest based on a publicly available index (e.g. LIBOR or the U.S. Federal Reserve's Cost of Funds Index (COFI)), with the trust receiving such payments on at least a quarterly basis and obligated to make separate payments no more frequently than the swap counterparty, with all simultaneous payments being netted;

(3) Which has a notional amount that does not exceed either: (i) The certificate balance of the class of certificates to which the swap relates, or (ii) the portion of the certificate balance of such class represented by receivables;

(4) Which is not leveraged (i.e., payments are based on the applicable notional amount, the day count fractions, the fixed or floating rates designated in paragraph HH.(2) above, and the difference between the products thereof, calculated on a one to one ratio and not on a multiplier of such difference);

(5) Which has a final termination date that is the earlier of the date on which the trust terminates or the related class of certificates is fully repaid; and

(6) Which does not incorporate any provision which could cause a unilateral alteration in any provision described in paragraphs HH.(1) through (4) above without the consent of the trustee.

II. ''Eligible Swap Counterparty'' means a bank or other financial institution which has a rating, at the

date of issuance of the certificates by the trust, which is in one of the three highest long-term credit rating categories, or one of the two highest short-term credit rating categories, utilized by at least one of the Rating Agencies rating the certificates; provided that, if a swap counterparty is relying on its short-term rating to establish eligibility hereunder, such counterparty must either have a long-term rating in one of the three highest long-term rating categories or not have a long-term rating from the applicable Rating Agency, and provided further that if the senior class of certificates with which the swap is associated has a final maturity date of more than one year from the date of issuance of the certificates, and such swap is a Ratings Dependent Swap, the swap counterparty is required by the terms of the swap agreement to establish any collateralization or other arrangement satisfactory to the Rating Agencies in the event of a ratings downgrade of the swap counterparty.

JJ. ''Qualified Plan Investor'' means a plan investor or group of plan investors on whose behalf the decision to purchase certificates is made by an appropriate independent fiduciary that is qualified to analyze and understand the terms and conditions of any swap transaction used by the trust and the effect such swap would have upon the credit ratings of the certificates. For purposes of the exemption, such a fiduciary is either:

(1) A ''qualified professional asset manager'' (QPAM),[11] as defined under Part V(a) of PTE 84–14 (49 FR 9494, 9506, March 13, 1984);

(2) An ''in-house asset manager'' (INHAM),[12] as defined under Part IV(a) of PTE 96–23 (61 FR 15975, 15982, April 10, 1996); or

(3) A plan fiduciary with total assets under management of at least $100 million at the time of the acquisition of such certificates.

KK. ''Permitted Investments'' means investments that either (i) are direct obligations of, or obligations fully guaranteed as to timely payment of principal and interest by, the United States or any agency or instrumentality thereof, provided that such obligation is backed by the full faith and credit of the United States, or (ii) have been rated (or the obligor thereof has been rated) in one of the three highest generic rating categories by a Rating Agency; are described in the pooling and servicing agreement; and are permitted by the relevant Rating Agency(ies).

LL. ''Excess Finance Charge Collections'' means, as of any day funds are distributed from the trust, the amount by which the finance charge collections allocated to certificates of a series exceed the amount necessary to pay certificate interest, servicing fees and expenses, to satisfy cardholder defaults or charge-offs, and to reinstate credit support.

MM. ''Required Additions'' means accounts which are required to be added to the trust when either the seller amount is less than the minimum required seller amount or the principal amount is less than the required principal amount.

NN. ''Restricted Additions'' means accounts which may be added to the trust at the discretion of the sponsor only upon confirmation from a Rating Agency that no Ratings Effect will result from the addition.

The Department notes that this proposed exemption, if granted, will be included within the meaning of the term ''Underwriter Exemption'' as it is defined in Section V(h) of the Grant of the Class Exemption for Certain Transactions Involving Insurance Company General Accounts, which was published in the **Federal Register** on July 12, 1995 (see PTE 95–60, 60 FR 35925).

EFFECTIVE DATE: This proposed exemption, if granted, will be effective for transactions described herein and occurring on or after the date this proposed exemption is published in the **Federal Register**.

Summary of Facts and Representations

1. The applicant is Fleet Bank (RI), National Association (Fleet), a national banking association located in Providence, Rhode Island. Fleet conducts nationwide consumer lending programs principally comprised of credit card related activities. Fleet is a wholly-owned indirect subsidiary of Fleet Financial Group, Inc. On February 20, 1998, through a series of transactions, Advanta National Bank (Advanta) transferred substantially all of its consumer credit card business to affiliates of Fleet Financial Group, Inc., including Fleet. As a result, the rights and obligations of Advanta, as Seller and Servicer, under the relevant Pooling and Servicing Agreements (each, a PSA), were assigned, transferred to and assumed by Fleet.

2. The transactions for which an exemption is requested are investments by employee benefit plans in certain certificates (Certificates) representing the right to receive principal and interest payments from the assets of various Trusts which hold credit card receivables. Each Trust will issue, from time to time, a particular series of Certificates (i.e., a Series) which will be secured by the Trust's assets. A Series may include one or more classes of Certificates, some of which may be subordinate to others. However, only senior certificates issued by such Trusts, which meet the restrictive criteria designed to ensure investor safety discussed herein would be eligible for the exemptive relief to be provided under this proposed exemption.

The Trusts

3. Each Trust is created under a PSA between Fleet, as Seller and Servicer, and an independent and unaffiliated Trustee. Upon creation of a Trust, the Seller transfers to the Trust a pool of interest-bearing credit card receivables which are selected under strict criteria approved by one or more of certain nationally recognized rating agencies,[13] from the portfolio of revolving credit card accounts owned by Fleet. The PSA establishes the general parameters for the Trust, such as the requirements for eligible receivables to be transferred to the Trust, the manner of transferring and administering and servicing the receivables, Seller representations and covenants as to receivable eligibility, Servicer and Trustee duties and eligibility, and other matters.

The applicant represents that any Trust that issues a class of Certificates to be covered by the proposed exemption would include the following investor safeguards:

(a) Restricted selection of receivables;

(b) Periodic reporting and monitoring of accounts;

(c) Minimum receivable requirements;

(d) Restrictions regarding addition and removal of accounts;

(e) Servicer eligibility requirements;

[11] PTE 84–14 provides a class exemption for transactions between a party in interest with respect to an employee benefit plan and an investment fund (including either a single customer or pooled separate account) in which the plan has an interest, and which is managed by a QPAM, provided certain conditions are met. QPAMs (e.g., banks, insurance companies, registered investment advisers with total client assets under management in excess of $50 million) are considered to be experienced investment managers for plan investors that are aware of their fiduciary duties under ERISA.

[12] PTE 96–23 permits various transactions involving employee benefit plans whose assets are managed by an INHAM, an entity which is generally a subsidiary of an employer sponsoring the plan which is a registered investment adviser with management and control of total assets attributable to plans maintained by the employer and its affiliates which are in excess of $50 million.

[13] As noted in Section I.C.(3) above, these rating agencies are: (i) Standard & Poors Ratings Services, a division of McGraw-Hill Companies Inc.; (ii) Moody's Investors Service, Inc.; (iii) Duff & Phelps Credit Rating Co.; and (iv) Fitch IBCA, Inc., or their successors (collectively, the Rating Agencies).

(f) Servicer reports, duties and public accounting firm review;

(g) Trustee eligibility and duties;

(h) Restrictions on investments;

(i) Protection from the consequences of unplanned events; and

(j) Limited discretion.

These investor safeguards are discussed in the following paragraphs.

4. *Restricted Selection of Receivables.* In order for a receivable to be eligible for transfer to the Trust, either on the initial closing date or on any subsequent date, it must have arisen under an eligible account. An eligible account is one that is in existence and owned by and maintained with Fleet (as of the initial selection date or, with respect to additional accounts, as of the relevant addition cut-off date), and is payable in U.S. dollars. In addition, an eligible account must have a United States address for its obligor, must not have been classified as fraudulent, stolen or lost, and (except as provided below) must not contain a defaulted receivable. However, eligible accounts may include accounts, the receivables of which have been written off, or which have been identified as fraudulent, stolen or lost, provided that the balance of all receivables included in such accounts is reflected on the books and records of the Seller (and is treated for purposes of the PSA) as ''zero,'' and charging privileges with respect to all such accounts have been canceled in accordance with the relevant credit card guidelines (i.e, investors do not pay for such accounts but receive the benefit of any payments made on such accounts). The eligible receivable must have been created in compliance with applicable law. All consents, licenses and other approvals necessary for the creation of the receivable and the execution of the credit card agreement must have been obtained and be in full force and effect, and Fleet must have good title to the receivable, free and clear of liens. Finally, an eligible receivable must constitute the legal valid and binding payment obligation of the obligor, and constitute an ''account'' or ''general intangible'' under Article 9 of the Uniform Commercial Code (the ''UCC''), as in effect in the State of Rhode Island, so as to grant the Trust a first priority security interest in the event of bankruptcy. Once the pool of eligible accounts has been identified, accounts are selected at random for the transfer of their receivables to the Trust so as to provide a combination of receivables that is representative of the entire pool of eligible receivables.

Fleet represents and warrants that the receivables transferred to the Trust, and the accounts related to those receivables, meet the above-described standards for eligible receivables and accounts, and that no selection procedures adverse to the Certificateholders have been employed in selecting accounts. These restrictions on account selection are in place to prevent the concentration of high risk accounts. Each relevant Rating Agency requires that all of these safeguards be in place before a superior rating is given.

5. *Periodic Reporting and Monitoring of Accounts.* In connection with the transfer of the receivables to the Trust, Fleet must record and file a UCC financing statement (including any continuation statements, when applicable) in order to perfect the assignment of the receivables, and must deliver a file-stamped copy of such financing or continuation statement to the Trustee. Fleet must also indicate in its computer system file of credit card accounts the receivables transferred to the Trust by identifying the accounts with a unique designation, as described in the PSA. Fleet must deliver a complete list of all accounts in the Trust to the Trustee on or prior to the initial closing date and thereafter on a periodic basis as required by the PSA.

The Trustee is able to continually monitor the Trust's assets by reviewing the monthly reports regarding pool performance which are prepared for the Trustee and investors by Fleet, as Servicer. In addition, Fleet provides the Trustee with a complete list of accounts prior to each addition or removal, as required by the PSA. Each relevant Rating Agency requires significant monitoring procedures for the servicing of receivables to ensure investor safety as a condition to a superior rating.

6. *Minimum Receivable Requirements.* The aggregate principal amount of the receivables held by the Trust must be at least equal to the sum of the principal amount of the Certificates (prior to the commencement of any related amortization or accumulation) for all Series then outstanding (other than a Series which is backed in full by accumulated cash or permitted investments (see Paragraph 11 below) less any accumulated excess funding amount held in the Trust for Certificateholders. If, on the last business day of any month, the aggregate amount of principal receivables is less than the required minimum, Fleet must designate additional accounts or may convey participations in other credit card receivable pools sponsored by Fleet to be transferred to the Trust so that the aggregate principal receivables will meet the minimum requirement.

Interests in the assets of each Trust are allocated among the Certificateholders of each Series and the Seller (i.e., Fleet) and the principal portion of the Seller's interest is referred to as the ''Seller Amount.'' The interest in the Trust assets allocated to the Seller is referred to as the ''Seller Interest'' less any accumulated excess funding amount held in the Trust for Certificateholders. To protect against fraud, chargebacks or other dilution of receivables in the Trust, the PSA and the Rating Agencies will require Fleet, as the Trust's sponsor, to maintain a seller interest of not less than 2 percent of the principal balance of the receivables contained in the Trust (referred to as the ''Required Seller Percentage''). If, on the last business day of any month, the Seller Amount is less than the Required Seller Percentage, Fleet must designate additional accounts or participations in other credit card receivable pools to be transferred by Fleet to the Trust in order to satisfy the minimum requirement. When account payments exceed account purchases, the total pool of receivables in the relevant Trust contracts. As a result, the Seller Interest declines, thus providing a buffer to prevent a decline in the principal balance of the Certificates prior to the scheduled payment of principal. Thus, when the account balances that secure the Certificates decline, the Seller Interest decreases, not the principal balance of the Certificates. When the account balances again increase, the Seller Interest is increased. The Seller Interest will also decline as a result of dilution of the receivable portfolio resulting from noncash reductions such as merchandise returns or servicer errors.

The minimum receivable requirement and Required Seller Percentage requirement imposed on Fleet by the PSA (as described above) cause the Trustee, Servicer or Seller to have limited discretion regarding the minimum size of the Trust. Each relevant Rating Agency gains comfort from these minimum receivable levels that the Trust will be maintained so as not to adversely affect the ability of the Trust assets to support the promised interest and/or principal payments to Certificateholders.

7. *Restrictions Regarding Addition and Removal of Accounts.* In addition to the limitations discussed above regarding the initial selection of accounts and minimum receivable requirements, the following restrictions apply to the addition of accounts subsequent to the initial transfer of receivables to the Trust. Any transfer of receivables from additional accounts

must be preceded by written notice to the Trustee, each relevant Rating Agency and the Servicer specifying the approximate aggregate amount of receivables to be transferred. In connection with the transfer, Fleet will warrant that the additional accounts are eligible accounts and that each receivable is an eligible receivable, and that no selection procedures believed by Fleet to be materially adverse to the interest of the Certificateholders were utilized in selecting the accounts. Fleet must deliver an opinion of counsel with respect to the added receivables to the Trustee, with a copy to each relevant Rating Agency, that such addition is enforceable and that the Trust has either a valid transfer of, or a grant of security interest in, the additional accounts. The PSA requires that the Servicer and the Trustee receive confirmation from a Rating Agency that no Ratings Effect (i.e., a downgrade or withdrawal of the then current rating of any outstanding Series of Certificates) will result from a proposed transfer of accounts to the Trust.

Fleet may remove receivables and accounts, subject to the minimum receivable requirements discussed above. Fleet must give the Trustee and the Servicer and the relevant Rating Agencies written notice stating the approximate aggregate principal balance of the removal, and certifying that such removal must not result in a Pay Out Event. Fleet must warrant that no selection procedures believed by it to be materially adverse to the Certificateholders were utilized in selecting the removed receivables. Each relevant Rating Agency must have confirmed that such proposed removal will not result in a Ratings Effect. Fleet states further that the amount of any receivables that are removed must be less than 5 percent of the aggregate amount of principal receivables or, if any Series is paid in full, the amount of receivables removed must approximate the initial investor interest of such Series.

Each Rating Agency has determined that the number of additional accounts from which receivables may be added is generally limited to: (i) with respect to any consecutive three-month period commencing in January, April, July and October of each calendar year, 15 percent of the number of existing accounts designated to the Trust as of the first day of the calendar year in which such monthly period commenced, and (ii) with respect to any calendar year, 20 percent of the number of accounts designated to the Trust as of the first day of such calendar year. Fleet may be able to exceed the maximum addition amount if approval is received from each relevant Rating Agency.

By informing the relevant Rating Agencies of all details regarding additions and removals, the Trust is effectively reexamined each time these events occur in order to assure that the changes to the Trust assets will not adversely affect the rating of any outstanding Series. Each relevant Rating Agency scrutinizes the receivables in the additional accounts, or the relative strength of the pool of receivables designated to the Trust both before and after the addition or removal, as the case may be, in making any such re-examinations.

8. *Servicer Eligibility Requirements.* The Servicer of the receivables must be either the Seller (Fleet), an affiliate of Fleet, or an entity unaffiliated with Fleet acting as a ''Subservicer'' which is qualified to service a portfolio of consumer revolving credit card accounts and meets certain requirements. Under such requirements, the entity acting as either a Servicer or Subservicer must be legally qualified and have the capacity to service the accounts, must be qualified to use the software used to service the accounts, must have demonstrated the ability to professionally and competently service a portfolio of similar accounts in accordance with customary standards of skill and care, and must have a certain net worth (e.g. at least $50,000,000). These requirements are in line with the Rating Agencies' standards for servicers.

Regardless of whether the Servicer is Fleet, an affiliate of Fleet, or a third party meeting the eligibility requirements discussed above, the Servicer's duties are largely ministerial and are provided in detail in the PSA. The Servicer administers the receivables, collects payments due thereunder, makes withdrawals from the various accounts created under the PSA which are forwarded to the Trustee on the dates and in the manner provided under the PSA, commences enforcement proceedings with respect to delinquent receivables and makes filings and other necessary reports with the SEC and any state securities authorities as necessary to comply with the law. The Servicer must maintain fidelity bond coverage insuring against losses through its own wrongdoing, and is entitled to receive a reasonable servicing fee which is specifically enumerated in each PSA supplement.

9. *Servicer Daily Reports, Duties and Public Accounting Firm Review.* On each business day the Servicer, upon prior written notice by the Trustee, must prepare and make available to the Trustee a record of the collections processed on the second preceding business day and the aggregate amount of receivables as of the close of business on such day. The Servicer must prepare monthly for the Trustee, the paying agent, any credit enhancement provider, and each relevant Rating Agency, a certificate setting forth the aggregate collections processed during the preceding month with respect to each Series outstanding, the aggregate amount of the investor percentages of collections of finance charge receivables and principal receivables processed during the preceding month with respect to each Series outstanding, the balances in the finance charge account, the principal account or any Series account during the preceding month, and other detailed information.

The Servicer will provide annually a certificate from an officer indicating that the Servicer's activities over a 12-month period were reviewed and the officer believed such obligations were fully performed under the PSA. Every year, a nationally recognized firm of independent certified public accountants will review the internal accounting controls and their relation to the servicing of the receivables as well as the mathematical accuracy of the Servicer's monthly reports, and the results will be provided to the Trustee, any credit enhancement provider, and each relevant Rating Agency. These additional reviews of the Servicer are designed to prevent Servicer fraud and limit Servicer discretion. These safeguards protect investors and are a positive factor in a Rating Agency's evaluation.

10. *Trustee Eligibility and Duties.* The Trustee must be a corporation, bank, or other financial institution organized, doing business and regulated under the laws of the United States, any State or the District of Columbia and have a long-term unsecured debt rating as specified in the PSA. The Trustee must be independent of Fleet and its affiliates and meet the same requirements that would be necessary for an eligible Servicer (as discussed under ''Servicer Eligibility Requirements'' above in paragraph 8). Any successor Trustee must also meet these requirements and be approved by each relevant Rating Agency.

The Trustee is responsible for receiving collections from receivables as provided in the PSA, investing any moneys as directed in the PSA, and directing payments to Certificateholders according to the plan of allocation and payment detailed in the PSA. In performing these functions, the Trustee has little, if any, discretion. The Trustee is also responsible for examining any

resolutions, statements, certificates, opinions, reports or other instruments in order to determine whether they substantially conform to the requirements of the PSA. The Trustee has no power to vary the corpus of the Trust and must perform the duties of other parties should they fail to perform under the PSA. Like the Servicer restrictions, the restrictions on the Trustee limit discretion, enhance investor protection, and are a positive influence on a Rating Agency's evaluation.

11. *Restrictions on Investments.* The collections of principal receivables and finance charge receivables held in the Trust may be invested by the Trustee only in ''permitted investments'' during the interim periods between collection and payment to the Certificateholders. Such permitted investments are detailed in the PSA and represent what each relevant Rating Agency considers to be secure investments that sufficiently protect investors. Under the proposed exemption, permitted investments would be investments that either (i) are direct obligations of, or obligations fully guaranteed as to timely payment of principal and interest by, the United States or any agency or instrumentality thereof, provided that such obligation is backed by the full faith and credit of the United States, or (ii) have been rated (or the obligor thereof has been rated) in one of the three highest generic rating categories by a Rating Agency. In addition, all permitted investments must be described in the PSA and permitted by the relevant Rating Agencies.

12. *Protection From the Consequences of Unplanned Events.* If Fleet should desire to merge or consolidate with, or assume the obligations of, another entity, certain provisions of the PSA ensure that the Trust assets remain secure. The new entity involved in the merger or consolidation must be a national banking association, a state banking corporation, a savings and loan association, or another entity not subject to bankruptcy laws or a bankruptcy remote corporation and must be organized and regulated under the laws of the United States, any State or the District of Columbia. The new entity must expressly assume the performance of every covenant and obligation of Fleet, and Fleet must provide the Trustee with an opinion of counsel that such assumption is legal, valid and binding. Finally, each relevant Rating Agency must be notified in advance of the change. Similarly, a merger, consolidation or assumption of the obligations of the Servicer also requires the same protections of a full assumption of liabilities, an opinion of counsel and Rating Agency notification.

The Certificateholders of each Series receive protection from certain unplanned events (called ''Pay Out Events''). If a ''Pay Out Event'' occurs with respect to a Series, either (i) a rapid amortization period will commence during which the Certificates of such Series will be paid down periodically, as provided in the PSA Supplement, with the principal collections allocable to such Series or with principal collections allocable to other Series which are shared within the same Group (as discussed in Paragraph 15 below), or (ii) a rapid accumulation period will commence during which the Series' principal collections will be accumulated until a designated payment date. Pay Out Events include ''Trust Pay Out Events,'' which apply to all Series, and ''Series Pay Out Events,'' which apply to particular Series. ''Trust Pay Out Events'' include: (i) Certain events of insolvency, conservatorship or receivership relating to Fleet; (ii) the Trust becomes an ''investment company'' within the meaning of the Investment Company Act of 1940, as amended; and (iii) Fleet becomes unable for any reason to transfer receivables to the Trust as required by the PSA.

''Series Pay Out Events'' generally include:

(a) Failure of Fleet to make required payments or observe its other covenants to the extent there is a material adverse effect on the Certificateholders of that Series;

(b) Breach by Fleet of its representations and warranties to the extent there is a material adverse effect on the Certificateholders of that Series;

(c) A default by the Servicer that would have a material adverse effect on the Certificateholders of that Series;

(d) Failure of Fleet to convey additional accounts as required to meet the required seller percentage and principal balance requirements; and

(e) The net portfolio yield for any three consecutive monthly periods is less than the base rate for such period (an ''Economic Pay Out Event'').

With respect to item (e) above, Fleet states that an ''Economic Pay Out Event'' will occur automatically when the portfolio yield for any series of certificates, averaged over three consecutive months (or such other period approved by one of the Rating Agencies) is less than the base rate of the series averaged over the same period. Portfolio yield for a series of certificates for any period is equal to the sum of the finance charge collections and other amounts treated as finance charge collections less total defaults for the series divided by the outstanding principal balance of the investor certificates of the series, or such other measure approved by one of the Rating Agencies. The base rate for a series of certificates for any period is the sum of (i) amounts payable to certificateholders of the series with respect to interest, (ii) servicing fees allocable to the series payable to the servicer, and (iii) any credit enhancement fee allocable to the series payable to a third party credit enhancer, divided by the outstanding principal balance of the investor certificates of the series, or such other measure approved by one of the Rating Agencies.

Fleet states that an ''Economic Pay Out Event'' should not occur because the amount of receivables included within the Trust has been designed to create ''excess spread'' between the yield on the receivables and the certificate rates. ''Excess spread'' is the amount by which the yield on the receivables held by the Trust exceeds, at any point in time, the amounts necessary to pay certificate interest, principal (if such payments are due to certificateholders), servicing fees and expenses, and to satisfy cardholder defaults or charge-offs. The Rating Agencies examine the expected amount of ''excess spread'' very closely before providing a high credit rating for the certificates.

A ''Pay Out Event'' accelerates the scheduled payments or accumulation of principal on the Certificates as specified within each PSA Supplement, and eliminates shared allocations from such Series, thus increasing the probability of full payment to senior Certificateholders, including plan investors. During a rapid amortization period, which is triggered by a ''Pay Out Event'', all collections are distributed periodically (instead of being distributed on the originally scheduled principal payment dates), as provided in the PSA Supplement, until the senior Certificateholders are paid in full. During a rapid accumulation period, also triggered by a ''Pay Out Event'', all principal collections allocated to the senior Certificates are accumulated and invested by the Trustee until the senior Certificateholders' interest is backed in full by cash and/or permitted investments which will be distributed on the originally scheduled payment date. Payments or accumulations are then directed to the next level of Certificates below the senior Certificates, until all Certificates have been paid or accumulated, or the Trust terminates. Because this accelerated pay out or accumulation schedule is triggered as a result of poor

performance, senior Certificateholders are protected from a loss which might result from long-term yield reduction, and are, to a level of certainty necessary to support a rating of ''AA'' (or better), likely to receive their entire investment return. The timing or amount of the payments or accumulations is specifically defined in each PSA Supplement, further protecting investors from mismanagement. This automatic pay out trigger is important to each relevant Rating Agency as well, because it strictly limits the potential losses to investors.

Investors are also protected from the negative consequences of an event of Seller insolvency. If one or more of a number of indications of insolvency are present, a ''Pay Out Event'' occurs and a rapid amortization or a rapid accumulation period is triggered. As discussed above, this event accelerates payments or accumulation of collections to maximize the probability that senior Certificateholders will be paid promptly and in full. In addition, the Trustee also liquidates the receivables (unless otherwise instructed by Certificateholders representing undivided interests aggregating more than 50 percent of each outstanding Series) in order to further accelerate the pay out or accumulation process. The proceeds of the liquidation are distributed or accumulated in the tiered manner discussed above in the low-yield scenario.

13. *Limited Discretion.* Inherent in all of the restrictions surrounding creation and management of the Trust, discussed above, is the limited ability of any party to the transaction to make discretionary decisions that would have a major impact on the Trust assets. The PSA addresses every possible important decision and provides the exact course of action required. Each detail is designed to ensure maximum investor security, and minimum Trustee and Servicer discretion.

The Series

14. Once a Trust is established, a Series of Certificates may be issued pursuant to a PSA Supplement. One Trust typically supports multiple Series of Certificates over time. Each Series issued under a Trust is secured, along with other outstanding Series, by the assets of the issuing Trust. The PSA Supplement builds on the PSA by specifying the parameters for the Series, such as the number and type of Certificates, subordination and payment structuring, and other credit enhancement features.

The life of a Series consists of a revolving period and an amortization or accumulation period. During both periods, daily collections are allocated to the Trust accounts in the manner specified in the PSA Supplement. Interest payments are made periodically to the Certificateholders as provided in the PSA Supplement, and principal is paid in a lump sum on the date designated in the PSA Supplement (in the case of an accumulation period), or periodically pursuant to a schedule in the PSA Supplement (in the case of an amortization period), for each class of Certificates. The allocation of collections and the priority of payments differs slightly during the revolving period and the amortization or accumulation period.

15. During a Series' revolving period, periodic interest payments are made to Certificateholders. Principal payments, however, are not made until the amortization period or at the end of the accumulation period. Principal collections during the revolving period typically are shared among the Series that are members of the same Group. If one Series has principal receipts greater than needed to pay principal for that period, the excess may be used to pay principal for another Series in the Group which may have a need for such principal collections. In such instances, the minimum principal receivable balances required by the Rating Agencies for all Series must be maintained. The process of sharing within the Group spreads payment risk over a broader base of collections and effectively allows concentration of principal collections supporting a particular Series, resulting in increased reliability of the payment streams.

Principal collections received during the amortization or accumulation period are also potentially shared, but are first applied to the principal funding for the Series to which they relate. The amortization or accumulation period ends on the earliest of: (i) When the investor interests are paid in full; (ii) the Series termination date provided in the PSA Supplement; or (iii) the commencement of a rapid amortization or rapid accumulation period. Finance charges and fees collected during the revolving period and the accumulation or amortization period are applied to the related Series, and are not generally shared within the Group.

16. Every Trust will have a variety of credit enhancement features, as described in the PSA and specified in the applicable PSA Supplement. In addition to the Group sharing of collections discussed above, other forms of credit enhancement may include subordination and letters of credit or other third party arrangements. The type and value of credit enhancement for a particular Series is designed to complement the underlying Trust receivables so that, as a whole, the Trust assets satisfy the relevant Rating Agencies' requirements for the superior rating desired. In this regard, Fleet represents that the particular class of certificates for each series to which this proposed exemption would apply (an Exempt Class) will have credit support provided to the Exempt Class through either a senior-subordinated series structure or other form of third party credit support which, at a minimum, will represent five (5) percent of the outstanding principal balance of certificates issued for the Exempt Class, so that an investor in the Exempt Class will not bear the initial risk of loss.

Each Series with an Exempt Class covered by the proposed exemption will include one or more of the following credit enhancing investor safeguards (as discussed further below): (i) subordination; (ii) third party credit enhancement; and (iii) predetermined allocation of collections and payments to certificateholders allows no variation.

17. *Subordination.* Typically, a Series will have some form of subordination incorporated within the payment schedule detailed in the PSA Supplement. Such a Series will consist of at least one class of senior Certificates (typically designated as ''Class A Certificates'') which will be allocated collections in a more favorable manner than, and/or prior to, another class (or other classes) of Certificates (i.e., the next lower level, typically designated as ''Class B Certificates'') and often will include an uncertificated class subordinate to the Class B Certificates (typically designated as the ''Collateral Interest'' or ''Class C Interest''). The subordination process generally will involve both the receipt of collections and the effect of losses. Thus, such collections will be applied to the senior (or Class A) Certificates first and then the second tier (or Class B) Certificates, and will be applied last to the lowest level class of Certificates (or the Collateral Interest). Conversely, the losses will first reduce the lowest class of Certificates (or the Collateral Interest), only affecting the senior (or Class A) Certificates after all other classes have been reduced to zero. The result of this tiered structure is that the senior (or Class A) Certificates are protected from nonpayment by the lower classes. If the certainty of payment provided by the subordination or other credit support mechanism is insufficient to allow each relevant Rating Agency to bestow one of its two highest ratings on the senior Certificates, the senior Certificates

would not be eligible for the relief provided under the proposed exemption.

18. *Third Party Credit Enhancement.* A Series may include a form of credit enhancement provided by an outside party, such as a letter of credit, a cash collateral account, insurance or a guaranty or other extension of credit. This arrangement will be documented by a separate contract outlining the terms of the enhancement. A holder of the Collateral Interest (described in paragraph 17) or other subordinate interest holder may be a loan provider or an investor in the Class C Interest, and the PSA Supplement typically requires that a minimum Collateral Interest (or subordinate interest) be a feature of each Series. As with all the forms of credit enhancement, the terms and the amount of the Collateral Interest will be dependent upon an evaluation of the other Trust assets and the additional support needed to satisfy each relevant Rating Agency that the Certificates are sufficiently protected from default.

19. *Predetermined Allocation of Collections and Payments to Certificateholders Allows No Variation.* The PSA Supplement provides instructions to the Servicer regarding each day's collections and the allocation of those collections to the various accounts created by the PSA. These instructions indicate how to make the payments and allocations during the revolving period, the controlled amortization or controlled accumulation period and the rapid amortization or rapid accumulation period, if any. The instructions also cover the treatment of other moneys from loans or other credit enhancement features, and carefully describe how to accommodate any excess collections, or how to compensate for any shortfalls. In following these detailed instructions, the Servicer does not make any discretionary decisions. The tasks are predetermined and largely ministerial. These explicit instructions, in concert with the Servicer reporting and review requirements, are designed to permit each relevant Rating Agency to conclude that mismanagement risks are minimal.

The Certificates

20. Each Series may include a class or various classes of Certificates, some of which may be subordinate to others. Certificateholders will be entitled to receive periodic payments of interest based upon a fixed or variable interest rate which is set forth in the PSA Supplement and applied to the Certificateholder's unpaid principal balance. Certificateholders will also be entitled to receive a lump sum principal payment on the scheduled payment date, or a series of periodic payments beginning on the scheduled payment commencement date, as specified in the PSA Supplement, to the extent of the Certificateholder's investor interest.

As noted earlier, only Certificates that are not subordinate to any other class or classes of Certificates (the ''Senior Certificates'') would be eligible for exemptive relief under the proposed exemption. However, subordinate certificates that are part of a Series which includes Senior Certificates eligible for the proposed exemption could be purchased by insurance company general accounts if the conditions of Prohibited Transaction Exemption 95–60, 60 FR 35925 (July 12, 1995) (PTE 95–60), are satisfied.

21. Fleet represents that a plan would invest in the Certificates for the same reasons any investor would invest in a highly secure, ''AA'' (or better) rated investment with attractive yields. The Senior Certificates represent an investment alternative which offers all the benefits of a highly rated fixed-income security, such as fixed payment streams, investment diversity and market rates of return. Permitting plans to invest in Senior Certificates in reliance on the proposed exemption would provide plans with additional and safe investment opportunities.

22. With respect to the credit ratings of the Certificates, Fleet states that the rating reflects a Rating Agency's opinion as to the relative amount of protection that investors have against loss of principal and interest during the life of the security. A high rating comports with a low risk of loss. In order to achieve this rating, each relevant Rating Agency requires the credit card securitizations effected through the Trust to include a variety of safeguards—such as subordination or other forms of credit enhancement, limitations on the Seller's discretion, and Rating Agency approval of certain actions taken with respect to the Trust or a Series of Certificates. Each relevant Rating Agency typically requires legal opinions regarding the credit card securitization's structure and performs stress tests on the portfolio of selected receivables in order to evaluate the securitization's anticipated performance within a range of significant market fluctuations. In addition, each relevant Rating Agency performs a comprehensive review of all documents related to the credit card securitization before the formal rating is given. Each relevant Rating Agency must provide confirmations that additions of receivables from accounts to a Trust, or withdrawals of existing accounts from a trust, will not result in a Ratings Effect on the Certificates.

After its rating is assigned, the Rating Agency monitors the performance of the credit card receivables included in a Trust in order to assess whether the performance remains consistent with the rating. Although variations in portfolio performance are expected during a Certificate's duration and are factored into a Rating Agency's analysis, extreme and unexpected performance results may result in a revision of the rating. Fleet makes its Trust performance information available to each relevant Rating Agency in a variety of ways, in order to ensure that such Agency receives all the information it deems necessary to make its evaluation. For example, Fleet provides information on portfolio performance broken down by account balance, credit limit, account age, delinquency period and geographic distribution.

Fleet states that the receipt of one of the two highest generic ratings from a Rating Agency represents the result of an exhaustive analysis of the many risk factors involved with a Series of Certificates, and provides a comfort level to investors that the potential reduction in yield as a result of credit losses is minimal.[14]

23. Fleet represents that the statistics on Certificates backed by credit card trusts indicate that they are sound investments. In this regard, Fleet states that public credit card securitization transactions have been in existence since 1987 and issuers have successfully sold over $230 billion in Certificates backed by credit card receivables since then with a zero investor loss rate. Fleet states further that plans have invested during this time in such Certificates,

[14] In this regard, the Department was advised by representatives from two of the Rating Agencies (RA Reps) of certain issues concerning the ratings of certificates issued by trusts holding credit card receivables. The RA Reps discussed, among other things, the fact that different banks use different underwriting standards and may offer cardholders different terms on their accounts. Some banks may be willing to accept cardholders with more risky credit histories while other banks may not or may offer better terms to cardholders with superior payment histories. The result may be that some banks have a higher quality portfolio of receivables than other banks. The RA Reps stated that if a bank securitizes a portfolio of receivables which holds a number of riskier accounts, the Rating Agencies will require more credit enhancement measures because different assumptions will have to be made about the performance of the portfolio—e.g. higher charge-off rates will be assumed and greater ''excess spread'' will be necessary to avoid losses—in order to achieve an ''AAA'' rating. Thus, for example, Bank A's certificates may receive an ''AAA'' rating along with Fleet's certificates even though Bank A may experience more charge-offs on the credit card accounts and may have different payment rates on the receivables associated with those accounts.

despite the prohibited transaction provisions of the Act, in reliance upon the Department's regulation defining ''plan assets'' and, specifically, the ''100-Holder Exception'' for ''publicly-offered'' securities (see 29 CFR 2510.3–101).[15]

Fleet maintains that the proposed exemption offers a number of safeguards in the form of concentration restrictions that are designed to provide additional protections for plan investors which are not included in the typical 100-holder exception transactions. For example, for purposes of the relief from the prohibitions of section 406(b) of the Act[16] provided under Section I.B. herein (relating to certain obligors of the Trust who may have discretionary authority for a plan investing in certificates of the Trust), the proposed exemption limits such plan's investment in any class of Certificates of any Series to not more than 25 percent of the principal amount of the Certificates of that class outstanding at the time of acquisition. In addition, immediately after the acquisition of the certificates, not more than 25 percent of the assets of such a plan may be invested in certificates representing an interest in the trust, or trusts containing receivables sold or serviced by the same entity. Further, the proposed exemption requires that at least 50 percent of the outstanding principal amount of each class of Certificates in which plans have invested, and at least 50 percent of the outstanding aggregate interest of the Trust, in connection with the initial issuance of the Certificates, must be acquired by persons independent of the Sponsor, the Servicer and other related parties. These restrictions are designed to protect plan investors from the risks inherent in excessive ownership concentration and related party transactions.

24. Fleet represents that the requested exemption is similar to the Underwriter Exemptions.[17] The Underwriter Exemptions are a series of exemptions granted by the Department to various underwriters or trust sponsors for transactions relating to the acquisition by plans of certificates representing interests in trusts holding various types of assets (e.g. single and multi-family residential or commercial mortgages, motor vehicle leases and related vehicles, equipment leases or other secured obligations), as provided in Section III.B. of the Underwriter Exemptions.

The Trusts described under the proposed exemption for Certificates backed by credit card receivables differ from trusts holding secured obligations in that the Trusts do not contain a fixed pool of assets and the receivables are not secured by real or tangible personal property. However, Fleet states that this difference in structure does not represent a difference in the quality or safety of investments by plans and other investors in the Certificates. Under the proposed exemption, Fleet represents that the other forms of credit enhancement provide at least the same level of security for investors in Trusts holding credit card receivables as exists for investors in trusts holding tangible or real property as collateral for the payment obligations to Certificateholders. In addition, Trusts holding credit card receivables do not involve the expense and administrative complexities of foreclosure procedures relating to tangible and real property.

25. Certificateholders are entitled to receive periodic payments of interest based upon an interest rate, which may be variable or fixed. This interest rate is specified or defined in the PSA Supplement for the particular Series and is applied to the outstanding principal balance of the Certificates. This outstanding balance (net of any charge-offs) is known as the investor interest for the senior class of Certificates. Certificateholders are also entitled to receive principal payments on the scheduled payment dates, or sooner or later under certain limited circumstances, pursuant to the PSA Supplement to the extent of the Certificateholders' investor interest. The payments are funded from collections on the related receivables and allocated to the investor interests as provided in the PSA Supplement.

Fleet states that a Series or class of Certificates may have the benefit of an interest rate swap agreement entered into between the Trustee for a Trust and a bank or other financial institution acting as a swap counterparty. Pursuant to the swap agreement, the swap counterparty would pay a certain rate of interest to the Trust in return for a payment of a rate of interest by the Trust, from collections allocable to the relevant Series or class of Certificates, to the swap counterparty. Fleet represents that the credit rating provided to a particular Series or class of Certificates by the relevant Rating Agency may or may not be dependent upon the existence of a swap agreement. Thus, in some instances, the terms and conditions of the swap agreements will not effect the credit rating of the Series or class of Certificates to which the swap relates (i.e. a ''Non-Ratings Dependent Swap'').

Fleet states that whether or not the credit rating of a particular Series or class of Certificates is dependent upon the terms and conditions of one or more interest rate swap agreements entered into by the Trust (i.e. a ''Ratings Dependent Swap'' or a ''Non-Ratings Dependent Swap''), each particular swap transaction will be an ''Eligible Swap'' as defined in Section III.HH. above.

In this regard, an Eligible Swap will be a swap transaction:

(a) Which is denominated in U.S. Dollars;

(b) Pursuant to which the Trust pays or receives, on or immediately prior to the respective payment or distribution date for the applicable senior class of Certificates, a fixed rate of interest, or a floating rate of interest based on a publicly available index (e.g. LIBOR or the U.S. Federal Reserve's Cost of Funds Index (COFI)), with the Trust receiving such payments on at least a quarterly basis and obligated to make separate payments no more frequently than the counterparty, with all simultaneous payments being netted;

(c) Which has a notional amount that does not exceed either (i) the certificate balance of the class of certificates to which the swap relates, or (ii) the portion of the certificate balance of such class represented by receivables;

(d) Which is not leveraged (i.e. payments are based on the applicable notional amount, the day count fractions, the fixed or floating rates designated in item (b) above, and the difference between the products thereof, calculated on a one to one ratio and not on a multiplier of such difference);

(e) Which has a final termination date that is the earlier of the date on which

[15] The Department's regulation defining ''plan assets'' provides that, if a plan invests in a publicly-offered security, the plan's assets will not include, solely by reason of such investment, any of the underlying assets of the entity issuing the security (i.e. the ''look-through rule'' will not apply and the operations of the entity will not be subject to scrutiny under the prohibited transaction provisions of the Act). The regulation defines a ''publicly-offered'' security as one that is freely transferable, widely-held, and registered under the federal securities laws. A class of securities is ''widely held'' if it is owned by 100 or more investors who are independent of the issuer and of one another at the conclusion of the offering (see 29 CFR 2510.3–101(b)(3)).

[16] Section 406(b) of the Act, in pertinent part, prohibits a plan fiduciary from dealing with the assets of the plan in his own interest or for his own account, or from acting on behalf of a party (or representing a party) whose interests are adverse to the interests of the plan and its participants and beneficiaries.

[17] As indicated in Footnote 7 above, PTE 97–34 (which granted an amendment to the Underwriter Exemptions) contains the most comprehensive listing of these exemptions.

the Trust terminates or the related class of Certificates is fully repaid; and

(f) Which does not incorporate any provision which could cause a unilateral alteration in any provision described in items (a) through (e) above without the consent of the Trustee.

In addition, any Eligible Swap entered into by the Trust will be with an ''Eligible Swap Counterparty'', which will be a bank or other financial institution with a rating at the date of issuance of the Certificates by the Trust which is in one of the three highest long-term credit rating categories, or one of the two highest short-term credit rating categories, utilized by at least one of the Rating Agencies rating the Certificates (see Section III.II above). However, if a swap counterparty is relying on its short-term rating to establish its eligibility, such counterparty must either have a long-term rating in one of the three highest long-term rating categories or not have a long-term rating from the applicable Rating Agency.

With respect to a Ratings Dependent Swap, an Eligible Swap Counterparty will be subject to certain collateralization or other arrangements satisfactory to the Rating Agencies in the event of a rating downgrade of such swap counterparty below a level specified by the Rating Agency, which would be no lower than the level that would make such counterparty ''eligible'' under this proposed exemption (see Section III.II. above). If these arrangements are not established within a specified period, as described in the PSA, there will be an early payout event causing certificateholders to receive an earlier than expected payout of principal on their certificates for the series to which the swap relates. However, with respect to a Non-Ratings Dependent Swap, the PSA will not specify that there be an early payout event for the series to which the swap relates if the credit rating of the swap counterparty falls below the level required for it to be considered an Eligible Swap Counterparty (as described in Section III.II. above). In such instances, in order to protect the interests of the Trust as a swap counterparty, the servicer (as agent for the trustee of the trust) will be required to either:

(i) Obtain a replacement swap agreement with an Eligible Swap Counterparty, the terms of which are substantially the same as the current swap agreement (at which time the earlier swap agreement will terminate);

(ii) Cause the swap counterparty to post collateral with the trustee of the trust in an amount equal to all payments owed by the counterparty if the swap transaction were terminated; or

(iii) Terminate the swap agreement in accordance with its terms.

Under any termination of a swap, the Trust will not be required to make any termination payments to the swap counterparty (other than a currently scheduled payment under the swap agreement) except from ''excess finance charge collections'' or other amounts that would otherwise be payable to the servicer or the seller (i.e. Fleet). In this regard, ''excess finance charge collections'' will be, as of any day funds are distributed from the Trust, the amounts by which the finance charge collections allocated to certificates of a series exceed the amounts necessary to pay certificate interest, servicing fees and expenses, to satisfy cardholder defaults or charge-offs, and to reinstate credit support.

With respect to Non-Ratings Dependent Swaps, each Rating Agency rating the Certificates must confirm, as of the date of issuance of the Certificates by the Trust, that entering into the swap transactions with the Eligible Swap Counterparty will not effect the rating of the Certificates, even if such counterparty is no longer an ''eligible'' counterparty and the swap is terminated.[18]

Any class of senior Certificates to which one or more swap agreements entered into by the trust applies, will be acquired or held only by Qualified Plan Investors (as defined in Section III.JJ. above). Qualified Plan Investors will be plan investors represented by an appropriate independent fiduciary that is qualified to analyze and understand the terms and conditions of any swap transaction relating to the class of senior Certificates to be purchased and the effect such swap would have upon the credit rating of the senior Certificates to which the swap relates.

For purposes of the proposed exemption, such a qualified independent fiduciary will be either:

(i) A ''qualified professional asset manager'' (i.e. QPAM), as defined under Part V(a) of PTE 84–14;[19]

(ii) An ''in-house asset manager'' (i.e. INHAM), as defined under Part IV(a) of PTE 96–23;[20] or

(iii) A plan fiduciary with total assets under management of at least $100 million at the time of the acquisition of such Certificates.

Disclosures Available to Investing Plans

26. In connection with the original issuance of certificates, the prospectus or private offering memorandum will be furnished to investing plans. The prospectus or private offering memorandum will contain information pertinent to a plan's decision to invest in the Certificates, such as:

(a) Information concerning the Certificates, including payment terms, certain tax consequences of owning and selling Certificates, the legal investment status and rating of the Certificates, and any special considerations with respect to the Certificates;

(b) Information about the underlying receivables, including the types of receivables, statistical information relating to the receivables, their payment terms, and the legal aspects of the receivables;

(c) Information about the servicing of the receivables, including the identity of the servicer and servicing compensation;

(d) Information about the Sponsor of the Trust;

(e) A full description of the material terms of the Pooling and Servicing Agreement; and

(f) Information about the scope and nature of the secondary market, if any, for such Certificates.

Certificateholders will be provided with information concerning the amount of principal and interest to be paid on Certificates in connection with each distribution to Certificateholders. Certificateholders will also be provided with periodic information statements setting forth material information concerning the status of the Trust.

In the case of a Trust that offers and sells Certificates in a registered public offering, the Trustee, the Servicer or the Sponsor will file such periodic reports as may be required to be filed under the Securities Exchange Act of 1934, as amended (the '34 Act). Although some Trusts that offer Certificates in a public offering will file quarterly reports on

[18] RA Reps have indicated to the Department that certain series of certificates issued by a trust holding credit card receivables will have certificate ratings that are not dependent on the existence of a swap transaction entered into by the trust. Therefore, a downgrade in the swap counterparty's credit rating would not cause a downgrade in the rating established by the Rating Agency for the certificates. RA Reps state that in such instances there will be more credit enhancements (e.g. ''excess spread'', letters of credit, cash collateral accounts) for the series to protect the certificateholders than there would be in a comparable series where the trust enters into a so-called Ratings Dependent Swap. Non-Ratings Dependent Swaps are generally used as a convenience to enable the trust to pay certain fixed interest rates on a series of certificates. However, the receipt of such fixed rates by the trust from the counterparty is not a necessity for the trust to be able to make its fixed rate payments to the certificateholders.

[19] See Footnote 11 above.

[20] See Footnote 12 above.

Form 10–Q and Annual Reports on Form 10–K, many Trusts (i) obtain, by application to the SEC, a complete exemption from the requirement to file quarterly reports on Form 10–Q and a modification of the disclosure requirements for annual reports on Form 10–K; or (ii) are not subject to such requirements for one or more Series of Certificates issued by the Trust. If such an exemption is obtained, these Trusts normally would continue to have the obligation to file current reports on Form 8–K to report material developments concerning the Trust and the Certificates. While the SEC's interpretation of the periodic reporting requirement is subject to change, periodic reports concerning a Trust will be filed to the extent required under the '34 Act.

Fleet states that at or about the time distributions are made to Certificateholders, reports will be delivered to the Trustee as to the status of the Trust and its assets, including underlying Receivables. Such reports will typically contain information regarding the Trust's assets, payments received or collected by the Servicer, the amount of delinquencies and defaults, the amount of any payments made pursuant to any credit support or credit enhancement feature, and the amount of compensation payable to the Servicer. Such reports will also be delivered or made available to the Rating Agency that currently rates the Certificates. Such reports will be available to investors and its availability will be made known to potential investors. In addition, promptly after each distribution date, Certificateholders will receive a statement summarizing information regarding the Trust and its assets and the applicable Series, including underlying receivables.

28. In summary, Fleet represents that the proposed transactions will meet the statutory criteria of section 408(a) of the Act because, among other things:

(a) The acquisition of senior Certificates by a plan will be on terms (including Certificate price) that are at least as favorable to the plan as such terms would be in an arm's-length transaction with an unrelated party;

(b) The rights and interests evidenced by the senior Certificates will not be subordinated to the rights and interests evidenced by other investor Certificates of the Trust;

(c) Any senior Certificates acquired by a plan will have received a rating at the time of such acquisition that is in one of the two highest generic rating categories from any one of the Rating Agencies or, for certificates with a duration of one year or less, the highest short-term generic rating category from any one of the Rating Agencies;

(d) The Trustee of the Trust will not be an affiliate of any other member of the Restricted Group;

(e) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of Certificates will represent not more than reasonable compensation for underwriting or placing the Certificates; the consideration received by the Sponsor as a consequence of the assignment of receivables (or interests therein) to the Trust will represent not more than the fair market value of such receivables (or interests); and the sum of all payments made to and retained by the Servicer, which are allocable to the Series or class of certificates purchased by a plan, will represent not more than reasonable compensation for the Servicer's services under the Pooling and Servicing Agreement and reimbursement of the Servicer's reasonable expenses in connection therewith;

(f) Any plan investing in such Certificates will be an ''accredited investor'' as defined in Rule 501(a)(1) of Regulation D of the SEC under the Securities Act of 1933, as amended;

(g) The terms of each Series or class of Certificates, and the conditions under which Fleet may designate additional accounts to, or remove previously-designated accounts from, the Trust will be described in the prospectus or private placement memorandum provided to investing plans;

(h) The Trustee of the Trust will be a substantial financial institution or trust company experienced in trust activities and would be familiar with its duties, responsibilities and liabilities as a fiduciary under the Act;

(i) The PSA will include ''Economic Pay Out Events'' triggered by a decline in the performance of the receivables in the Trust;

(j) To protect against fraud, chargebacks or other dilution of the receivables in the Trust, the PSA and the Rating Agencies will require Fleet, as the Trust's sponsor, to maintain a seller interest of not less than 2 percent of the principal balance of the receivables contained in the Trust;

(k) Each receivable added to a Trust will be an eligible receivable, based on criteria of the relevant Rating Agency(ies) and as specified in the PSA;

(l) The PSA will require that any change in the terms of any cardholder agreements also will be made applicable to the comparable segment of accounts owned or serviced by Fleet which are part of the same program or have the same or substantially similar characteristics;

(m) The addition of new receivables or designation of new accounts, and the removal of previously-designated accounts, will meet the terms and conditions for such additions, designations, or removals as described in the prospectus or private placement memorandum for such Certificates, which terms and conditions will have been approved by each relevant Rating Agency, and will not result in the Certificates receiving a lower credit rating from the relevant Rating Agency than the then current rating of the Certificates;

(n) Any swap transaction relating to senior Certificates that are covered by the proposed exemption must satisfy the several investor-protective conditions applicable to Eligible Swaps and must be entered into by the Trust with an Eligible Swap Counterparty; and

(o) Any class of Certificates to which one or more swap agreements entered into by the Trust applies may be acquired or held by plans in reliance upon this proposed exemption only if such plans are represented by ''Qualified Plan Investors.''

FOR FURTHER INFORMATION CONTACT: Mr. Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and

protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

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

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 99–20190 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on the Benefit Implications Due to the Growth of a Contingent Workforce Advisory Council on Employee Welfare and Pension Benefits Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the Working Group assigned by the Advisory Council on Employee Welfare and Pension Benefit Plans to study what the benefit implications are due to the growth of a contingent workforce will hold an open public meeting on Wednesday, September 8, 1999, in Room N3437 A–B, U.S. Department of Labor Building, Second and Constitution Avenue, NW, Washington, DC 20210.

The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon, is for Working Group members to receive testimony from additional witnesses on the most recently available contingent, flexible and non-traditional employment relationships as well as an analysis on the policy implications that flow from the data.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before September 1, 1999, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by September 1, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 1.

Signed at Washington, DC, this 4th day of August, 1999.

Richard McGahey,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 99–20614 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Exploring the Possibility of Using Surplus Pension Assets To Secure Retiree Health Benefits Advisory Council on Employee Welfare and Pension Benefits Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held Wednesday, September 8, 1999, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to explore the possibility of using surplus pension assets to secure retiree health benefits.

The session will take place in Room N–3437 A–B, U.S. Department of Labor Building, Second and Constitution Avenue, NW, Washington, DC 20210. The purpose of the open meeting, which will run from 1 p.m. to approximately 3:30 p.m., is for working group members to discuss the first draft of the committee's report, due to be completed by mid-November, to begin formulating recommendations for the report and to hear additional actuarial testimony on levels deemed to be adequate regarding pension plan assets.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before September 1, 1999, to Sharon Morrissey, Executive Secretary ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by September 1, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 1.

Signed at Washington, DC, this 4th day of August 1999.

Richard McGahey,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 99–20615 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Studying Issues Surrounding the Trend in the Defined Benefit Plan Market With a Focus on Employer-Sponsored Hybrid Plans Advisory Council on Employee Welfare and Pension Benefits Plans; Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held on Thursday, September 9, 1999, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study issues

surrounding trends in the defined benefit market with a focus on employer-sponsored hybrid plans.

The purpose of the open meeting, which will run from 9 a.m. to approximately 1 p.m. in Room N–3427 A–B, U.S. Department of Labor Building, Second and Constitution Avenue NW, Washington, DC 20210, is for working group members to continue taking testimony on additional perspectives as well as additional factual input on account balance plans.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before September 1, 1999, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, US Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by September 1, at the address indicated in this notice.

Organizations or individuals also may submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 1.

Signed at Washington, DC, this 4th day of August 1999.

Richard McGahey,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 99–20616 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

107th Meeting of the Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 107th public meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Thursday, September 9, 1999.

The purpose of the open meeting, which will run from 2 p.m. to approximately 3:30 p.m. in Room N–3437 A–B, U.S. Department of Labor Building, Second and Constitution Avenue NW., Washington, DC 20210, is for members to receive progress reports from the three working groups established for 1999 and a status report on the activities of the Pension and Welfare Benefits Administration, which staffs the Advisory Council for the Secretary of Labor.

Working Group topics and the chairs of those working groups are:

- Benefit Implications of a Contingent Workforce, Michael Fanning;
- Exploring the Possibility of Using Pension Surplus to Fund Retiree Health Benefits, Michael J. Gulotta, and
- The Trend in the Defined Benefit Plan Market with a Focus on Hybrid Plans, including Cash Balance Plans, Judith F. Mazo.

Members of the public are encouraged to file a written statement pertaining to any of these topics by submitting 20 copies on or before September 1, 1999, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the full Advisory Council should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by September 1, at the address indicated in this notice.

Organizations or individuals also may submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 1.

Signed at Washington, DC, this 4th day of August 1999.

Richard McGahey,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 99–20617 Filed 8–10–99; 8:45 am]

BILLING CODE 4510–29–M

MERIT SYSTEMS PROTECTION BOARD

Agency Information Collection Activities; Proposed Collection

AGENCY: Merit Systems Protection Board.

ACTION: Notice.

SUMMARY: The U.S. Merit Systems Protection Board (MSPB) is requesting a three year reinstatement of its expired Generic Clearance Request for Voluntary Customer Surveys Under Executive Order 12862 ''Setting Customer Service Standards'' from the Office of Management and Budget (OMB) under section 3506 of the Paperwork Reduction Act of 1995, OMB Control Number: 3124–0012.

In this regard, we are soliciting comments on the public reporting burden. The reporting burden for the collection of information on this form is estimated to vary from 10 minutes to 30 minutes per response, with an average of 15 minutes, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

ESTIMATED ANNUAL REPORTING BURDEN

5 CFR section	Annual number of respondents	Frequency per response	Total annual responses	Hours per response (average)	Total hours
1201 and 1209	5,000	1	3,750	.25	937.5

In addition, the MSPB invites comments on (1) Whether the proposed collection of information is necessary for the proper performance of MSPB's functions, including whether the information will have practical utility;

(2) the accuracy of MSPB's estimate of 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 respondents, including through the use of automated collection techniques, when appropriate and other forms of information technology.

DATES: Comments must be received on or before October 12, 1999.

ADDRESSES: Comments concerning the paperwork burden should be addressed to Mr. Bruce Mayor, Merit Systems Protection Board, 1120 Vermont Ave., NW., Washington, DC 20419 or by calling (202) 653–8900.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 99–20722 Filed 8–10–99; 8:45 am]

BILLING CODE 7400–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

August 6, 1999.

TIME AND DATE: 10:00 a.m., Wednesday, August 18, 1999.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)(10)].

MATTERS TO BE CONSIDERED: This Commission meeting is a continuation of the Commission meeting held on August 6, 1999, to discuss in closed session the pending application for a prosecutor in *Disciplinary Matter,* Docket No. D–99–1.

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 99–20916 Filed 8–9–99; 3:36 pm]

BILLING CODE 6735–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 99–104]

NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Astronomical Search for Origins and Planetary Systems (Origins); Subcommittee Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee, Origins Subcommittee.

DATES: Wednesday, September 1, 1999, 8:30 a.m. to 5 p.m.; Thursday, September 2, 1999, 8:30 a.m. to 5 p.m.

ADDRESSES: NASA Headquarters, Conference Room 6H46, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Harley Thronson, Code SR, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0369.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

—Astronomical Search for Origins and Planetary Systems ''roadmap'' and Office of Space Science Strategic Plan
—Meeting with the Associate Administrator
—Restructuring of the Research and Analysis Program
—Status of the Theme and the Astronomical Search for Origins and Planetary Systems Missions
—Wide-Field Camera 3
—The Astrobiology Laboratory/Institute

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: July 30, 1999.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99–20605 Filed 8–10–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Submission for OMB Review; Comment Request

July 29, 1999.

The National Endowment for the Arts (NEA) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1955 [P.L. 104–13, 44 U.S.C. Chapter 35]. Copies of this ICR, with applicable supporting documentation, may be obtained by calling the National Endowment for the Arts, Civil Rights Office, Angelia C. Richardson, Director (202) 682–5454. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 682–5695 between 10:00 a.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Endowment for the Arts, Office of Management and Budget, Room 10235, Washington, DC 20503 [(202) 395–7316], within 30 days from the date of this publication in the **Federal Register.** The Office of Management and Budget (OMB) is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

SUPPLEMENTARY INFORMATION: The Endowment requests the review of its Civil Rights Checklist. This entry is issued by the Endowment and contains the following information: (1) the title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. § 3504 (h).

Agency: National Endowment for the Arts.

Title: Civil Rights Checklist.

OMB Number: 3135–0112.

Frequency: Annually.

Affected Public: Nonprofit organizations, state and local arts agencies.

Estimated Number of Respondents: 1,062.

Estimated Time Per Respondents: 1.

Total Burden Hours: 1,062.

Total Annualized Capital/Startup Cost: 0.

Total Annual Costs (Operating/Maintaining Systems or Purchasing Service): 0.

Description: The National Endowment for the Arts is mandated by law to ensure that its grantees are in compliance with its nondiscrimination regulations—Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Age Discrimination Act, Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, and the Department of Justice's Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs—through compliance reviews. The Compliance Review checklists are returned and analyzed by the Endowment to ensure that our recipients' programs, activities and facilities are in compliance with the laws/regulations that govern receipt of federal funds and that the rights of all people are protected without regard to race, color, sex, age, national origin, religion and disability.

ADDRESSES: Angelia C. Richardson, Director, Civil Rights Office, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Room 812, Washington, D.C. 20506–001, telephone (202) 682–5454 (this is not a toll free number), fax (202) 682–5553.

Murray Welsh,

Director, Administrative Services, National Endowment for the Arts.

[FR Doc. 99–20637 Filed 8–10–99; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Cooperative Agreement for a Feasibility Study for Increased Private Support for the Folk and Traditional Arts

AGENCY: National Endowment for the Arts, NFAH.

ACTION: Notification of availability.

SUMMARY: The National Endowment for the Arts is requesting proposals leading to the award of a Cooperative Agreement to conduct a national feasibility study of the potential for increasing private funding for the folk and traditional arts. It is expected that the study will include: a quantitative and descriptive analysis of non-federal and non-state funding for the folk and traditional arts in the United States, including the perspectives of representatives of a variety of funders and folk arts organizers/producers; the identification and analysis of obstacles and opportunities for increased financial support inherent both in the folk and traditional arts field and in the non-federal, non-state arenas; and the feasibility of new structures to assist in increasing financial support for the folk and traditional arts. Available funding is $100,000. There is an expectation that, during the course of the work, additional funds for the study may be raised. Those interested in receiving the solicitation package should reference Program Solicitation PS 99–05 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored.

DATES: Program Solicitation PS 99–05 is scheduled for release approximately August 30, 1999 with proposals due on September 30, 1999.

ADDRESSES: Requests for the Solicitation should be addressed to the National Endowment for the Arts, Grants & Contracts Office, Room 618, 1100 Pennsylvania Ave., NW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: William Hummel, Grants & Contracts Office, National Endowment for the Arts, Room 618, 1100 Pennsylvania Ave., NW, Washington, DC 20506 (202/682–5482).

William I. Hummel,

Coordinator, Cooperative Agreements and Contracts.

[FR Doc. 99–20628 Filed 8–10–99; 8:45 am]

BILLING CODE 7036–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation, Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation (#1194).

Date & Time: September 8, 9, 10, 13, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, and 30, 1999 8:30 a.m.–3:00 p.m. each day.

Place: Rooms 340, 360, 370 and 380, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Joseph Hennessey, Program Manager, Small Business Innovation Research and Small Business Technology Transfer Programs, Room 590, Division of Design, Manufacture, and Industrial Innovation, National Science Foundation, 4210 Wilson Boulevard, VA 22230, Telephone (703) 306–1330.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Programs as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 USC 552b(c) (4) and (6) of the Government in the Sunshine Act.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–20691 Filed 8–10–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Geosciences (#1756).

Date and Time: September 17, 1999, 8:30 a.m.–5:00 p.m.

Place: Room 770, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Thomas Spence, Senior Associate for Science Program and Coordination, Room 705, National Science Foundation, Arlington, VA 22230, (703) 306–1502.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Methods and Models of Integrated Assessment Panel (MMIA) as part of the selection process of awards.

Reason for Closing: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals. These matters are exempt under 5 U.S.C. 552b (c), (4) and (6) of the Government in the Sunshine Act.

Dated: August 5, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–20688 Filed 8–10–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Polar Programs; 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 Polar Programs (#1209).

Date and Time: September 22–23, 1999, 8:30 am to 5:00 pm.

Place: National Science Foundation, 4201 Wilson Blvd., Room 730, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Polly A. Penhale, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Telephone: (703) 306–1033.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Southern U.S. Global Ocean Ecosystems Dynamics proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: August 5, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–20689 Filed 8–10–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Polar Programs; Notice of Meeting

In accordance with the Federal Advisory Committee (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Polar Program (#1209).

Date and Time: September 20–21, 1999, 8:30 am to 5:00 pm.

Place: National Science Foundation, 4201 Wilson Blvd., Room 730, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Polly A. Penhale, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Telephone: (703) 306–1033.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Antarctic Biology and Medicine proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: August 5, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–20690 Filed 8–10–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

President's Committee on the National Medal of Science; 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: President's Committee on the National Medal of Science (#1182)

Date and Time: Monday, November 15, 1999, 9:00 a.m.–3:00 p.m.

Place: Room 1235, National Science Foundation, 4201 Wilson Blvd, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Mrs. Susan E. Fannoney, Program Manager, Room 1220, National Science Foundation, 4201 Wilson Blvd, Arlington, VA 22230. Telephone: 703–306–1096.

Purpose of Meeting: To provide advice and recommendations to the President in the selection of the National Medal of Science recipients.

Agenda: To provide advice and recommendations to the President in the selection of the National Medal of Science recipients;

Agenda: To review and evaluate nominations as part of the selection process for awards.

Reason for Closing: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are exempt under 5 U.S.C. 552b(c)(6) of the Government in the Sunshine Act.

Dated: August 5, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–20687 Filed 8–10–99; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: New.

2. The title of the information collection: Voluntary Reporting of Performance Indicators.

3. The form number if applicable: Not applicable.

4. How often the collection is required: One-time collection and quarterly thereafter.

5. Who is required or asked to report: Power reactor licensees.

6. An estimate of the number of responses: 264.

7. The estimated number of annual respondents: 66 reactor sites.

8. An estimate of the total number of hours needed annually to complete the requirement or request: 13,860 hours (210 hours per site), and a one-time start-up effort of 13,200 hours.

9. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Not applicable.

10. Abstract: As part of a joint industry-NRC initiative, the NRC plans to receive information submitted voluntarily by power reactor licensees regarding selected performance attributes known as performance indicators (PIs). PIs provide objective measures of the performance of licensees' systems or programs. The NRC is revising its reactor oversight process to use PI information, along with the results of selected audits and inspections, as the basis for NRC conclusions regarding plant performance and necessary regulatory response. PIs will be transmitted electronically to reduce burden on licensees and the NRC as part of the NRC's revised oversight process which

is scheduled for implementation beginning in April 2000.

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC World Wide Web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC Home Page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by September 10, 1999. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Erik Godwin,

Office of Information and Regulatory Affairs (3150–), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 5th day of August 1999.

For the Nuclear Regulatory Commission.

Beth C. St. Mary,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–20658 Filed 8–10–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Licensing Support System Advisory Review Panel

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of amendment of the Charter of the Licensing Support Network Advisory Review Panel (LSNARP).

SUMMARY: The Licensing Support System Advisory Review Panel was established by the U.S. Nuclear Regulatory Commission as a Federal Advisory Committee in 1989. Its purpose was to provide advice to (1) the Department of Energy (DOE) on the fundamental issues of design and development of an electronic information management system to be used to store and retrieve documents relating to the licensing of a geologic repository for the disposal of high-level radioactive waste, and (2) the Nuclear Regulatory Commission on the operation and maintenance of the system. This electronic information management system was known as the Licensing Support System (LSS). In 1998 the Commission approved amendments to 10 CFR Part 2 to provide for a Network based electronic information management system and the Licensing Support System Advisory Review Panel was renamed as the Licensing Support Network Advisory Review Panel and the Charter was amended to reflect other changes made in the rule.

The Commission recently decided to place the LSN Administrator under the supervision of the Chief Administrative Judge (CAJ) of the Atomic Safety and Licensing Board Panel and to have the LSNARP report to the CAJ. To accommodate the change minor modifications to the Charter have been made.

The Nuclear Regulatory Commission has determined that amendment of the charter is in the public interest in connection with duties imposed on the Commission by law. This action is being taken in accordance with the Federal Advisory Committee Act.

FOR FURTHER INFORMATION CONTACT: Andrew L. Bates, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555: Telephone 301–504–1963.

Dated: August 5, 1999.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 99–20655 Filed 8–10–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–445 and 50–446]

Texas Utilities Electric Company; Comanche Peak Steam Electric Station, Units 1 and 2 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of license amendments to Facility Operating License (FOL) Nos. NPF–87 and NPF–89, issued to Texas Utilities Electric Company (TU Electric or the licensee), for operation of the Comanche Peak Steam Electric Station (CPSES), Units 1 and 2, located in Somervell County, Texas.

Environmental Assessment

Identification of the Proposed Action

The proposed license amendments would allow the licensee to increase the licensed thermal power level of CPSES, Unit 2, from 3411 to 3445 megawatts thermal (MWt), which represents a 1 percent increase in allowable thermal power. This facility was authorized for power production at 3411 MWt with issuance of the FOL on April 6, 1993.

The proposed action is in accordance with the licensee's application for license amendment dated December 21, 1998, as supplemented by letters dated April 23 and May 14, 1999. Section V, of Attachment 2, to the licensee's May 14, 1999, supplement, contains the licensee's detailed environmental evaluation of the proposed licensing action.

The Need for the Proposed Action

The proposed action will allow an increase in power generation at CPSES, Unit 2, to provide additional electrical power for distribution to the grid. Power uprate has been widely recognized by the industry as a safe and cost-effective method to increase generating capacity.

Environmental Impacts of the Proposed Action

The Commission has previously evaluated the environmental impact of operation of CPSES, Units 1 and 2, as described in the ''Final Environmental Statement Related to the Operation of Comanche Peak Steam Electric Station, Units 1 and 2,'' NUREG–0775, September 1981. With regard to consequences of postulated accidents, the licensee has reanalyzed the design-basis accident doses for the exclusion area boundary, low population zone, and the control room dose to the operators and determined that there will be a small increase in these doses; however, the analysis presented in NUREG–0775 postulates these doses resulting from releases at 104.5 percent of the currently licensed power level. Thus, the increase in postulated doses due to design-basis accidents is bounded by the previous evaluation presented in NUREG–0775. No increase in the probability of these accidents is expected to occur.

With regard to normal releases, calculations have been performed that show the potential impact on the radiological effluents from the proposed 1 percent increase in power level of CPSES Unit 2. For the 1 percent uprating calculations, the offsite doses from normal effluent releases remain significantly below the bounding limits of Title 10 of the *Code of Federal Regulations* (10 CFR), Part 50, Appendix I. Normal annual average gaseous release remains limited to a small fraction of 10 CFR Part 20 limits for identified mixtures. Solid and liquid waste processing systems are expected

to operate within their design requirements. More frequent operation of these systems may lead to a slight increase in solid and liquid production.

The Commission has completed its evaluation of the proposed action and concludes that 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 nonradiological impacts, the proposed action does not involve any historic sites. With regard to thermal discharges to the Squaw Creek Reservoir, a small increase in the circulating water discharge temperature is expect due to the proposed 1 percent power uprate. The increase is expected to be approximately .01 degree Fahrenheit, and therefore, insignificant. Existing administrative controls ensure the conduct of adequate monitoring such that appropriate actions can be taken to preclude exceeding National Pollution Discharge Elimination System (NPDES) permitted limits. No additional monitoring requirements or other changes relative to the NPDES permit are required as a result of the power uprate.

Therefore, as described in the preceding discussions, the 1 percent uprate of Unit 2 does not have a significant environmental impact on the Squaw Creek Reservoir.

No other nonradiological impacts are associated with the proposed action.

Based upon the above, the Commission concludes that the proposed action does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological 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 CPSES.

Agencies and Persons Consulted

In accordance with its stated policy, on July 19, 1999, the staff consulted with the Texas State official, Mr. Authur Tate of the Texas Department of Health, Bureau of Radiation Control, 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 application for license amendment December 21, 1998, as supplemented by letters dated April 23 and May 14, 1999, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, Texas.

Dated at Rockville, Maryland, this 4th day of August, 1999.

For the Nuclear Regulatory Commission.

Robert A. Gramm,

Chief, Section 1, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–20685 Filed 8–10–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Pilot Program Evaluation Panel; Meeting Notice

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L., 94–463, Stat. 770–776) the U.S. Nuclear Regulatory Commission (NRC) announced the establishment of the Pilot Program Evaluation Panel (PPEP). The PPEP will function as a management-level Oversight group to monitor and evaluate the success of the Commission's Reactor Oversight Process Improvements program. A Charter governing the PPEP functions as a Federal Advisory Committee was filed with Congress on June 30, 1999, after consultation with the Committee Management Secretariat, General Services Administration. The PPEP will hold its second meeting on August 17, 1999, in the Two White Flint North Auditorium, Nuclear Regulatory Commission, 11545 Rockville Pike, Rockville, Maryland.

The PPEP meeting participants are listed below along with their affiliation:

Frank P. Gillespie—Nuclear Regulatory Commission
Mohan C. Thadani—Nuclear Regulatory Commission
James T. Wiggins—Nuclear Regulatory Commission
Heidi Hahn—LANL
Bruce Mallet—Nuclear Regulatory Commission
Geoffrey Grant—Nuclear Regulatory Commission
Kenneth E. Brockman—Nuclear Regulatory Commission
James Lieberman—Nuclear Regulatory Commission
Steve Floyd—Nuclear Energy Institute
David Garchow—Public Service Electric and Gas
Masoud Bajestani—Tennessee Valley Authority
George Barnes—Commonwealth Edison Company
James Chase—Omaha Public Power District
Gary Wright—Illinois Department of Nuclear Safety
David Lochbaum—Union of Concerned Scientists

A tentative agenda of the meeting is outlined as follows:

9:00–9:30 a.m. Introduction and opening remarks
- Noticing requirements
- Public participation

9:30–11:00 a.m. Discuss conduct of panel and rules of operation
- Location of meetings
- Approach to report generation

11:00 a.m.–12:00 n. Staff presentation on initial results of pilot plant inspections
- Final criteria and measurement approach for criteria

12:00 n.–1:00 p.m. Lunch

1:00–2:00 p.m. NEI Presentation—topic to be determined

2:00–3:00 p.m. Panel discussion on need for any additional data or analyses

3:00 p.m. Discussion and public presentations
- Future invited speakers
- Open discussion

4:00 p.m. Meeting Adjourned

Meetings of the PPEP are open to the members of the public. Oral or written

views may be presented by the members of the public, including members of the nuclear industry. Persons desiring to make oral statements should notify Mr. Frank P. Gillespie (Telephone 301/415–1004, e-mail FPG@nrc.gov) or Mr. Mohan C. Thadani (Telephone 301/415–1476, e-mail MCT@nrc.gov) five days prior to the meeting date, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras will be permitted during this meeting.

Further information regarding topics of discussion; whether the meeting has been canceled, rescheduled, or relocated; and the Panel Chairman's ruling regarding requests to present oral statements and time allotted, may be obtained by contacting Mr. Frank P. Gillespie or Mr. Mohan C. Thadani between 8:00 a.m. and 4:30 p.m. EDT.

PPEP meeting transcripts and meeting reports will be available from the Commission's Public Document Room. Transcripts will be placed on the agency's web page when a web site for PPEP is established.

Dated: August 5, 1999.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 99–20656 Filed 8–10–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of August 9, 16, 23, and 30, 1999.

PLACE: Commissioner's Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of August 9

Thursday, August 12

11:30 a.m. Affirmation Session (Public Meeting) (If needed).

Week of August 16—Tentative

There are no meetings scheduled for the Week of August 16.

Week of August—Tentative

Tuesday, August 24

2:00 p.m. Briefing by Executive Branch (Closed—ex. 1)

3:30 p.m. Briefing on Threat Assessment (Closed—ex. 1)

Wednesday, August 25

9:55 a.m. Affirmation Session (Public Meeting) (If needed)

Week of August 30—Tentative

Wednesday, September 1

9:25 a.m. Affirmation Session (Public Meeting) (If needed)

2:00 Briefing on PRA Implementation Plan (Public Meeting) (Contact: Tom King, 301–415–5790)

* The schedule for Commission meeting is subject to change on short notice. To verify the status of meetings call (recording)—(301)–415–1292. Contact person for more information: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, DC 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: August 6, 1999.

William M. Hill, Jr.,

SECY, Tracking Officer, Office of the Secretary.

[FR Doc. 99–20906 Filed 8–9–99; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from July 17, 1999, through July 30, 1999. The last biweekly notice was published on July 28, 1999 (64 FR 40903).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve 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. The basis for this proposed determination for each amendment request is shown below.

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 before action is taken. 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 Administration 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 6D22, 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 a hearing and petitions for leave to intervene is discussed below.

By September 10, 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 for the particular facility involved. 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 a 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 a 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 the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of 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 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 for the particular facility involved.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: July 9, 1999.

Description of amendment request: The proposed amendment would revise Harris Nuclear Plant (HNP) Technical Specification (TS) 3/4.2.2, ''Heat Flux Hot Channel Factor—$F_Q(Z)$,'' TS 3/4.2.3, ''RCS Flow Rate And Nuclear Enthalpy Rise Hot Channel Factor,'' TS 3/4.2.5, ''DNB Parameters,'' an associated note in TS Table 2.2–1, and associated Bases. Specifically, the proposed amendment would: (1) Remove the allowance for reduced power operation for reduced Reactor Coolant System (RCS) flow rate conditions; (2) separate the requirements for F delta H and RCS flow rate in the format prescribed by NUREG–1431, Revision 1, ''Standard Technical Specifications, Westinghouse Plants,'' dated April 1995; and, (3) implement the guidance of NUREG–1431, Revision 1, and NRC Generic Letter (GL) 88–16, dated October 4, 1988 for TS 3/4.2.2, TS 3/4.2.3, TS 3/4.2.5 and associated Bases by removing cycle specific parameters and placing that

information into the Core Operating Limits Report (COLR).

Basis for proposed no significant hazards consideration determination: 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. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment will not introduce any new equipment or require existing equipment to function different from that previously evaluated in the Final Safety Analysis Report (FSAR) or TS.

As described in HNP TS Bases, the limits on heat flux hot channel factor, RCS flow rate, and enthalpy rise hot channel factor ensure that: (1) the design limits on peak local power density and minimum DNBR [departure from nucleate boiling ratio] are not exceeded and (2) in the event of a LOCA the peak fuel clad temperature will not exceed the 2200 degree Fahrenheit ECCS [emergency core cooling system] acceptance limit.

Removing the allowance for reduced power operation for reduced RCS flow conditions is more restrictive than that currently allowed by TS. Power Distribution Limiting Conditions for Operation for heat flux hot channel factor and enthalpy rise hot channel factor are not affected by this change. Therefore, the consequences of an accident will not increase because of this change. Power Distribution limits place administrative restrictions on reactor core parameters and as such do not initiate nor mitigate accidents.

Power Distribution limits at HNP are developed using NRC approved methodologies. Changing power distribution limits to be consistent with NUREG–1431, Revision 1 will not increase the probability or consequences of an accident that has been previously evaluated.

Relocating cycle specific information from TS to the COLR will not impact the ability of structures, systems, or components to mitigate accidents. Future changes to relocated requirements in the COLR will be submitted to the NRC for review in accordance with HNP TS Section 6.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment will not introduce any new equipment or require existing equipment to function different from that previously evaluated in the Final Safety Analysis Report (FSAR) or TS. The changes are consistent with NUREG–1431, Revision 1 and the Commission's Final Policy Statement on Technical Specification improvements. The proposed amendment will not create any new accident scenarios, because the change does not introduce any new single failures, adverse equipment or material interactions, or release paths.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The LCO limit for RCS flow rate at 100.0% reactor power has not changed. The previous capability to operate with reduced RCS flow rate has been eliminated. This aspect of the proposed change is more restrictive than current plant TS in that continued reactor operation greater than 5% is not allowed if RCS flow rate is less than the LCO limit at 100% power.

Changes to TS 3/4.2.2, TS 3/4.2.3, TS 3/4.2.5 and associated Bases are in accordance with NUREG–1431, Revision 1. The completion times for TS Actions are acceptable because the plant is not allowed to remain in an unacceptable condition for an extended period of time. Sufficient time to reduce reactor power in an orderly manner or perform other required actions is also provided. The surveillance intervals established by NUREG–1431, Revision 1 have been determined to be adequate for monitoring the change in power distribution.

Relocating cycle specific information from HNP TS to the COLR is in accordance with NRC GL 88–16. HNP does not intend to alter the methodologies for any parameter limit calculation as a result of this change. The proposed change is in accordance with the plant safety analysis. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Section Chief: Sheri R. Peterson.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: July 9, 1999.

Description of amendment request: The proposed amendment would relocate Harris Nuclear Plant (HNP) Technical Specification (TS) 3/4.3.3.3, ''Seismic Instrumentation,'' TS 3/4.3.3.4, ''Meteorological Instrumentation,'' TS 3/4.3.3.9, ''Metal Impact Monitoring System,'' and TS 3/4.3.3.11, ''Explosive Gas Monitoring Instrumentation,'' to plant procedure PLP–114, ''Relocated Technical Specifications and Design Basis Requirements.'' The proposed change is in accordance with guidance provided by NRC Generic Letter 95–10, ''Relocation of Selected Technical Specification Requirements Related to Instrumentation.'' Changes to relocated requirements would be performed in accordance with 10 CFR 50.59. *Basis for proposed no significant hazards consideration determination:* 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. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Seismic Instrumentation, Meteorological Instrumentation, Metal Impact Monitoring System, and Explosive Gas Monitoring Instrumentation are not accident initiating components as described in the Final Safety Analysis Report. Seismic Instrumentation, Meteorological Instrumentation, Metal Impact Monitoring System, and Explosive Gas Monitoring Instrumentation are not accident mitigating components. There are no modifications being made to plant systems as a result of this change. Additionally, there are no changes being made to the way in which systems are being operated as a result of this change. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Seismic Instrumentation, Meteorological Instrumentation, Metal Impact Monitoring System, and Explosive Gas Monitoring Instrumentation are not accident initiating components as described in the Final Safety Analysis Report (FSAR). The proposed change relocates the TS requirements for Seismic Instrumentation, Meteorological Instrumentation, Metal Impact Monitoring System, and Explosive Gas Monitoring Instrumentation to plant procedure PLP–114. Plant systems and components are not modified as a result of this change. Future changes in these systems will be controlled in accordance with 10 CFR 50.59.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed change to Seismic Instrumentation, Meteorological Instrumentation, Metal Impact Monitoring System, and Explosive Gas Monitoring Instrumentation does not affect any of the

parameters that relate to the margin of safety as described in the Bases of the TS or the FSAR. Accordingly, NRC Acceptance Limits are not affected by this change. The proposed change relocates the TS requirements for Seismic Instrumentation, Meteorological Instrumentation, Metal Impact Monitoring System, and Explosive Gas Monitoring Instrumentation to plant procedure PLP–114. Plant systems and components are not modified as a result of this change. Future changes in these systems will be controlled in accordance with 10 CFR 50.59. Generic Letter 95–10 states that the staff has concluded that these provisions are not related to dominant contributors to plant risk.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Section Chief: Sheri R. Peterson.

Commonwealth Edison Company, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois.

Date of amendment request: June 30, 1999

Description of amendment request: The proposed amendment would clarify that the source of DC electrical power required for a unit in Mode 5 or 6 or during the movement of irradiated fuel assemblies may be cross-tied to the opposite unit. An administrative change would also delete reference to AT&T batteries since all AT&T batteries have been replaced with Charter Power Systems, Inc. (C&D) batteries. The amendment would also remove the Allowed Outage Time (AOT) extension approved for Braidwood Station by Amendment No. 99. The activity addressed by Amendment No. 99 is complete and the extension no longer applies.

Basis for proposed no significant hazards consideration determination: 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 proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change will allow one DC bus on a shutdown unit to be supplied via the DC bus cross-tie to the opposite unit. The other DC bus on the shutdown unit will at all times be required to be fully operable, supplied by the associated battery and charger, and the associated cross-ties open. The DC electrical system is not considered an initiator of any accident previously evaluated, and therefore the probability of a previously analyzed accident is unchanged.

The consequences of a previously analyzed event are dependent on the initial conditions assumed for the analysis, the availability and successful functioning of the equipment assumed to operated in response to the analyzed event, and the setpoints at which these actions are initiated. Sufficient equipment remains available to mitigate the consequences of previously analyzed events. The Updated Final Safety Analysis Report (UFSAR) section 8.3.2.1.1 clearly allows operation with the DC cross-tie closed on one DC bus between a unit that is operating and a unit that is shutdown, or between two shutdown units, in the manner proposed by this amendment. The TS in effect prior to the implementation of the Improved TS also allowed operation in the manner proposed by this amendment. If DC buses are cross-tied due to an inoperable DC source on a shutdown unit, both the previous TS and the change proposed by this amendment limit the time in this condition to seven days, and if the inoperable source is a battery, the current on the cross-tie is limited to 200 amps. These actions protect both the operating unit, and the shutdown unit. If a shutdown unit's DC bus is cross-tied to an operating unit's DC bus due to an inoperable charger on the operating unit, both the previous TS and the change proposed by this amendment limit the time in this condition to 24 hours. The limitations imposed by both the previous TS and the change proposed by this amendment ensure that operation in this configuration is within the design bases of the plant. Thus the consequences of accidents previously analyzed are unchanged between the previous TS and the change proposed by this amendment. In the worst case scenario, assuming a single failure, one DC bus on the shutdown unit will always be operable, and the ability to mitigate the consequences of any accident previously analyzed is preserved.

The change to delete all references in the Braidwood TS to AT&T batteries and the AOT extension granted under TS Amendment Number 99 is administrative only, and has no impact on the probability or consequences of accidents previously evaluated.

Therefore this proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not involve a physical change to the plant. No new equipment is being introduced, and installed equipment is not being operated in a new or different manner. There is no change being made to the parameters within which the plant is operated. There are no setpoints affected by this change at which protective or mitigative actions are initiated. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No alteration in the procedures which ensure the plant remains within analyzed limits in being proposed, and no change is being made to the procedures relied upon to respond to an off-normal event. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis. Therefore, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The change to delete all references in the Braidwood TS to AT&T batteries and the AOT extension granted under TS Amendment Number 99 is administrative only, and cannot create the possibility of a new or different kind of accident.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

The margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. Sufficient equipment remains available to actuate upon demand for the purpose of mitigating an analyzed event. The proposed change, which will allow one DC bus on a shutdown unit to be supplied via the DC bus cross-tie to the opposite unit, is acceptable because of the limitations imposed on operation in this configuration, and because the other DC bus on the shutdown unit will at all times be required to be fully operable, supplied by the associated battery and charger, and the associated cross-ties open. The TS in effect prior to the implementation of the Improved TS allowed operation in the manner proposed by this amendment. In the worst case scenario, assuming a single failure, one DC bus on the shutdown unit will always be operable. Thus, there is no detrimental impact on any equipment design parameter, and the plant will still be required to operate within prescribed limits. Therefore, the change does not reduce the margin of safety.

The change to delete all references in the Braidwood TS to AT&T batteries and the AOT extension granted under TS Amendment Number 99 is administrative only, and does not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff

proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: For Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney for licensee: Ms. Pamela B. Stroebel, Senior Vice President and General Counsel, Commonwealth Edison Company, P.O. Box 767, Chicago, Illinois 60690–0767.

NRC Section Chief: Anthony J. Mendiola.

Commonwealth Edison Company, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of amendment request: May 3, 1999.

Description of amendment request: The proposed amendments would relocate Technical Specifications (TS) Section 3/4.6.I to the Updated Final Safety Analysis Report (UFSAR). TS Section 3/4.6.I contains reactor coolant chemistry limiting conditions for operation (LCO) and surveillance requirements (SR) for conductivity, chloride concentration, and pH.

Basis for proposed no significant hazards consideration determination: 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:

Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes simplify the TS, meet regulatory requirements for relocated TS's, and implement the recommendations of the NRC Final Policy Statement on TS improvements. The Chemistry requirements will be relocated to the Updated Final Safety Analysis Report (UFSAR) and to applicable station procedures. Future changes to these requirements will be controlled by 10 CFR 50.59. The proposed changes are administrative in nature and do not involve any modification to any plant equipment or affect plant operation. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of any previously evaluated accident.

Consequently, this proposed amendment does not involve a significant increase in the probability or consequences of any accident previously evaluated.

Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes are administrative in nature, do not involve any physical alterations to any plant equipment, and cause no change in the method by which any safety related system performs its function. Therefore, this proposed TS amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Does the change involve a significant reduction in a margin of safety?

The proposed amendment represents the relocation of current requirements, which are based on generic guidance or previously approved provisions for other stations. The proposed changes are administrative in nature and do not adversely affect existing plant safety margins or the reliability of the equipment assumed to operate in the safety analysis. The proposed changes have been evaluated and found to be acceptable for use at Dresden Nuclear Power Station. Since the proposed changes are administrative in nature, and are based on NRC accepted provisions which have been adopted at other nuclear facilities, and maintain the necessary levels of system reliability, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450.

Attorney for licensee: Ms. Pamela B. Stroebel, Senior Vice President and General Counsel, Commonwealth Edison Company, P.O. Box 767, Chicago, Illinois 60690–0767.

NRC Section Chief: Anthony J. Mendiola.

Commonwealth Edison Company, Docket No. 50–373, LaSalle County Station, Unit 1, LaSalle County, Illinois

Date of amendment request: July 7, 1999.

Description of amendment request: The proposed amendments would (1) revise Technical Specification Section 2.1, Safety Limits, to reflect a change to the LaSalle, Unit 1, Minimum Critical Power Ratio Safety Limit; and (2) revise Technical Specification Section 6.6.A.6 to add an NRC-approved Siemens Power Corporation methodology to the list of topical reports used to determine the core operating limits.

Basis for proposed no significant hazards consideration determination: 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 or consequences of an accident previously evaluated?

The probability of an evaluated accident is derived from the probabilities of the individual precursors to that accident. The consequences of an evaluated accident are determined by the operability of plant systems designed to mitigate those consequences. Limits have been established consistent with NRC-approved methods to ensure that fuel performance during normal, transient, and accident conditions is acceptable. These changes do not affect the operability of plant systems, nor do they compromise any fuel performance limits.

Changing the MCPR Safety Limit for LaSalle Unit 1 will not increase the probability or the consequences of an accident previously evaluated. This change implements the MCPR Safety Limit resulting from the SPC ANFB critical power correlation methodology using the approved ATRIUM–9B additive constant uncertainty. For each cycle, cycle specific MCPR Safety Limit calculations will be performed, consistent with SPC's approved methodology, to confirm the appropriateness of the MCPR Safety Limit. Additionally, operational MCPR limits will be applied that will ensure the MCPR Safety Limit is not violated during all modes of operation and anticipated operational occurrences. The MCPR Safety Limit ensures that less than 0.1% of the rods in the core are expected to experience boiling transition. Therefore the probability or consequences of an accident will not increase.

Adding EMF–85–74, Revision 0, Supplement 1 (P)(A) and Supplement 2 (P)(A) to Section 6 does not increase the probability or consequences of an accident previously evaluated. The NRC-approved burnup extension for RODEX2A applications has been demonstrated to meet all applicable design criteria. Therefore adding this methodology to Technical Specification Section 6 does not increase the probability or consequences of an accident previously evaluated .

Therefore, this proposed amendment does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Creation of the possibility of a new or different kind of accident would require the creation of one or more new precursors of that accident. New accident precursors may be created by modifications to the plant configuration, including changes in allowable modes of operation. This Technical Specification submittal does not involve any modifications to the plant configuration or allowable modes of operation. No new precursors of an accident are created and no new or different kinds of accidents are created. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Changing the MCPR Safety Limit does not create the possibility of a new accident from any accident previously evaluated. This

change does not alter or add any new equipment or change modes of operation. The MCPR Safety Limit is established to ensure that 99.9% of the rods avoid boiling transition.

The MCPR Safety Limit is changing for LaSalle Unit 1 to support Cycle 9 operation. This change does not introduce any physical changes to the plant, alter the processes used to operate the plant, or change allowable modes of operation. Therefore, no new accidents are created that are different from any accident previously evaluated.

The addition of RODEX2A (EMF–85–74, Revision 0, Supplement 1 (P)(A) and Supplement 2 (P)(A)) does not create the possibility of a new accident from an accident previously evaluated. This change does not alter or add any new equipment or change modes of operation. This change does not introduce any physical changes to the plant, alter the processes used to operate the plant, or change allowable modes of operation. Therefore, no new accidents are created that are different from any accident previously evaluated.

Therefore, 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 the margin of safety?

Changing the MCPR Safety Limit for LaSalle Unit 1 will not involve any reduction in margin of safety. The MCPR Safety Limit provides a margin of safety by ensuring that less than 0.1% of the rods are calculated to be in boiling transition. The proposed Technical Specification amendment request reflects the MCPR Safety Limit results from evaluations by SPC using NRC-approved methodology.

The revised MCPR Safety Limit will ensure the same level of fuel protection. Additionally, operational limits will be established based on the proposed MCPR Safety Limit to ensure that the MCPR Safety Limit is not violated during all modes of operation including anticipated operation[al] occurrences. This will ensure that the fuel design safety criterion of more than 99.9% of the fuel rods avoiding transition boiling during normal operation as well as during an anticipated operational occurrence is met.

The addition of EMF–85–74, Revision 0, Supplement 1 (P)(A) and Supplement 2 (P)(A) to Section 6 does not decrease the margin of safety. The burnup limit extension for RODEX2A applications has been reviewed and approved by the NRC. The data supporting the burnup extension demonstrates that all applicable design criteria are met. Therefore, since the burnup extension is acceptable and within the design criteria, using the approved burnup extension will not affect the margin of safety.

Therefore, these changes do not involve a significant reduction in the margin of safety.

Therefore, based upon the above evaluation, ComEd 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(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Jacobs Memorial Library, 815 North Orlando Smith Avenue, Illinois Valley Community College, Oglesby, Illinois 61348–9692.

Attorney for licensee: Ms. Pamela B. Stroebel, Senior Vice President and General Counsel, Commonwealth Edison Company, P.O. Box 767, Chicago, Illinois 60690–0767.

NRC Section Chief: Anthony J. Mendiola.

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: November 9, 1998, as supplemented on July 7, 1999.

Description of amendment request: The proposed amendments would revise Technical Specification Table 3.3.3–2, ''Emergency Core Cooling System Actuation Instrumentation Setpoints,'' to modify the degraded voltage second level undervoltage relay setpoint and allowable value. These proposed amendments were originally noticed on January 13, 1999 (64 FR 2245), and are being renoticed to include the revised setpoints that were included in the July 7, 1999, supplement.

Basis for proposed no significant hazards consideration determination: 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 or consequences of an accident previously evaluated?

The setpoint change does not change the logic or function of the degraded voltage protection circuits as described in the UFSAR [Updated Final Safety Analysis Report] Section 8.2.3. They also do not reduce the reliability of these circuits. The increase in the degraded voltage protection circuit setpoint is conservative compared to the existing setpoint. There is no change as a result of this amendment to the underlying accident and transient analyses that support operations of LaSalle County Station. Inadvertent or spurious operation of the degraded voltage protection function will initiate loading of the safe shutdown loads on the diesel generators and is not assumed to initiate an accident. The proposed degraded voltage setpoints are low enough to prevent spurious actuations given the expected offsite grid voltages. After implementation of this amendment, no operator actions are required for equipment operations in response to degraded voltage conditions.

This change does not affect the initiators or precursors of any accident previously evaluated. This change will not increase the likelihood that a transient initiating event will occur because transients are initiated by equipment malfunction and/or catastrophic system failure.

The consequences of accidents previously evaluated are not increased. The proposed change does not affect the required level of availability of systems required to mitigate the accidents considered in the analyses. The proposed changes will ensure that the Class 1E equipment will be capable of starting and operating during a design basis accident with degraded offsite grid voltage. The increase in the level of confidence is the result of more rigorous methodology used to determine limiting Class 1E bus voltages at the minimum expected offsite AC voltage. These calculations demonstrate that the degraded voltage relays will not actuate following a block start of the electrical loads that are automatically actuated by or as a consequence of the LOCA [loss-of-coolant accident] signal if the switchyard voltage remains above 352 kV.

If the grid voltage drops below 352 kV, then the analytical limit of 3814 volts for proper operation of class 1E loads connected to each 4.16 kV Class 1E bus is assured by transfer to the respective onsite power sources (Emergency Diesel Generators (EDGs)) by the degraded voltage logic.

Therefore this proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because:

Setpoint methodology established the bases to ensure that, with known errors, the relays will detect degraded voltage conditions and transfer safety loads to the EDGs at a voltage level adequate to ensure proper safety equipment performance and to prevent equipment damage.

The trip setpoint of greater than or equal to 3863 volts and less than or equal to 3877 volts and the allowable value of greater than or equal to 3814 volts and less than or equal to 3900 volts, include adequate tolerance to calibrate the relay trip units while ensuring that the Class 1E bus voltage will remain above the analytical limits.

These setpoint changes will ensure that adequate voltages will be available for the continuous operation of safety-related equipment required to function during a LOCA. These proposed changes will also ensure that adequate voltages will be available for starting any Class 1E equipment.

The proposed degraded voltage setpoint change does not change the design of the degraded voltage protection system or its function to protect against degraded offsite power. Actuation of the degraded voltage protection system will initiate a sequence of events that will start the EDG for the associated Class 1E bus, strip loads from the Class 1E bus, open all feed breakers to the Class 1E bus, close the Emergency feed breaker (thus energizing the Class 1E bus

from the respective EDG), and initiate starting of the Safe Shutdown equipment supplied by the Class 1E bus.

Since the scope of this change does not affect the operation of auxiliary power system or any actions necessary to mitigate the consequences of accidents or achieve safe shutdown, the change does not involve a new or different accident scenario.

Therefore, these proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Involve a significant reduction in the margin of safety because:

The proposed amendment will allow the degraded voltage setpoint to be conservatively established based on new engineering calculations which consider the lowest expected offsite grid voltage and operation of required Class 1E equipment under design basis accident loading conditions.

The proposed degraded voltage setpoints will ensure that adequate Class 1E bus voltage will be available to support starting and operation of required Class 1E loads. The proposed setpoint includes instrument error to ensure that the lowest possible voltage will not be lower than the degraded voltage analytical limits. Additionally, the proposed setpoints are low enough to prevent spurious actuations due to expected fluctuations in the grid voltage. The new setpoints are also set with margin to the minimum Class 1E bus voltage, which is based on a minimum grid voltage of 352 kV, which is less than the expected grid voltage of 354 kV. The proposed changes will provide an increase in the level of protection that currently exists and will ensure the margin of safety is adequately maintained.

Therefore, these changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Jacobs Memorial Library, 815 North Orlando Smith Avenue, Illinois Valley Community College, Oglesby, Illinois 61348–9692.

Attorney for licensee: Ms. Pamela B. Stroebel, Senior Vice President and General Counsel, Commonwealth Edison Company, P.O. Box 767, Chicago, Illinois 60690–0767.

NRC Section Chief: Anthony J. Mendiola.

Detroit Edison Company, Docket No. 50–16, Enrico Fermi Atomic Power Plant, Unit 1, Monroe County, Michigan

Date of amendment request: April 20, 1999 (Reference NRC–99–0035).

Description of amendment request: The proposed amendment will revise the Technical Specifications by deleting Specification D.3.c. Specification D.3.c requires the licensee to perform weekly observations of the nitrogen cover gas pressure within the sodium storage tanks located in the Sodium Building Complex. Removing this surveillance requirement would allow the licensee to remove the nitrogen cover gas system from service for these sodium storage tanks. This action is necessary for the licensee to begin work on removing the remaining residual sodium from these tanks. The licensee also requested an editorial change to delete the words ''STORAGE TANK'' from the title of Specification D.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration using the standards in 10 CFR 50.92(c). The licensee's analysis is presented below:

(1) *The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.*

Removing the primary cover gas supply from the storage tanks will not significantly increase the probability of an accident occurring as long as the probability of an uncontrolled water reaction with residual sodium is not significantly increased. This is ensured by sealing the storage tanks after the nitrogen cover gas system is removed except when controlled activities such as sampling are performed. The consequences of an accident would not be affected by removing the nitrogen cover gas supply from service as the previously analyzed primary sodium accident already involves release of all the radioactive material in the primary sodium. Removing the cover gas will not increase the amount of radioactive material available to be released.

(2) *The proposed change does not create the possibility of a new or different accident from any previously evaluated.*

A sodium accident has been previously evaluated. No other type of accident could be caused by removing the primary sodium tanks cover gas or opening the tanks since no other system or mode of operation of any other system will be affected.

(3) *The proposed change does not involve a significant reduction in a margin of safety.*

Currently, only a small amount of residual sodium remains in the primary sodium storage tanks. Some of this residual sodium may have been converted to sodium carbonate. This conversion of sodium to sodium carbonate would have left even less sodium remaining in these tanks. The cover gas is a good precaution, especially for tanks sitting unattended for many years. It prevents moisture from intruding into the tanks and reacting with the sodium residues. It also prevents oxygen from entering these tanks and reacting with any hydrogen formed from reactions of water and sodium. Discontinuing the use of cover gas slightly reduces the margin of safety, but not significantly. Removing the cover gas does not, in itself, introduce water into the tank in an uncontrolled manner. Even if slight amounts of moisture from humidity in the air enter these tanks over the next year or two, until the sodium is removed while the tanks are either opened or sealed, the volume of each tank (15,000 gallons) is large enough that the tank should be able to dissipate any small reactions that could occur. The design pressure for the primary sodium storage tanks is from vacuum to 50 pounds per square inch based on the vendor's drawing.

Even if sufficient water entered the tank, generated hydrogen, and sufficient oxygen entered the tank to cause a reaction that released the contents of the tank, there would be no significant release of radioactivity from the tank. The release of all residual primary sodium would result in concentration levels well below the values in 10 CFR 20, Appendix B, Table II for releases to unrestricted areas. Since there is less sodium in the primary sodium storage tanks than in the secondary sodium storage tanks, potential hazard consequences of releasing the contents of a primary sodium tank are bounded by the hypothetical secondary sodium scenario evaluated in the Fermi 1 Safety Analysis Report. For these reasons, the proposed change does not involve a significant reduction in the margin of safety.

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, NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esquire, Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Branch Chief: Larry W. Camper.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: July 22, 1998, supplemented by October 22, 1998, January 28, May 6 and June 24, 1999.

Description of amendment request: By the referenced submittals the licensee requested the Catawba Technical Specifications be changed to permit the licensee's planned use of fuel supplied by Westinghouse, which has different design characteristics from the fuel currently in use. The staff has previously published two Notices of Consideration of Issuance of Amendments and Proposed No Significant Hazards Consideration of Issuance of Amendments. The first notice, dated November 18, 1998 (63 FR 64108), covers the submittals dated July

22 and October 22, 1998. The second notice, dated May 19, 1999 (64 FR 27317), covers the submittal dated May 6, 1999. The June 24, 1999, submittal actually requested an amendment separate from that described above, but nevertheless conveyed a revised proposed Figure 2.1.1–1, ''Reactor Core Safety Limits—Four Loops in Operation'', superseding what was originally proposed in the licensee's previous submittals. Hence, this Notice only covers the revised proposed Figure 2.1.1–1. The Notices referenced above are unaffected.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration for the June 24, 1999, submittal. The staff has reviewed the licensee's analysis and has performed its own analysis as follows:

First Standard

No. The proposed changes to Figure 2.1.1–1 will not affect the safety function and will not involve any change to the design or operation of any plant system or component. The revised Figure 2.1.1–1 restricts reactor coolant flow to within previously analyzed temperature and pressure conditions. Therefore, no accident probabilities or consequences will be impacted.

Second Standard

No. The proposed changes will not lead to any hardware or operating procedure change. Hence, no new equipment failure modes or accidents from those previously evaluated will be created.

Third Standard

No. Margin of safety is associated with confidence in the design and operation of the plant; specifically, the ability of the fission product barriers to perform their design functions during and following an accident. The proposed changes to Figure 2.1.1–1 do not involve any change to plant design, operation, or analysis. Thus, the margin of safety previously analyzed and evaluated is maintained.

Based on this analysis, it appears that the three standards of 10 CFR 50.92(c) are satisfied for the proposed change to Figure 2.1.1–1. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina.

Attorney for licensee: Ms. Lisa F. Vaughn, Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina.

NRC Section Chief: Richard L. Emch, Jr.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: June 24, 1999.

Description of amendment request: The proposed amendments would change the Technical Specifications (TS) as follows: (1) Revise Figure 2.1.1–1, ''Reactor Core Safety Limits—Four Loops in Operation,'' which defines the current limits of reactor coolant system (RCS) flow under different combinations of pressure and temperature; (2) revise the Actions associated with Limiting Condition of Operation (LCO) 3.4.1 and Table 3.4.1–1 to reflect the updated assumptions for reactor coolant flow, temperature and pressure; and (3) delete Figure 3.4.1–1, ''RCS Total Flow Rate Versus Rated Thermal Power—Four Loops in Operation,'' since these requirements are being relocated to LOC 3.4.1 and Table 3.4.1–1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration for the June 24, 1999, submittal, which is presented below:

First Standard

No component modification, system realignment, or change in operating procedure will occur which could affect the probability of any accident or transient. The increase in RCS total flow rate limit will not change the probability of actuation of any Engineered Safety Feature or other device. In order to provide more margin in the core design limits and allow more flexibility for future cycle-specific core design, the analyses that establish these limits were reanalyzed at the proposed TS minimum RCS total flow rate limit. The impact of the power/flow tradeoff is determined for each reanalyzed event either by qualitative evaluation or by explicit reanalysis.

An increase in the Technical Specification minimum RCS total flow rate limit and the revised power/flow tradeoff will not adversely affect the steady-state or transient analyses documented in Chapters 3, 4, 6, and 15 of the McGuire and Catawba Nuclear Station UFSARs [Updated Final Safety Analysis Reports]. The reduced RCS low flow reactor trip setpoint and allowable value will not increase the consequences of the partial loss of forced reactor coolant flow and reactor coolant pump shaft seizure accidents. In these transient reanalyses, the minimum DNBR and peak primary system pressure acceptance criteria are not adversely affected. Therefore, the proposed changes will not involve an increase in the probability or consequences of an accident previously evaluated.

Second Standard

No component modification, system realignment, or change in operating procedure will occur which could create the possibility of a new or different kind of accident. As described in Attachment 3, the proposed increase in Technical Specification minimum RCS total flow rate limit and revised power/flow tradeoff will not adversely affect the steady-state or transient analyses documented in Chapters 3, 4, 6, and 15 of the McGuire and Catawba Nuclear Station UFSARs. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Third Standard

These amendments will not involve a significant reduction in a margin of safety. As described in Attachment 3, the increase in minimum RCS total flow rate limit and revised power/flow tradeoff will not adversely affect the steady-state or transient analyses documented in Chapters 3, 4, 6, and 15 of the McGuire and Catawba Nuclear Station UFSARs. DNBR, fuel clad intergrity, reactor vessel integrity and containment integrity will not be adversely affected by the proposed changes. Therefore, the proposed changes will not involve any reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina.

Attorney for licensee: Ms. Lisa F. Vaughn, Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina.

NRC Section Chief: Richard L. Emch, Jr.

Duke Energy Corporation, et al., Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: July 22, 1998, supplemented by October 22, 1998, January 28, May 6 and June 24, 1999.

Description of amendment request: By the referenced submittals the licensee requested the McGuire Technical Specifications be changed to permit the licensee's planned use of fuel supplied by Westinghouse, which has different design characteristics from the fuel currently in use. The staff has previously published two Notices of

Consideration of Issuance of Amendments and Proposed No Significant Hazards Consideration of Issuance of Amendments. The first notice, dated December 16, 1998 (63 FR 69338), covers the submittals dated July 22 and October 22, 1998. The second notice, dated May 19, 1999 (64 FR 35202), covers the submittal dated May 6, 1999. The June 24, 1999, submittal actually requested an amendment separate from that described above, but nevertheless conveyed a revised proposed Figure 2.1.1–1, ''Reactor Core Safety Limits—Four Loops in Operation,'' superseding what was originally proposed in the licensee's previous submittals. Hence this Notice only covers the revised proposed Figure 2.1.1–1. The Notices referenced above are unaffected.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration for the June 24, 1999, submittal. The staff has reviewed the licensee's analysis, and has performed its own analysis as follows:

First Standard

No. The proposed changes to Figure 2.1.1–1 will not affect the safety function and will not involve any change to the design or operation of any plant system or component. The revised Figure 2.1.1–1 restricts reactor coolant flow to within previously analyzed temperature and pressure conditions. Therefore, no accident probabilities or consequences will be impacted.

Second Standard

No. The proposed changes would not lead to any hardware or operating procedure change. Hence, no new equipment failure modes or accidents from those previously evaluated will be created.

Third Standard

No. Margin of safety is associated with confidence in the design and operation of the plant; specifically, the ability of the fission product barriers to perform their design functions during and following an accident. The proposed changes to Figure 2.1.1–1 do not involve any change to plant design, operation or analysis. Thus, the margin of safety previously analyzed and evaluated is maintained.

Based on this analysis, it appears that the three standards of 10 CFR 50.92(c) are satisfied for the proposed change to Figure 2.1.1–1. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: J. Murrey Atkins Library, University of North Carolina at Charlotte, 9201 University City Boulevard, Charlotte, North Carolina.

Attorney for licensee: Mr. Albert Carr, Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina.

NRC Section Chief: Richard L. Emch, Jr.

Duke Energy Corporation, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: June 24, 1999.

Description of amendment request: The proposed amendments would change the Technical Specifications (TS) as follows: (1) Revise Figure 2.1.1–1, ''Reactor Core Safety Limits—Four Loops in Operation,'' which defines the current limits of reactor coolant system (RCS) flow under different combinations of pressure and temperature; (2) revise Table 3.3.1–1 to provide values for the trip setpoint and allowable value for RCS Flow-Low; (3) revise Table 3.3.1–1 to make a typographical correction for T, the nominal T-average at Rated Thermal Power; (4) revise the Actions associated with Limiting Condition of Operation (LCO) 3.4.1 and Table 3.4.1–1 to reflect the updated assumptions for reactor coolant flow, temperature and pressure; and (5) delete Figure 3.4.1–1, ''RCS Total Flow Rate Versus Rated Thermal Power—Four Loops in Operation,'' since these requirements are being relocated to LCO 3.4.1 and Table 3.4.1–1.

Basis for proposed no significant hazards consideration determination: 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:

First Standard

No component modification, system realignment, or change in operating procedure will occur which could affect the probability of any accident or transient. The increase in RCS total flow rate limit will not change the probability of actuation of any Engineered Safety Feature or other device. In order to provide more margin in the core design limits and allow more flexibility for future cycle-specific core design, the analyses that establish these limits were reanalyzed at the proposed TS minimum RCS total flow rate limit. The impact of the power/flow tradeoff is determined for each reanalyzed event either by qualitative evaluation or by explicit reanalysis.

An increase in the Technical Specification minimum RCS total flow rate limit and the revised power/flow tradeoff will not adversely affect the steady-state or transient analyses documented in Chapters 3, 4, 6, and 15 of the McGuire and Catawba Nuclear Station UFSARs [Updated Final Safety Analysis Reports]. The reduced RCS low flow reactor trip setpoint and allowable value will not increase the consequences of the partial loss of forced reactor coolant flow and reactor coolant pump shaft seizure accidents. In these transient reanalyses, the minimum DNBR and peak primary system pressure acceptance criteria are not adversely affected. Therefore, the proposed changes will not involve an increase in the probability or consequences of an accident previously evaluated.

Second Standard

No component modification, system realignment, or change in operating procedure will occur which could create the possibility of a new or different kind of accident. As described in Attachment 3, the proposed increase in Technical Specification minimum RCS total flow rate limit and revised power/flow tradeoff will not adversely affect the steady-state or transient analyses documented in Chapters 3, 4, 6, and 15 of the McGuire and Catawba Nuclear Station UFSARs. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Third Standard

These amendments will not involve a significant reduction in a margin of safety. As described in Attachment 3, the increase in minimum RCS total flow rate limit and revised power/flow tradeoff will not adversely affect the steady-state or transient analyses documented in Chapters 3, 4, 6, and 15 of the McGuire and Catawba Nuclear Station UFSARs. DNBR, fuel clad integrity, reactor vessel integrity and containment integrity will not be adversely affected by the proposed changes. Therefore, the proposed changes will not involve any reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: J. Murrey Atkins Library, University of North Carolina at Charlotte, 9201 University City Boulevard, Charlotte, North Carolina.

Attorney for licensee: Mr. Albert Carr, Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina.

NRC Section Chief: Richard L. Emch, Jr.

Entergy Operations, Inc. (EOI), Docket Nos. 50–313 and 50–368, Arkansas Nuclear One, Units 1 and 2, Pope County, Arkansas

Date of amendment request: July 14, 1999.

Description of amendment request: The proposed amendments delete requirements from the Technical Specifications to maintain a Post Accident Sampling System (PASS). Licensees were required to implement PASS upgrades as a result of NUREG–0737, ''Clarification of TMI [Three Mile Island] Action Plan Requirements,'' and Regulatory Guide 1.97, Revision 3, ''Instrumentation for Light-Water-Cooled Nuclear Power Plants to Access Plant and Environs Conditions During and Following an Accident.'' Implementation of these upgrades were an outcome of the NRC's lessons learned from the accident that occurred at Three Mile Island, Unit 2. EOI has stated that the information obtained using PASS can be readily obtained through other means or is of little use in the assessment and mitigation of accident conditions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1—[The Proposed Change] Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The PASS was originally designed to perform many sampling and analysis functions. These functions were designed and intended to be used in post accident situations and were put into place as a result of the Three Mile Island Unit 2 (TMI–2) accident. The specific intent of the PASS was to provide a system that has the capability to obtain and analyze samples of plant fluids containing potentially high levels of radioactivity, without exceeding plant personnel radiation exposure limits. Analytical results of these samples would be used largely for verification purposes in aiding the plant staff in assessing the extent of core damage and subsequent offsite radiological dose projections.

In the 20 years since the TMI–2 accident and the consequential promulgation of post accident sampling requirements, operating experience has demonstrated that the actual benefits afforded by a PASS provide little benefit to post accident mitigation. Past experience has indicated that there exists in-plant instrumentation and methodologies available in lieu of a PASS for collecting and assimilating information needed to assess core damage following an accident. Furthermore, the implementation of Severe Accident Management Guidance (SAMG) emphasizes accident management strategies based on in-plant instruments. These strategies provide guidance to the plant staff for mitigation and recovery from a severe accident. Based on current severe accident management strategies and guidelines, it is determined that the PASS provides no benefit to the plant staff in coping with an accident. The use of the PASS may be counter productive to plant operations since its operation will divert resources away from accident management, the sample results may be ambiguous and may be misinterpreted, and the use of PASS may restrict personnel movements in certain areas of the plant while resulting in additional fission product release points outside the containment.

The regulatory requirements for the PASS can be eliminated without degrading the plant emergency response. The emergency response, in this sense, refers to the methodologies used in ascertaining the condition of the reactor core, mitigating the consequences of an accident, assessing and projecting offsite releases of radioactivity, and establishing protective action recommendations to be communicated to offsite authorities. Additionally, preliminary discussions with the State of Arkansas have indicated that the elimination of the PASS will not adversely impact actions taken by the State during an emergency event. The elimination of the PASS will not prevent an accident management strategy that meets the initial intent of the post-TMI–2 [accident] guidance through the use of the SAMGs, the emergency plan (EP), the emergency operating procedures (EOP), and site survey monitoring that support modification of emergency plan PARs [protective action recommendations].

Therefore, the elimination of PASS requirements of the ANO–1 and ANO–2 [Arkansas Nuclear One, Unit 1 and Unit 2] Technical Specifications (TS) and subsequent requested relief from the requirements of NUREG–0737 and Regulatory Guide 1.97, Revision 3, does *not* involve a significant increase in the probability or consequences of any accident previously evaluated.

Criterion 2—[The Proposed Change] Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated

The relief from PASS related NUREG–0737 and Regulatory Guide 1.97 requirements in addition to the proposed TS changes will not result in any failure mode not previously analyzed. The PASS was intended to allow for verification of the extent of reactor core damage and also to provide an input to offsite dose projection calculations. The PASS is not considered an accident precursor, nor does its existence or elimination have any adverse impact on the pre-accident state of the reactor core or post accident confinement of radionuclides within the containment building.

Therefore, this change does *not* create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—[The Proposed Change] Does Not Involve a Significant Reduction in the Margin of Safety

The elimination of the PASS, in light of existing plant equipment, instrumentation, procedures, and programs that provide effective mitigation of and recovery from reactor accidents, results in a neutral impact to the margin of safety at ANO–1 and ANO–2. Non-PASS methodologies are designed to provide rapid assessment of current reactor core conditions and the direction of degradation while effectively responding to the event in order to mitigate the consequences of the accident. The use of a PASS is redundant and does not provide quick recognition of core events nor rapid response to events in progress. The intent of the requirements established as a result of the TMI–2 accident can be adequately met without reliance on a PASS.

Therefore, this change does *not* involve a significant reduction in the margin of safety.

Therefore, based upon the reasoning presented above and the previous discussion of the amendment request, Entergy Operations, Inc. has determined that the requested change does not involve a 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(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Indiana Michigan Power Company, Docket Nos. 50–315, Donald C. Cook Nuclear Plant, Unit 1, Berrien County, Michigan.

Date of amendment requests: December 3, 1998.

Description of amendment requests: The proposed amendments would revise Technical Specification (TS) 3/4.7.7, ''Sealed Source Contamination,'' and the associated bases to address testing requirements for fission detectors. The proposed changes would provide consistency between the unit 1 and Unit 2 TS requirements and with NUREG–0452, ''Standard Technical Specifications.''.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1

Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes clarify testing requirements for fission detectors. When the fission detectors are tested for surface contamination, they do not interfere with plant equipment and they do not affect plant operation. The detectors are not assumed to initiate an accident; therefore, the probability of an accident previously evaluated is not changed.

Conducting tests prior to using a new fission detector provides assurance that intake limits will not be exceeded. There is no change to the nuclear material contained in the detector. The fission detectors are not used to mitigate the consequences of postulated accidents. Therefore, the consequences of an accident remain the same as previously evaluated.

Therefore, it is concluded that the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2

Does the change create the possibility of a new or different type of accident from any accident previously evaluated?

The proposed changes do not affect the design or operation of systems, structures, or components in the plant. There are no changes to parameters governing plant operation, and no new or different types of equipment will be installed. 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.

Criterion 3

Does the change involve a significant reduction in a margin of safety?

The proposed changes do not introduce new equipment, equipment modifications, or new or different modes of plant operation. These changes do not affect the operational characteristics of any equipment or systems.

Therefore, it is concluded that these changes do not involve a significant reduction in the margin of safety.

Conclusion

In summary, based upon the above evaluation, the Licensee has concluded that these changes involve no significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, MI 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Claudia M. Craig.

PECO Energy Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: March 29, 1999.

Description of amendment request: The proposed amendments would revise Technical Specification Surveillance Requirement 3.9.1.1 and the associated Bases 3.9.1 to delete the requirement for the refuel platform fuel grapple fully retracted position interlock.

Basis for proposed no significant hazards consideration determination: 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. The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

This change removes a redundant interlock and will not impact the functionality of associated interlocks. The removal of the ''refuel platform fuel grapple fully retracted position'' refueling interlock will not affect the ability of the remaining refueling interlocks to produce a rod block during fuel moves. The administrative controls in place do not allow control rod withdrawals while fuel is being moved or fuel movement while rods are withdrawn. The fuel grapple full up interlock is a redundant and diverse interlock and its removal has no impact on plant safety. The interlock's intent, to provide a backup to the load sensor, is not required since the setpoint is currently low enough to provide adequate protection therefore not significantly increasing the probability of an accident previously evaluated.

The refueling interlocks are not used to prevent or to mitigate the fuel handling accident as discussed in the PBAPS [Peach Bottom Atomic Power Station], Units 2 and 3, UFSAR [Updated Final Safety Analysis Report], Section 14.6.4 (''Refueling Accident''). The ''refuel platform fuel grapple fully retracted position'' interlock and the ''refuel platform fuel grapple, fuel loaded'' interlock both provide rod blocks during fuel movement over the core. Additionally, the refueling interlocks are not assumed as an initial condition in the control rod drop accident as discussed in the PBAPS, UFSAR, Section 14.6.2 (''Control Rod Drop Accident''). The control rod drop accident is only analyzed when the reactor is critical and not during refueling operations.

The refueling interlocks associated with the refueling platform provide rod blocks to ensure that control rods can not be withdrawn when fuel is being moved over the core (PBAPS, Units 2 and 3, UFSAR Section 14.5.3.3, ''Control Rod Removal Error During Refueling''). They are also used to prevent refueling bridge motion towards the core if a control rod is withdrawn during fuel movements (PBAPS, Units 2 and 3, UFSAR Section 14.5.3.4, ''Fuel Assembly Insertion Error During Refueling''). These interlocks prevent the possibility of an inadvertent criticality during refueling. However, removal of the ''refuel platform fuel grapple fully retracted position'' interlock, which is a redundant and diverse interlock, will not prevent the remaining interlocks from performing their intended safety functions. The refueling interlocks are active with the mode switch in refuel, and are only designed to reinforce administrative procedures for moving fuel. Therefore, the proposed TS changes will not involve a significant increase in the probability of an accident previously evaluated.

The fuel or core loading characteristics are not altered by the removal of this interlock. The dose resulting from a potential control rod withdrawal or fuel bundle error event is not increased as a result of eliminating this redundant and diverse interlock. Therefore, the removal of the ''refuel platform fuel grapple fully retracted position'' interlock will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The refueling interlocks are not accident initiators. Nor will any new failure mode be introduced by the removal of the ''refuel platform fuel grapple fully retracted position'' interlock. The interlocks are used to reinforce administrative controls which prevent fuel movement over the core with control rods withdrawn and preclude withdrawal of control rods when the fuel is being moved over the core. The interlock for ensuring the fuel grapple is fully up, is a redundant and diverse interlock since a load sensor determines if the main hoist is loaded with a fuel bundle. This redundant and diverse interlock prevents the withdrawal of a control rod while moving fuel during refueling. The setpoint is low enough to ensure a rod block will be received if the main hoist is being used to move fuel over the core and to prevent movement of the refueling bridge. The remaining refueling interlocks, in combination with the refueling procedures, will still prevent an inadvertent criticality during refueling operations. Fuel handling procedures require that interlocks be verified by observing the rod withdraw permissive light in the control room, and by monitoring the rod block interlock light on the refuel bridge. Therefore, the proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

This change will not involve a significant reduction in a margin of safety. The ''refuel platform fuel grapple fully retracted position'' interlock is redundant and diverse to the ''refuel platform fuel grapple, fuel

loaded'' interlock on the main hoist. The other two hoists on the bridge have the fuel loaded interlock but do not have the backup full up position interlock. The margin of safety of the refueling interlocks will not be significantly reduced by this change since redundant interlocks are not required (this a nonsafety-related function) and the original justification for using it, a high load weight setpoint, is no longer applicable. The system consists of a single channel, and no current design basis for using redundant and diverse interlocks to provide the rod block. Additionally, the Reactor Manual Control System will not be affected by this change. The system's ability to provide a rod block is not affected by this change.

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.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

Attorney for Licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, PECO Energy Company, 2301 Market Street, Philadelphia, PA 19101.

NRC Section Chief: James W. Clifford.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: April 5, 1999

Description of amendment request: The proposed changes would revise Appendix A (Section 6.1) and Appendix B (Section 7.1) of the James A. FitzPatrick Technical Specifications. The proposed changes would remove the position title of General Manager from these sections and would state that if the Site Executive Officer (SEO) is unavailable, he will delegate his responsibilities to another staff member, in writing. In addition the position title of Resident Manager, used in Apendix B, Section 7.1, would be replaced by Site Executive Officer.

Basis for proposed no significant hazards consideration determination: 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:

Consistent with the criteria of 10 CFR 50.92, the proposed application is judged to involve no significant hazards based on the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously analyzed?

Response: The proposed changes to Appendix A (Section 6.1) and Appendix B (Section 7.1) are administrative in nature in that they do not change the intent of the Technical Specifications. If the SEO is unavailable, he will still delegate his responsibilities to a qualified personnel member, such as the Plant Manager or one of the General Managers. These changes can not cause an accident or contribute to the probability or consequences of one.

The replacement of the position title of Resident Manager with Site Executive Officer in Appendix B, Section 7.1, was already approved by the NRC in Amendment 228.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously analyzed.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: The proposed changes to Appendix A (Section 6.1) and Appendix B (Section 7.1) are administrative in nature as they do not affect the function of plant equipment or the way the equipment operates. The changes do not change the intent of the current TS, in that if the SEO is unavailable, he will delegate his responsibilities to another personnel member such as the Plant Manager or one of the General Managers. Appendix A (Section 6.1) and Appendix B (Section 7.1) are being revised to eliminate the need for future TS changes to these sections resulting solely from the creation of new or revised management positions (such as the Plant Manager), title changes to the position of General Manager, or a change to the number of General Managers. These types of organizational changes will be evaluated using the criteria of 10 CFR 50.59.

The replacement of the position title of Resident Manager with Site Executive Officer in Appendix B, Section 7.1, was already approved by the NRC in Amendment 228.

Therefore, the proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response: The proposed changes to Appendix A (Section 6.1) and Appendix B (Section 7.1) are administrative changes associated with the delegation of the SEO's responsibilities when he is unavailable. These changes do not change the intent of the current TS, in that in the SEO's absence, he will still delegate his responsibilities to other personnel members such as the Plant Manager or General Managers.

The replacement of the position title of Resident Manager with Site Executive Officer in Appendix B, Section 7.1, was already approved by the NRC in Amendment 228.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mr. David E. Blabey, 1633 Broadway, New York, New York 10019.

NRC Section Chief: S. Singh Bajwa.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: June 22, 1999.

Description of amendment request: The proposed amendment would revise the Technical Specifications by changes to the Pressure and Temperature (P–T) limits. As part of this proposed change the licensee is proposing to add separate bottom head curves A_{BH} and B_{BH} for in-service hydrostatic and leak tests and non-nuclear heatup and cooldown, respectively. In addition, a non-beltline curve (i.e., A_{NB}) for in-service hydrostatic and leak tests is being proposed.

Basis for proposed no significant hazards consideration determination: 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:

Operation of the FitzPatrick plant in accordance with the proposed amendment would not involve a significant hazards consideration as defined in 10 CFR 50.92, since it would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The changes to the P–T curves are being proposed to preclude brittle fracture of RPV [Reactor Pressure Vessel] materials for up to 32 EFPY [effective full-power years]. In addition to the P–T curve for up to 32 EFPY, a P–T curve has been prepared for exposures up to 24 EFPY to shorten outage time for startups conducted prior to reaching this exposure. Safety margins specified in 10 CFR 50, Appendix G and Appendix G to Section XI of the ASME [American Society of Mechanical Engineers Boiler and Pressure Vessel Code] will continue to be met for each of these curves. Therefore, there is not a significant increase in the probability of an accident previously evaluated.

The RPV, as part of the reactor coolant system, provides a barrier to the release of reactor coolant. Operation in accordance

with the proposed amendment will preclude brittle fracture of the RPV consistent with current requirements, and consequently, does not significantly increase the consequences of an accident previously evaluated.

Based on the above, operation of the FitzPatrick plant in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not involve any physical alterations to plant configurations or introduce any new accident precursors which could initiate a new or different kind of accident. The proposed change does not affect the intended function of the RPV nor does it affect the operation of the RPV in a way which would create a new or different kind of accident. The changes to the P–T curves are being proposed to preclude brittle fracture of RPV materials for up to 32 EFPY. Safety margins specified in 10 CFR 50, Appendix G and Appendix G to Section XI of the ASME Code will continue to be met. Therefore, operation of the FitzPatrick plant in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The existing FitzPatrick P–T curves were developed using safety margins for brittle fracture found in 10 CFR 50 Appendix G. The proposed FitzPatrick P–T curves, which are valid for up to 32 EFPY of operation, were also developed using safety margins for brittle fracture found in 10 CFR 50 Appendix G. Based on this, operation of the FitzPatrick plant in accordance with the proposed amendment will continue to preclude brittle fracture of the RPV materials during in-service hydrostatic and leak tests, non-nuclear heatup and cooldown, and core critical operation without a significant reduction in a margin of safety. Therefore, operation of the FitzPatrick plant in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mr. David E. Blabey, 1633 Broadway, New York, New York 10019.

NRC Section Chief: S. Singh Bajwa.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: July 2, 1999.

Description of amendment request: The proposed amendments would relocate the requirements from Technical Specification 3/4.3.4, ''Instrumentation, Turbine Overspeed Protection,'' and the associated bases to licensee-controlled documents in accordance with Generic Letter 95–10, ''Relocation of Selected Technical Specifications Requirements Related to Instrumentation.''

Basis for proposed no significant hazards consideration determination: 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. Will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The requested amendments will not involve an increase in the probability or consequences of an accident previously evaluated. Relocation of the affected Technical Specification sections and their Bases to the Salem UFSAR [Updated Final Safety Analysis Report] will have no affect on the probability that any accident will occur. Additionally, the consequences of an accident will not be affected because the Turbine Overspeed Protection system will continue to be utilized in the same manner as before. No impact on the plant response to accidents will be created.

2. Will not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated. No new accident causal mechanisms will be created as a result of the relocation of the Turbine Overspeed Protection system Technical Specification requirements and their Bases to the Salem UFSAR. Plant operation will not be affect by the proposed amendments and no new failure modes will be created.

3. Will not involve a significant reduction in a margin of safety.

The proposed amendments will not involve a reduction in the margin of safety. Relocation of the affected Technical Specification requirements to the Salem UFSAR is consistent with NUREG 1431, Standard Technical Specifications—Westinghouse Plants which do not include Technical Specification requirements for the Turbine Overspeed Protection system. The proposed amendments are consistent with the NRC philosophy of encouraging utilities to propose amendments that are consistent with NUREG 1431.

Based on the above, the proposed changes will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, NJ 08079.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Section Chief: James W. Clifford.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: July 16, 1999.

Description of amendment request: Proposed Technical Specifications (TS) change to increase the action requirement time to be in Mode 3 if the temperature of the ultimate heat sink (UHS) exceeds the TS limit of 75 °F. The increased time will only apply if the UHS temperature is between 75 and 77 °F. The Bases for the associated TS will also be revised.

Basis for proposed no significant hazards consideration determination: 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. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes will allow plant operation to continue for an additional 12 hours with the temperature of the Ultimate Heat Sink (UHS) up to 2 °F above the Technical Specification limit of 75 °F. This increase in UHS temperature will not affect the normal operation of the plant to the extent which would make any accident more likely to occur. In addition, there exists adequate margin in the safety systems and heat exchangers to assure the safety functions are met at the higher temperature. An evaluation has confirmed that safe shutdown will be achieved and maintained for a loss of coolant accident (LOCA) with a loss of normal power (LNP) and a single active failure with a UHS water temperature as high as 77 °F.

The proposed changes will have no adverse effect on plant operation, or the availability or operation of any accident mitigation equipment. The plant response to the design basis accidents will not change. In addition, the proposed changes can not cause an accident. Therefore, there will be no significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes will allow plant operation to continue for an additional 12 hours with the temperature of the UHS up to 2 °F above the Technical Specification limit of 75 °F. This will not alter the plant configuration (no new or different type of equipment will be installed) or require any new or unusual operator actions. The proposed changes will not alter the way any structure, system, or component functions and will not significantly alter the manner in which the plant is operated. There will be no adverse effect on plant operation or accident mitigation equipment. The proposed changes do not introduce any new failure modes. Also, the response of the plant and the operators following these accidents is unaffected by the changes. In addition, the UHS is not an accident initiator. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any previously analyzed.

3. Involve a significant reduction in a margin of safety.

The proposed changes will allow plant operation to continue for an additional 12 hours with the temperature of the UHS up to 2 °F above the Technical Specification limit of 75 °F. Evaluations have been performed which demonstrate that the safety systems have adequate margin to ensure their safety functions can be met with a UHS temperature of 77 °F. In addition, safe shutdown capability has been demonstrated for a UHS water temperature as high as 77 °F.

The proposed changes will have no adverse effect on plant operation or equipment important to safety. The plant response to the design basis accidents will not change and the accident mitigation equipment will continue to function as assumed in the design basis accident analysis. Therefore, there will be no significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut.

NRC Section Chief: James W. Clifford.

PECO Energy Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50–278, Peach Bottom Atomic Power Station, Unit No. 3, York County, Pennsylvania

Date of application for amendment: July 12, 1999.

Description of amendment request: The proposed change will revise Technical Specifications (TSs) TS 2.1.1.2, ''Reactor Core [Safety Limits] SLs,'' and Section 5.6.5, ''Core Operating Limits Report.'' These Sections will be revised to: (1) Incorporate revised Safety Limit Minimum Critical Power Ratios (SLMCPRs) due to the use of a cycle-specific analysis performed by General Electric Nuclear Energy (GENE) for Peach Bottom Atomic Power Station, Unit 3, (PBAPS, Unit 3) Cycle 13, (2) delete previously added footnotes which are no longer necessary, and (3) update a reference contained in TS 5.6.5.b.2 which documents an analytical method used to determine the core operating limits.

Basis for proposed no significant hazards consideration determination: 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. The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The derivation of the cycle specific SLMCPRs for incorporation into the TS, and its use to determine cycle specific thermal limits, has been performed using the methodology discussed in ''General Electric Standard Application for Reactor Fuel,'' NEDE–24011–P–A–13, and U.S. Supplement, NEDE–24011–P–A–13–US, August 1996, and Amendment 25. Amendment 25 was approved by the NRC in a March 11, 1999 safety evaluation report. This change in SLMCPRs cannot increase the probability or severity of an accident.

The basis of the SLMCPR calculation is to ensure that greater than 99.9% of all fuel rods in the core avoid transition boiling if the limit is not violated. The new SLMCPRs preserve the existing margin to transition boiling and fuel damage in the event of a postulated accident. The fuel licensing acceptance criteria for the SLMCPR calculation apply to PBAPS, Unit 3, Cycle 13 in the same manner as they have applied previously. The probability of fuel damage is not increased. Therefore, the proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

In addition to the change to the SLMCPR, the footnotes to TS 2.1.1.2 and TS 5.6.5.b.1 are being deleted. The footnote associated with TS 2.1.1.2 was originally included to ensure that the SLMCPR value was only applicable for the identified cycle. The footnote was added to TS 5.6.5.b.1 because Amendment 25 and the R-factor calculation methodology were not yet NRC approved. Amendment 25 and the R-factor methodology have subsequently been approved. Therefore, these footnotes are no longer necessary. The footnotes were for information only, and have no impact on the design or operation of the plant. The deletion of the footnotes associated with TS 2.1.1.2 and TS 5.6.5.b.1 is an administrative change that does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Revision 1 ARTS/MELLLA [Maximum Extended Load Line Limit and ARTS Improvement Program Analysis for Peach Bottom Atomic Power Station Unit 2 and 3,] analysis contained in TS 5.6.5.b.2 is being updated to a Revision 2 analysis, to reflect changes that were previously approved by the NRC as documented in the safety evaluation report dated August 10, 1994 (Amendment No. 192 for PBAPS, Unit 2). This is an administrative change which will ensure that the references contained in the PBAPS Technical Specifications are accurate and consistent with other licensing documents. No technical changes are occurring which have not been previously approved by the NRC. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The SLMCPR is a TS numerical value, designed to ensure that transition boiling does not occur in 99.9% of all fuel rods in the core during the limiting postulated accident. The new SLMCPRs are calculated using NRC approved methodology discussed in ''General Electric Standard Application for Reactor Fuel,'' NEDE–24011–P–A–13 (GESTAR–II), and U.S. Supplement, NEDE–24011–P–A–13–US, August 1996, and Amendment 25. The SLMCPR is not an accident initiator, and its revision will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Additionally, this proposed change will delete footnotes contained in TS 2.1.1.2 and TS 5.6.5.b.1 as the result of the NRC approval of analysis associated with Amendment 25 and the R-factor methodology. The proposed change also updates the ARTS/MELLLA analysis contained in TS 5.6.5.b.2. This revision contains information which was previously approved by the NRC. Therefore, the deletion of the footnotes associated with TS 2.1.1.2 and TS 5.6.5.b.1, and the updating of the reference contained in TS 5.6.5.b.2 are administrative changes that do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

There is no significant reduction in the margin of safety previously approved by the NRC as a result of: (1) the proposed changes

to the SLMCPRs, (2) the proposed change that will delete the footnotes to TS 2.1.1.2 and TS 5.6.5.b.1, and (3) updating the reference to the ARTS/MELLLA analysis contained in TS 5.6.5.b.2. The new SLMCPRs are calculated using methodology discussed in ''General Electric Standard Application for Reactor Fuel,'' NEDE–24011–P–A–13 (GESTAR–II), and U.S. Supplement, NEDE–24011–P–A–13–US, August 1996, and Amendment 25. The fuel licensing acceptance criteria for the calculation of the SLMCPR apply to PBAPS, Unit 3 Cycle 13 in the same manner as they have applied previously. The SLMCPRs ensure that greater than 99.9% of all fuel rods in the core will avoid transition boiling if the limit is not violated when all uncertainties are considered, thereby preserving the fuel cladding integrity. Therefore, the proposed TS changes will not involve a significant reduction in the margin of safety previously approved by the NRC.

Additionally, the proposed changes that delete the footnotes to TS 2.1.1.2 and TS 5.6.5.b.1, and update the revision to the ARTS/MELLLA analysis contained in TS 5.6.5.b.2, are administrative changes that will not significantly reduce the margin of safety previously approved by the NRC.

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.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

Attorney for Licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, PECO Energy Company, 2301 Market Street, Philadelphia, PA 19101.

NRC Section Chief: James W. Clifford.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: June 28, 1999.

Description of amendment request: The proposed amendment would revise the Improved Technical Specifications (ITS) associated with the Reactor Coolant System (RCS) Leakage Detection Instrumentation.

Basis for proposed no significant hazards consideration determination: 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. Operation of Ginna Station in accordance with the proposed changes does not involve a significant increase in the probability or consequences of an accident previously evaluated. The changes add further requirements for redundancy and a requirement to perform either an RCS water inventory balance or analyses of containment atmosphere grab samples once within 12 hours and every 12 hours thereafter when the particulate containment atmosphere radioactivity monitor is unavailable while in Modes 1, 2, 3, and 4. This does not increase the probability of an accident previously evaluated since the compensatory actions are either a calculation utilizing installed indication or the measurement of a sample drawn downstream from the containment atmosphere sample isolation valves and are of themselves not an accident initiator. The proposed compensatory actions are based on the NUREG–1431 guidance and the proposed frequencies are more conservative, which gives a higher assurance that the RCS leakage rate can be adequately monitored.

Therefore, the probability or consequences of an accident previously evaluated is not significantly increased.

2. Operation of Ginna Station in accordance with the proposed changes does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes add further requirements for redundancy and the proposed change for compensatory actions when the particulate containment atmosphere radioactivity monitor is inoperable does not of itself involve a physical alteration of the plant (ie. no new or different type of equipment will be added to perform the required actions) or changes in the methods governing normal plant operation. The changes only involve implementing currently approved alternate methods to determine the RCS leak rate on an increased frequency. Therefore, the possibility for a new or different kind of accident from any accident previously evaluated is not created.

3. Operation of Ginna Station in accordance with the proposed changes does not involve a significant reduction in a margin of safety. The proposed changes only add conservatism in the number of required RCS leakage detection instrumentation and add more conservative compensatory actions that are to be taken when the containment atmosphere particulate radioactivity monitor is inoperable. The compensatory actions are based on the guidance of NUREG–1431. Therefore, this change does not involve a significant reduction in a margin of safety.

Based upon the preceding information, it has been determined that the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated, create the possibility of a new or different kind of accident from any accident previously evaluated, or involve a significant reduction in a margin of safety. Therefore, it is concluded that the proposed changes meets the requirements of 10 CFR 50.92(c) and do not involve a significant hazards consideration.

Local Public Document Room Location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610

Attorney for licensee: Nicholas S. Reynolds, Winston & Strawn, 1400 L Street, NW, Washington, DC 20005.

NRC Section Chief: S. Singh Bajwa.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of amendment requests: September 10, 1998 (PCN–496), as supplemented July 19, 1999.

Description of amendment requests: The proposed amendments would modify the Technical Specifications for the San Onofre Nuclear Generating Station (SONGS) Units 2 and 3 to delete the requirements for equipment used to control hydrogen in the containment structure.

Basis for proposed no significant hazards consideration determination: 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. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The containment hydrogen control system is currently classified as an engineered safety feature that serves as the combustible gas control system in the containment. The hydrogen control system is composed of a hydrogen recombiner subsystem and a hydrogen purge subsystem. Hydrogen control subsystem components are not considered to be accident initiators.

Therefore, this change does not increase the probability of an accident previously evaluated.

The hydrogen control system is provided to ensure that the hydrogen concentration is maintained below the flammability limit of 4% so that containment integrity is not challenged following a design basis Loss Of Coolant Accident (LOCA). Existing analysis show[s] that the hydrogen concentration will not reach the flammability limit of 4% for at least 13.5 days after a design basis LOCA. The time available will be extended to over 30 days using more realistic hydrogen generation rates. The containment peak pressure will remain below the San Onofre Nuclear Generating Station Units 2 and 3 (SONGS 2 & 3) containment design pressure of 60 psig [pounds per square inch gauge] during this time. Beyond 30 days, hydrogen concentration may reach the flammability limit. However, containment failure due to hydrogen combustion is unlikely based on the results of the SONGS 2 & 3 IPE [indvidual plant examination] study. The detailed

SONGS 2 & 3-specific containment integrity analysis indicates that containment rupture pressure is approximately 139 psig with 95% confidence. Therefore, this change does not increase the consequences of accidents previously evaluated.

Removal of the existing requirements for hydrogen control will eliminate the Emergency Operating Instruction (EOI) steps for hydrogen control and hence simplify the EOIs. This would have a positive impact on public health risk by reducing the probability of operator error during potential accidents and hence reduce the core damage frequency. As proposed in this change request, these changes will allow the operators to address all hydrogen control issues as part of the proposed Accident Management Guidelines which cover operator actions at long time frames following accidents.

Removal of the existing requirements for hydrogen control will eliminate the EOI steps to initiate the containment hydrogen purge. This will result in a lower probability of a failed open containment purge valve. Consequently, the offsite doses would be reduced due to the reduction of the probability of a failed-open containment purge valve. The changes described in this request result in a ''risk positive'' change.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

This proposed change does not change the design or configuration of the plant beyond the hydrogen control system. Hydrogen generation following a design basis LOCA has been evaluated in accordance with regulatory requirements. Deletion of the hydrogen control system from the Technical Specifications does not alter the hydrogen generation processes post-LOCA. The consideration of hydrogen generation will no longer be included in the design basis of SONGS 2 & 3. Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No

The changes described in this change request result in a ''risk positive'' change. Removal of the existing requirement for a hydrogen control system will, by eliminating the EOI steps for hydrogen control, result in lower operator error probabilities. Elimination of the EOI steps to initiate the containment hydrogen purge will result in a lower probability of a failed-open containment purge valve, resulting in lower large early release probabilities.

Therefore, this change involves an increase in safety, not a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, Irvine, California 92713.

Attorney for licensee: Douglas K. Porter, Esquire, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, California 91770.

NRC Section Chief: Stephen Dembek.

Southern Nuclear Operating Company, Inc., et al., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: April 13, 1999.

Description of amendment request: Southern Nuclear Operating Company (SNC) proposes to revise the Vogtle Electric Generating Plant (VEGP) Unit 1 and Unit 2 Technical Specifications (TS) Limiting Condition for Operation (LCO) Applicability LCO 3.0.4 and Surveillance Requirement (SR) Applicability SR 3.0.4. The proposed changes would update the versions of LCO 3.0.4 and SR 3.0.4 that appear in the existing VEGP TS to be consistent with the versions of LCO 3.0.4 and SR 3.0.4 as they appear in Revision 1 to NUREG–1431. The proposed change would add the words ''or that are part of a shutdown of the unit,'' to LCO 3.0.4 to allow reactor shutdowns that are not necessarily required by other TS Required Actions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed change has impact on what equipment is required to be OPERABLE or demonstrated OPERABLE via surveillance prior to unit shutdowns or entry into MODES 5 and 6. This change could increase the probability or consequences of an accident previously evaluated if applied without consideration to all applicable transitions. However, as part of the change, an evaluation is attached in the form of a matrix that identifies those specifications to which LCO 3.0.4 and SR 3.0.4 must continue to apply. Therefore, only those specifications that do not impact safety for these plant conditions are afforded this relaxation. As such, there is no increase in the probability or consequences of an accident previously evaluated as this assessment has been performed and documented with the submittal.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed change administratively changes when equipment is required to be OPERABLE or demonstrated OPERABLE via surveillance prior to unit shutdown or entry into MODES 5 and 6. However, as no changes in equipment function or operation are included, there is no increase in the probability of a new or different kind of accident from those previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

No. The proposed change has impact on what equipment is required to be OPERABLE or demonstrated OPERABLE via surveillance prior to unit shutdown or entry into MODES 5 and 6. This change could impact the margin of safety of some accidents if applied without consideration to all applicable transitions. However, as part of the change, an evaluation is attached in the form of a matrix, that identifies those specifications to which LCO 3.0.4 and SR 3.0.4 must continue to apply. Therefore, only those specifications that do not impact safety for these plant conditions, which includes any impact on margin of safety are afforded this relaxation. As such, there is no reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia.

NRC Section Chief: Richard L. Emch, Jr.

Southern Nuclear Operating Company, Inc., et al., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: April 28, 1999.

Description of amendment request: The amendments revise Vogtle's licensing basis to allow the licensee to establish containment hydrogen monitoring within 90 minutes of initiation of a safety injection following a loss-of-coolant accident, compared to the current 30 minutes requirement.

Basis for proposed no significant hazards consideration determination: 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) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

Containment hydrogen concentration is not an input parameter to the FSAR Chapter 15 accident analyses for a loss of reactor or secondary coolant accidents; nor is it used as an initial assumption for the containment response analysis. Control room operators use the containment hydrogen monitors to establish hydrogen control measures should it become necessary. However, the actions required to establish containment hydrogen monitoring are a distraction for the operators from more important tasks during the early phases of an accident. Hydrogen production occurs over a long period and a significant accumulation is not expected for several hours into the event. This function is more appropriately included as a part of the long-term core damage assessment process. The one-hour extension will have a positive impact on the ability of the operators to concentrate on their more immediate actions while having no negative impact on the long-term assessment efforts. Therefore, the proposed license amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any previously evaluated.

Operation of the containment hydrogen monitors is not an initiator of any design basis accident. Control room operators use the containment hydrogen monitors following a LOCA to establish hydrogen control measures should it become necessary. Accurate indication of containment hydrogen concentration is needed prior to initiating recombiner operation or containment venting and for long-term core damage assessment. The proposed license amendment would not eliminate the requirement to establish hydrogen monitoring, but would permit it to be delayed until those actions required to diagnose the event and verify proper operation of essential safety equipment have been completed. The one-hour extension maintains the requirement to establish hydrogen monitoring well before calculated conditions inside the containment indicate any need to initiate hydrogen control measures. Therefore, the proposed license amendment will not create a new or different kind of accident from any previously evaluated.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The need to establish hydrogen control measures will not be present within the first 90 minutes following a LOCA since there will not be significant hydrogen accumulation. By extending the time allowed to establish containment hydrogen monitoring, the operators can remain focused on the actions necessary to assess and mitigate the accident before redirecting their attention to long-term recovery actions. The one-hour extension maintains the requirement to establish hydrogen monitoring well before calculated conditions inside the containment indicate any need to initiate hydrogen control measures. Therefore, the proposed license amendment will not involve a significant reduction in a margin of safety, but will instead result in an overall enhancement to safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia.

NRC Section Chief: Richard L. Emch, Jr.

Southern Nuclear Operating Company, Inc., et al., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: May 18, 1999.

Description of amendment request: The proposed change would revise Surveillance Requirements (SRs) 3.8.1.3 and 3.8.1.13 to reduce the loading requirements for the diesel generators (DGs). Presently, SR 3.8.1.3 requires that the DGs be loaded and operated for greater than or equal to 60 minutes between 6800 kW and 7000 kW at least once every 31 days. The proposed change would revise the lower end of the load band in SR 3.8.1.3 to 6500 kW from 6800 kW. Revised SR 3.8.1.3 would require that the DGs be loaded and operated for greater than or equal to 60 minutes at a load greater than or equal to 6500 kW and less than or equal to 7000 kW at least once every 31 days.

Basis for proposed no significant hazards consideration determination: 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 proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed change affects only the DG loading requirements (kW and kVAR) specified in SRs 3.8.1.3 and 3.8.1.13. These loading requirements have no impact on or relationship to the probability of any of the initiating events assumed for the accidents previously evaluated. Therefore, the proposed change does not involve a significant increase in the probability of any accident previously evaluated. Furthermore, since the proposed loading requirements bound the maximum expected loading for the DGs, SRs 3.8.1.3 and 3.8.1.13 will continue to demonstrate that the DGs are capable of performing their safety function. Since the proposed change does not adversely affect the capability of the DGs to perform their safety function, the outcomes of the accidents previously evaluated (i.e., radiological consequences) will not be affected. Therefore, the proposed change does not involve a significant increase in the consequences of any accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

No. The proposed change affects only the DG loading requirements (kW and kVAR) specified in SRs 3.8.1.3 and 3.8.1.13. The proposed change will not introduce any new equipment or create new failure modes for existing equipment. Other than the reduced loading requirements for the DGs, the proposed change will not affect or otherwise alter plant operation. The DGs will remain capable of performing their safety function. No other safety related or important to safety equipment will be affected by the proposed change. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

No. The proposed change reduces the loading requirements of SRs 3.8.1.3 and 3.8.1.13. With one exception, the new loading requirements are consistent with the latest regulatory guidance found in Regulatory Guide (RG) 1.9, Revision 3, ''Selection, Design, and Qualification of Diesel-Generator Units Used as Standby (Onsite) Electric Power Systems at Nuclear Power Plants,'' July 1993. The one exception to RG 1.9, the loading requirements for the 2-hour portion of the endurance and margin test (SR 3.8.1.13), will require testing at loads in excess of 105 percent of the maximum expected load as opposed to 105 percent of the continuous duty rating. Testing for at least 2 hours at 105 percent of the maximum expected load will continue to demonstrate adequate margin, and it will reduce wear and tear on the DGs due to testing. Reduction in wear and tear should inherently increase the reliability of the DGs. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia.

NRC Section Chief: Richard L. Emch, Jr.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: June 24, 1999 (TS 99–05)

Brief description of amendments: The proposed amendments would change the Sequoyah Units 1 and 2 Technical Specification (TS) requirements by clarifying and changing the surveillance requirements for the ice weight in the ice condenser baskets. This request is a lead-plant change for all Westinghouse-designed ice condenser plants and will be incorporated into the Improved Standard Technical Specifications (ISTSs), if approved.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), Tennessee Valley Authority, the licensee, has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS amendments discussed below cannot increase the probability of occurrence of any analyzed accident because they are not the result or cause of any physical modification to the ice condenser structures, and for the current design of the ice condenser, there is no correlation between any credible failure and the initiation of any previously analyzed accident.

Regarding the consequences of analyzed accidents, the proposed amendment provides for consistency with the ISTSs by: (1) requiring the actions if one or more ice condenser ice baskets are determined to weigh below the minimum specified value to be made a part of the TS surveillance requirement (SR) instead of being located in the bases, and (2) relocating the ice basket selection methodology into the bases. This ensures consistent interpretation of the requirements of the TS in accordance with the ISTSs. The clarification of the response required if one or more ice baskets in a given bay are determined to be underweight ensures sufficient ice is maintained in each bay to prevent early meltout in a local zone following a design basis accident (DBA) and that the required overall ice weight is maintained in the ice condenser. The relocation of the ice basket selection methodology to the bases does not result in any change to the intent or implementation of this portion of the TSs since plant procedures ensure the requirements of the bases of the TSs are correctly implemented. Additionally, the clarification that the weight requirement is applicable to the beginning of the cycle does not change the present intent of the TS, but ensures there is no confusion, since the weight at the end of the operating cycle may be less than that specified in the SR due to sublimation. This does not result in a change to the intent or implementation of the TS since a sublimation allowance was provided in the original SR weight requirement. These clarifications do not result in any [effect] on plant equipment or operation and the actions taken during the implementation of the revised TS will be the same as prior to the revision. Therefore, the clarification of these requirements will not increase the consequences of any accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The inclusion of the action required for an underweight ice basket in the TS SR, instead of in the bases of the TS, provides for the consistent interpretation of the requirement. The clarification of the response required if one or more ice baskets in a given bay are determined to be underweight ensures sufficient ice is maintained in each bay to prevent early meltout in a local zone following a DBA and that the required overall ice weight is maintained in the ice condenser. The relocation of the ice basket selection methodology to the bases does not result in any change to the intent or implementation of this portion of the TSs since plant procedures ensure the requirements of the bases of the TSs are correctly implemented. Additionally, the clarification that the weight requirement is applicable to the beginning of the cycle does not change the present intent of the TS, but ensures there is no confusion, since the weight at the end of the operating cycle may be less than that specified in the SR due to sublimation. This does not result in a change to the intent or implementation of the TS since a sublimation allowance was provided in the original SR weight requirement. The operation, design and maintenance of the ice condenser and its associated equipment will not change as a result of these clarifications. Therefore, the implementation of these clarifications will not create the possibility of accidents or equipment malfunctions of a new or different kind from any previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed amendment allows for the consistent interpretation of the required actions if an ice basket is determined to weigh less than the required minimum. The inclusion of these actions in the TS SR instead of in the TS bases assures the correct actions will be taken as intended by the TSs. The clarification of the response required if one or more ice baskets in a given bay are determined to be underweight ensures sufficient ice is maintained in each bay to prevent early meltout in a local zone following a DBA and that the required overall ice weight is maintained in the ice condenser. The relocation of the ice basket selection methodology to the bases does not result in any change to the intent or implementation of this portion of the TSs since plant procedures ensure the requirements of the bases of the TSs are correctly implemented. Additionally, the clarification that the weight requirement is applicable to the beginning of the cycle does not change the present intent of the TS, but ensures there is no confusion, since the weight at the end of the operating cycle may be less than that specified in the SR due to sublimation. This does not result in a change to the intent or implementation of the TS since a sublimation allowance was provided in the original SR weight requirement. The proposed clarifications do not result in or have any [effect] on the operation, design, or maintenance of any plant equipment. Thus the design limits for the continued safe function of the containment structure following a DBA are not exceeded due to this change; therefore, the proposed amendment does not involve a reduction in a margin of safety.

The NRC 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 amendments request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Section Chief: Sheri R. Peterson.

Tennessee Valley Authority, Docket No. 50–390 Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of amendment request: June 25, 1999 (TS 99–004).

Description of amendment request: The proposed amendment would revise the Watts Bar Nuclear Plant Unit 1 Technical Specifications (TS) and associated TS Bases for Limiting Condition for Operation (LCO) 3.7.1, Main Steam Safety Valves, to provide a new requirement to reduce the Power Range Neutron Flux-High reactor trip setpoints when two or more main steam safety valves (MSSVs) per steam generator are inoperable. This proposal is based on a generic change developed by the Westinghouse Owners Group (WOG), TSTF–235, Revision 1, which has been approved by the NRC staff.

Basis for proposed no significant hazards consideration determination: 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:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to TS LCO 3.7.1 requires a reduction of the Power Range Neutron Flux-High reactor trip setpoints to a corresponding power level depending on the number of inoperable MSSVs. The change is based on and consistent with an industry sponsored change (TSTF–235, Revision 1) which has been reviewed and accepted by the NRC staff.

Although plant procedures currently require resetting the high flux trip, it is not a TS requirement. The proposed amendment will provide a more appropriate barrier to prevent the plant from being operated under a non-conservative technical specification action statement in a region where multiple inoperable MSSVs coincident with a reactivity insertion event such as an inadvertent rod cluster control assembly (RCCA) bank withdrawal could result in overpressurization of the secondary system.

No change is made in the probability of initiating accident, i.e., RCCA bank withdrawal, and by requiring the reactor trip setpoint reduction, a potential mismatch between core power and turbine load without sufficient steam relief capacity is eliminated. Therefore, the change requested by this amendment actually decreases the consequences of an accident previously evaluated (without credit for procedure actions to reduce the trip setpoints).

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Without crediting existing plant procedures, the addition of the proposed TS change prevents the plant from being operated in a region where an overpressurization of the main steam system is postulated to potentially occur. The proposed change assures that the existing FSAR [Final Safety Analysis Evaluation Report] accident analysis remains bounding for events that challenge the relieving capacity of the MSSVs. Since the addition of the TS action adds a more appropriate administrative barrier to prevent operation in an undesired region and because the change is bounded by the current accident analysis described in the FSAR, a new or different kind of accident has not been created as a result of this license amendment.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed TS change eliminates a non-conservative TS action to prevent the plant from being operated in a region where an overpressurization of the main steam system is postulated to potentially occur. Since the addition of the TS action adds a more effective administrative barrier to prevent operation in an undesired region and because the change is bounded by the existing FSAR accident analysis, the margin of safety has actually increased for the proposed change. For these reasons, the proposed amendment does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, TN 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET l0H, Knoxville, Tennessee 37902.

NRC Section Chief: Sheri R. Peterson.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: July 8, 1999.

Description of amendment request: The amendment request proposes to increase the allowable values for the engineered safety features actuation system (ESFAS) loss-of-power 4 kV undervoltage trips in the current Technical Specifications (TSs) Table 3.3–4 (functional units 8.a and 8.b) and in Surveillance Requirement (SR) 3.3.5.3 of the improved TSs. The word ''nominal'' is also being added to describe the trip setpoint in SR 3.3.5.3 and in the Bases of the improved TSs. The improved TSs were issued in Amendment 123 dated March 31, 1999, but have not yet been implemented.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The reactor protection system performance will remain within the bounds of the previously performed accident analysis. The protection systems will continue to function in a manner consistent with the plant design basis. The proposed changes will not affect any of the analysis assumptions for any of the accidents previously evaluated. The proposed changes will not affect the probability of any event initiators nor will the proposed changes affect the ability of any safety related equipment to perform its intended function. There is no change to the technical specification trip setpoints; therefore, there is no degradation in the performance of nor an increase in the number of challenges imposed on safety related equipment assumed to function during an accident situation and be no change to normal plant operating parameters or accident mitigation capabilities. The allowable values and the trip setpoints in the protection system proposed to be changed are not initiators of accidents previously evaluated.

Based on the above evaluation, these proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

There are no changes in the method by which any safety related plant system performs its safety function. The normal manner of plant operation remains unchanged because the methodology to determine the allowable value and the trip setpoints remains unchanged. The increase in allowable value for the trip setpoints still provides margin between the nominal trip setpoint and allowable value while taking into account worst case 4.16 kV Class 1E system (NB) bus voltages that could be possible during steady state loss-of-coolant accident (LOCA) conditions. The change in allowable value for the undervoltage protection functions does not impact the systems capability to:

a. Trip the 4.16 kV preferred normal and alternate bus feeder breakers to remove the deficient power source to protect the Class 1E equipment from damage;

b. Shed all loads from the bus except the Class 1E 480 Vac load centers and centrifugal charging pumps to prepare the buses for re-energization by the load shedder and emergency load sequencer (LSELS); and

c. Generate a emergency diesel generator (EDG) start signal.

No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures are introduced as a result of the proposed changes. The allowable values and the trip setpoints in the protection system proposed to be changed are not initiators of accidents. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The undervoltage protection functions are to:

a. Trip the 4.16 kV preferred normal and alternate bus feeder breakers to remove the deficient power source to protect the Class 1E equipment from damage;

b. Shed all loads from the bus except the Class 1E 480 Vac load centers and centrifugal charging pumps to prepare the buses for re-energization by the load shedder and emergency load sequencer (LSELS); and

c. Generate a EDG start signal.

The proposed changes do not affect the acceptance criteria for any analyzed event nor is there a change in the safety analysis limit. There will be no effect on the manner in which safety limits or engineered safety features actuation system settings are determined nor will there be any affect on those plant systems necessary to assure the accomplishment of the above protection functions. Therefore, there will not be a significant reduction in a margin of safety.

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.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037.

NRC Section Chief: Stephen Dembek.

Previously Published Notice of Consideration of Issuance of Amendment to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, And Opportunity for a Hearing

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: June 30, 1999.

Brief description of amendment: The proposed amendment would revise Technical Specification (TS) 3/4.7.5 of the current TSs by adding a temporary action statement that would allow the plant to operate for up to 12 hours with an inlet temperature up to but less than 95°F.

Date of individual notice in **Federal Register**: July 15, 1999 (64 FR 38221).

Expiration date of individual notice: August 16, 1999.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items 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 rooms for the particular facilities involved.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: February 26, 1999

Brief description of amendment: This amendment changes the Table Notations for Technical Specification (TS) Table 3.3–4, ''Engineered Safety Features Actuation System Instrumentation Trip Setpoints.'' Specifically, the time constants used in the lead-lag controller for Steam Line Pressure—Low (Table item 1.e) and in the rate-lag controller for Negative Steam Line Pressure Rate—High (Table item 4.e) have been revised.

Date of issuance: July 28, 1999.

Effective date: July 28, 1999.

Amendment No.: 89.

Facility Operating License No. NPF–63. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: March 24, 1999 (64 FR 14280).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 28, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application of amendments: October 2, 1998, as supplemented November 20, 1998, December 21, 1998, and May 13, 1999.

Brief description of amendments: The amendments revised the Updated Final Safety Analysis Report related to an unreviewed safety question regarding the use of a small amount of containment overpressure to ensure sufficient net positive suction head for the reactor building spray and low pressure injection pumps during the post loss of coolant accident recirculation phase.

Date of Issuance: July 19, 1999.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1—305; Unit 2—305; Unit 3—305.

Facility Operating License Nos. DPR–38, DPR–47, and DPR–55: Amendments revised the Updated Final Safety Analysis Report.

Date of initial notice in **Federal Register**: June 16, 1999 (64 FR 32288).

The November 20, 1998, December 21, 1998, and May 13, 1999, letters provided clarifying information that did not change the scope of the October 2, 1998, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 19, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501

West South Broad Street, Walhalla, South Carolina.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Nuclear Generating Plant, Unit 3, Citrus County, Florida

Date of application for amendment: May 28, 1998.

Brief description of amendment: Changes the Crystal River Unit 3 (CR–3) licensing bases to incorporate Generic Letter 87–11, ''Relaxation in Arbitrary Intermediate Pipe Rupture Requirements,'' and NUREG/CR–2913, ''Two-Phase Jet Loads,'' as part of the licensing basis for CR–3.

Date of issuance: July 27, 1999.

Effective date: As of the date of issuance, to be incorporated into the Final Safety Analysis Report at the time of its next update.

Amendment No.: 181.

Facility Operating License No. DPR–72: Amendment approves changes to the Final Safety Analysis Report.

Date of initial notice in **Federal Register**: July 15, 1998 (63 FR 38200).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 27, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 34428.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: March 1, 1999, as supplemented by letters dated March 10, 1999, June 8, 1999, and June 23, 1999.

Brief description of amendment: The amendment changes the Cooper Nuclear Station Technical Specifications to revise the calibration frequency of the reactor recirculation flow transmitters from once every 184 days to once every 18 months.

Date of issuance: July 26, 1999.

Effective date: July 26, 1999, to be implemented within 30 days.

Amendment No.: 179.

Facility Operating License No. DPR–46: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 7, 1999 (64 FR 17027) The March 10, June 8, and June 23, 1999, letters provided additional clarifying information and updated TS pages. This information was within the scope of the original **Federal Register** notice and did not change the staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 26, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Auburn Memorial Library, 1810 Courthouse Avenue, Auburn, NE 68305.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: September 28, 1998, as supplemented by letter dated March 12, 1999.

Brief description of amendment: The amendment authorizes the revision to the licensing basis as described in the Updated Safety Analysis Report (USAR) to incorporate the modification for overriding the containment isolation actuation signal to the reactor coolant system letdown flow containment isolation valves.

Date of issuance: July 22, 1999.

Effective date: July 22, 1999, and shall be implemented in the next periodic update to the USAR in accordance with 10 CFR 50.71(e).

Amendment No.: 191.

Facility Operating License No. DPR–40. The amendment revised the Updated Safety Analysis Report.

Date of initial notice in **Federal Register**: November 18, 1998 (63 FR 64119) The March 12, 1999, supplemental letter provided additional clarifying information, did not expand the scope of the application as originally noticed, and did not change the staff's initial no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 22, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: January 29, 1999.

Brief description of amendment: The amendment revises Technical Specifications 2.10.2(1) and 2.10.2(3) and deletes Figure 2–11 to relocate three cycle specific parameters to the Core Operating Limits Report.

Date of issuance: July 27, 1999.

Effective date: July 27, 1999.

Amendment No.: 192.

Facility Operating License No. DPR–40. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: February 24, 1999 (64 FR 9193) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 27, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

PECO Energy Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: January 25, 1999.

Brief description of amendments: Revise technical specifications surveillance requirement frequencies for the emergency diesel generator maintenance inspection outages, the 24-hour endurance run and the hot restart test from 18 to 24 months.

Date of issuance: July 29, 1999.

Effective date: Both units, as of date of issuance and shall be implemented within 30 days.

Amendment Nos.: 136 and 101.

Facility Operating License Nos. NPF–39 and NPF–85. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: February 24, 1999 (64 FR 9196).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 29, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, PA 19464.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: February 2, 1999, as supplemented on April 26, 1999.

Brief description of amendments: The amendments revise Technical Specification (TS) 5.6, ''Fuel Storage, Criticality,'' to change the maximum unirradiated fuel assembly enrichment value for new fuel storage from 4.5 to 5.0 weight percent Uranium-235 and to allow the use of equivalent criticality control to that provided by the current TS requirement of 2.35 milligrams of Boron-10 per linear inch loading in the Integral Fuel Burnable Absorber pins.

Date of issuance: July 21, 1999.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: 223 and 204.

Facility Operating License Nos. DPR–70 and DPR–75. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: March 10, 1999 (64 FR 11965).

The April 26, 1999, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 21, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, NJ 08079.

Dated at Rockville, Maryland, this 4th day of August 1999.

For the Nuclear Regulatory Commission.

Suzanne C. Black,

Deputy Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–20545 Filed 8–10–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Seabrook Nuclear Power Station; Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Enforcement, has issued a Director's Decision concerning a petition dated March 31, 1999, filed by Mr. David A. Lochbaum against unspecified individuals working at the Seabrook Nuclear Power Station (Seabrook Station) pursuant to Section 2.206 of Title 10 of the Code of Federal Regulations (10 CFR 2.206). The petition requests that the individuals responsible for discrimination against a contract electrician at the Seabrook Nuclear Generating Station as identified in NRC Office of Investigations (OI) Report No. 1–98–005 be banned by the NRC from participation in licensed activities at and for any nuclear power plant for a period of at least five (5) years; that the individuals responsible for creating a false record to cover up the concern raised by the contract electrician as identified in the cited OI report also be banned by the NRC from participation in licensed activities at and for any nuclear power plant for a period of a least five (5) years; and that the Petitioner be permitted to attend the upcoming pre-decisional enforcement conference on this matter.

The Director, Office of Enforcement, has determined that the petition should be denied for the reasons stated in the ''Director's Decision Under 10 CFR 2.206'' (i.e., DD–99–10). While the NRC staff concluded that the foreman had engaged in wrongdoing, the Director, Office of Enforcement denied Mr. Lochbaum's request to ban the foreman from participating in licensed activities for a period of at least five years because the requested enforcement action is not appropriate based on the circumstances of the case. The Director's Decision and the Notices of Violation issued to the foreman, Williams Power Corporation, and NAESCO for the foreman's wrongdoing are available for public inspection and copying in the Commission's Public Document Room, the Gelman Building, 2120 L Street NW, Washington, DC, and on the NRC's web page at *http://www.nrc.gov/NRC/PUBLIC/2206/index.html* and *http://www.nrc.gov/OE/rpr/oehome4.htm* respectively.

A copy of the Director's Decision has been filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c). As provided therein, the Director's Decision will become the final action of the Commission twenty-five days after issuance unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland this 3rd day of August 1999.

For the Nuclear Regulatory Commission.

R. W. Borchardt,

Director, Office of Enforcement.

[FR Doc. 99–20686 Filed 8–10–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Standard Review Plan: Licensee Requests To Delay initiation of Decommissioning Activities

NRC's ''Timeliness in Decommissioning of Materials Facility'' rule (hereafter the Timeliness Rule), became effective on August 15, 1994. The Timeliness Rule established the criteria necessary to avoid future problems resulting from delayed decommissioning of contaminated inactive facilities, separate buildings, and outdoor areas.

In May 1996, the Nuclear Energy Institute (NEI) filed a petition for rulemaking to amend the Timeliness Rule to allow licensees to delay decommissioning and operate in a ''standby'' mode. NRC denied NEI's petition for rulemaking because the Timeliness Rule contains provisions which allow licensees to request delays or postponement of decommissioning, provided they can demonstrate that the delay is not detrimental to the public health and safety and is otherwise in the public interest. However, along with denying the petition, the Commission requested that NRC prepare guidance to identify the acceptance criteria necessary to demonstrate that postponement of decommissioning activities will not be detrimental to the public interest.

In response to the Commission request, NRC has developed the draft Standard Review Plan (SRP) titled, ''Licensee Requests to Delay Initiation of Decommissioning Activities.'' NRC has posted the draft SRP on the internet (www.nrc.gov/NMSS/DWM/DECOM/decomm.htm) to provide interested parties an opportunity to review and comment on NRC's acceptance criteria necessary to demonstrate that postponement of decommissioning activities will not be detrimental to the public health and safety and is otherwise in the public interest. NRC will consider all comments received in finalizing the SRP for implementation.

The draft SRP is available for inspection at the NRC's Public Document Room, 2120 L Street NW, Washington, DC 20555.

Dated at Rockville, Maryland, this 2nd day of August 1999.

For the Nuclear Regulatory Commission.

Larry W. Camper,

Chief, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–20684 Filed 8–10–99; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one revised deferral of budget authority, now totaling $173 million.

The deferral affects programs of the Department of State.

William J. Clinton

THE WHITE HOUSE,
August 2, 1999.

Supplemental Report

Report Pursuant to Section 1013 of P.L. 93–344

This report updates Deferral No. 99–1A, which was transmitted to Congress on February 1, 1999.

This revision increases by $72,276,278 the previous deferral of $100,581,381 in the United States Emergency Refugee and Migration Assistance Fund, Department of State, resulting in a total deferral of $172,857,659. This increase results from the deferral of new budget authority provided for FY 1999 in the FY 1999 Emergency Supplemental Appropriations Act (P.L. 106–31).

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93–344

Agency: DEPARTMENT OF STATE
Bureau: Other.
Account: United States emergency refugee and migration assistance fund [1] (11X0400)

New budget authority: *$195,000,000
Other budgetary resources: *75,412,337
Total budgetary resources: *270,412,337

Amount deferred for entire year: *172,857,659

Justification: This deferral withholds funds available for emergency refugee and migration assistance for which no determination has been made by the President to provide assistance as required by Executive Order No. 11922. Funds will be released as the President determines assistance to be furnished and designates refugees to be assisted by the Fund. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Section 501(a) of the Foreign Relations Authorization Act of 1976 (Public Law 94–141) and section 414(b)(1) of the Refugee Act of 1980 (Public Law 96–212) amended section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601) by authorizing a fund to enable the President to provide emergency assistance for unexpected urgent refugee and migration needs.

Executive Order No. 11922 of June 16, 1976, allocated all funds appropriated to the President for emergency refugee and migration assistance to the Secretary of State, but reserved for the President the determination of assistance to be furnished and the designation of refugees to be assisted by the Fund.

Estimated programmatic effect: None.

[FR Doc. 99–20700 Filed 8–10–99; 8:45 am]

BILLING CODE 3110–01–P

[1] This account was the subject of a similar deferral in FY 1998 (D98–7).

* Revised from previous report.

OFFICE OF MANAGEMENT AND BUDGET

OMB Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations''

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Request for Comments on Clarifying Changes to Proposed Revision on Public Access to Research Data.

SUMMARY: This notice offers interested parties an opportunity to comment on clarifying changes to a proposed revision to OMB Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.'' Public Law 105–277 directs OMB to amend Section __.36 of the Circular ''to require Federal awarding agencies to ensure that all data produced under an award will be made available to the public through the procedures established under the Freedom of Information Act'' (FOIA). Pursuant to the direction of Public Law 105–277, OMB published a Notice of Proposed Revision on February 4, 1999.

OMB received over 9,000 comments on the proposed revision. Many of these comments raised serious concerns about the impact Public Law 105–277 and the proposed revision would have on the conduct of scientific research. In part, these concerns arose from questions as to how expansively or narrowly the proposed revision would be interpreted and applied. In raising these questions, commenters on both sides of the debate sought clarification of four concepts found in the proposed revision: ''data,'' ''published,'' ''used by the Federal Government in developing policy or rules,'' and cost reimbursement.

In response to these comments, and in order to advance implementation of the requirements of Public Law 105–277, OMB has developed proposed clarifying definitions for the first three of these concepts and is providing additional background discussion regarding the fourth. In framing these definitions, OMB has used its discretion to balance the need for public access to research data with protections of the research process. Specifically, OMB seeks to further the interest of the public in obtaining the information needed to validate Federally-funded research findings, ensure that research can continue to be conducted in accordance with the traditional scientific process, and implement a public-access process that will be workable in practice. OMB will consider all comments received in response to this notice, and the comments received in response to the prior notice, in its development of the final revision to the Circular. OMB intends to publish the final revision on or before September 30, 1999. It is not necessary to re-submit comments already provided to OMB.

DATES: Comments must be received by September 10, 1999.

ADDRESSES: Comments on this proposed revision should be addressed to: F. James Charney, Policy Analyst, Office of Management and Budget, Room 6025, New Executive Office Building, Washington, DC 20503. Comments may be submitted via E-mail (grants@omb.eop.gov), but must be made in the text of the message and not as an attachment. Since OMB will consider all comments that it receives, it is not necessary to send multiple copies of a comment letter to different officials in the Executive Branch. The full text of Circular A–110, the text of this notice, and the text of the February 4, 1999, Notice of Proposed Revision, may be obtained by accessing OMB's home page (http://www.whitehouse.gov/OMB), under the heading ''Grants Management.'' Copies of Public Law 105–277 can be obtained by accessing the Library of Congress's home page (http://thomas.loc.gov).

FOR FURTHER INFORMATION CONTACT: F. James Charney, Policy Analyst, Office of Management and Budget, at (202) 395–3993. Press inquiries must be directed to OMB's Communications Office, at (202) 395–7254.

SUPPLEMENTARY INFORMATION:

I. Approach to Implementation

Congress included a two-sentence provision in Public Law 105–277 that directs OMB to amend Circular A–110 ''to require Federal awarding agencies to ensure that all data produced under an award will be made available to the public through the procedures established under the Freedom of Information Act.'' The provision also provides for a reasonable fee to cover the costs incurred in responding to the request. The Circular applies to grants and other financial assistance provided to institutions of higher education, hospitals, and non-profit institutions, from all Federal agencies. Therefore, the proposed revision will affect the full range of research activities funded by the Federal Government.

In response to the provision contained in Public Law 105–277, OMB published a Notice of Proposed Revision to the Circular on February 4, 1999 (64 FR 5684). OMB received over 9,000 comments on the proposed revision. Many of these comments (including many of those from the scientific community) raised serious concerns about the effect the provision contained in Public Law 105–277 and the proposed revision would have on scientific research. They sought protection for the privacy of research

subjects and the proprietary interests of scientists and their research partners. They also emphasized that scientists must be able to pursue their research efforts to their conclusion, without the premature release of their research data.

Science and technology are the principal agents of change and progress, with over half of the Nation's economic productivity in the last 50 years attributable to technological innovation and the science that supports it. Although the private sector makes many investments in technology development, the Federal Government has an important role to play—particularly when risks are too great or the return to companies too speculative. Its support of cutting-edge science contributes to new knowledge and greater understanding, ranging from the edge of the universe to the smallest imaginable particles.

In implementing the provision contained in Public Law 105–277, OMB seeks to (1) Further the interest of the public in obtaining the information needed to validate Federally-funded research findings, (2) ensure that research can continue to be conducted in accordance with the traditional scientific process, and (3) implement a public-access process that will be workable in practice.

To this end, OMB earlier proposed to require public access to ''data relating to published research findings produced under an award that were used by the Federal Government in developing policy or rules.'' It intended these clarifications to ensure public access to data supporting the Federally-funded research findings upon which agencies rely, without upsetting the traditional scientific process by requiring researchers to release their data prematurely.

As in many other fields of endeavor, scientists need a private setting where they are free to deliberate over, develop, and pursue alternative approaches. When a scientist completes research, he or she publishes the results for the scrutiny of other scientists and the community at large. In light of this traditional scientific process, OMB does not construe the statute as requiring scientists to make research data publicly available while the research is still ongoing, because that would force scientists to ''operate in fishbowl'' and to release information prematurely. *Cf. Wolfe* v. *Department of Health and Human Services,* 839 F.2d 768, 773 (D.C. Cir. 1988) (en banc) (Congress in enacting the FOIA did not force government officials to ''operate in a fishbowl''); *Montrose Chemical Corp. of Calif.* v. *Train,* 491 F.2d 63, 66 (D.C. Cir. 1974) (same). OMB also understands the need of researchers to assure confidentiality to those who voluntarily agree to participate in Federally-funded research. Accordingly, OMB's proposed revision would allow agencies to withhold personal privacy and confidential business information pursuant to the FOIA ''exemptions'' in 5 U.S.C. 552(b). For example, under FOIA exemption 6, 5 U.S.C. 552(b)(6), an agency is not required to release ''personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.'' As the Supreme Court explained in U.S. Dep't of Justice v. Reporters Committee of the Freedom of the Press, 489 U.S. 749 (1989), certain types of privacy information can be protected as a categorical matter, without regard to individual circumstances. *Id* at 776–780. Moreover, in accord with exemption 6's express protection for their medical records, courts have found that individuals have a strong privacy interest in medical records. *See McDonnell* v. *United States,* 4 F.3d 1227, 1251–1254 (3rd Cir. 1993); *Plain Dealer Pub. Co.* v. *U.S. Dep't of Labor,* 471 F. Supp. 1023, 1027–29 (D.D.C. 1979). In addition, courts have held that, although the redaction of names or other individual identifiers may be sufficient in some cases to protect privacy, an entire record may be withheld if necessary to ensure privacy (e.g., in a case where, notwithstanding the redaction of names or other personal identifiers, an individual's identity could still be inferred from other information). *See Alirez* v. *NLRB,* 676 F.2d 423, 428 (10th Cir. 1982); *Whitehouse* v. *U.S. Dep't of Labor,* 997 F. Supp. 172, 175 (D. Mass. 1998).

Notwithstanding these clarifications in the earlier proposal, commenters from the scientific community expressed serious concerns about the impact Public Law 105–277 would have on their research activities. In part, these concerns arose from questions as to how expansively or narrowly the statute and the proposed revision would be interpreted and applied. In raising these questions, commenters on both sides of the debate sought clarification of four concepts found in the proposed revision: ''data,'' ''published,'' ''used by the Federal Government in developing policy or rules,'' and cost reimbursement.

In order to advance implementation of the requirements of Public Law 105–277, and to provide the greater clarification that the commenters requested, OMB seeks public comment on proposed clarifying definitions for the first three concepts, and its additional background discussion regarding the fourth.

II. Background

A. Data Access Provision Contained in Public Law 105–277

Public Law 105–277 includes a provision that directs OMB to amend Section __.36 of the Circular ''to require Federal awarding agencies to ensure that all data produced under an award will be made available to the public through the procedures established under the Freedom of Information Act.'' Public Law 105–277 further provides that ''if the agency obtaining the data does so solely at the request of a private party, the agency may authorize a reasonable user fee equaling the incremental cost of obtaining the data.''

According to congressional floor statements made in support of the provision, its aim is to ''provide the public with access to federally funded research data'' that are ''used by the Federal Government in developing policy and rules.'' 144 Cong. Rec. S12134 (October 9, 1998) (Statement of Sen. Lott); *see id.* (Statement of Sen. Shelby) (the provision ''represents a first step in ensuring that the public has access to all studies used by the Federal Government to develop Federal policy''). The congressional proponents further explained that the provision requires OMB ''to amend OMB Circular A–110 to require Federal awarding agencies to ensure that all research results, including underlying research data, funded by the Federal Government are made available to the public through the procedures established under the Freedom of Information Act.'' *Id.* (Statement of Sen. Lott). The proponents stated that ''the amended Circular shall apply to all Federally funded research, regardless of the level of funding or whether the award recipient is also using non-Federal funds.'' *Id.* (Statement of Sen. Campbell). They also noted that ''[t]he Conferees recognize that this language covers research data not currently covered by the Freedom of Information Act. The provision applies to all Federally funded research data regardless of whether the awarding agency has the data at the time the request is made'' under the FOIA. *Id.* Under the Supreme Court's decision in *Forsham* v. *Harris,* 445 U.S. 169, 179–80 (1980), data that are in the files of a recipient of a Federal award, but not in the files of a Federal agency, would not otherwise be available under FOIA.

B. OMB's Proposed Revision to Circular A–110

In response to the congressional direction in Public Law 105–277, OMB published a Notice of Proposed Revision to the Circular on February 4, 1999 (64 FR 5684) to amend Section ____.36(c) of the Circular to read as follows:

(c) The Federal Government has the right to (1) Obtain, reproduce, publish or otherwise use the data first produced under an award, and (2) authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes. In addition, in response to a Freedom of Information Act (FOIA) request for data relating to published research findings produced under an award that were used by the Federal Government in developing policy or rules, the Federal awarding agency shall, within a reasonable time, obtain the requested data so that they can be made available to the public through the procedures established under the FOIA. If the Federal awarding agency obtains the data solely in response to a FOIA request, the agency may charge the requester a reasonable fee equaling the full incremental cost of obtaining the data. This fee should reflect costs incurred by the agency, the recipient, and applicable subrecipients. This fee is in addition to any fees the agency may assess under the FOIA (5 U.S.C. 552(a)(4)(A)).

In the preamble to the notice, OMB provided an explanation of the proposed revision. As the notice outlined, the proposed revision implements Public Law 105–277 by providing that, after publication of research findings used by the Federal Government in developing policy or rules, the research results and underlying data would be available to the public in accordance with the FOIA. The proposed revision requires Federal awarding agencies, in response to a FOIA request, to obtain the requested data from the recipient of the Federal award. Since the agency must take steps to obtain the data, the agency is afforded a reasonable time to do so. Once the agency has obtained the data, the agency will then process the FOIA request in accordance with the standard FOIA procedural and substantive rules. The agency will therefore have to determine whether any of the FOIA exemptions, which permit an agency to withhold requested records, would apply to some or all of the data. If the Federal awarding agency obtained the data solely in response to a FOIA request, the agency may charge the requester a reasonable fee equaling the full incremental cost of obtaining the data. This fee should reflect costs incurred by the agency, the recipient, and applicable subrecipients. This fee is in addition to any fees the agency may assess under the FOIA.

C. Public Comments Called for Clarification

OMB received approximately 8,350 comments during the 60-day public comment period. Additionally, OMB received approximately 800 comments after the close of the comment period. OMB will consider the comments received in response to the prior notice, and the comments received in response to this notice, in developing the final revision to the Circular.

Of the comments received, 55 percent were submitted by individual members of the public, without any organizational identification. Individual researchers working at institutions of higher education accounted for 36 percent of the comments. The remainder of the comments came from other non-profit research organizations (three percent), professional associations (two percent), commercial research organizations (one percent), and official comments from institutions of higher education (one percent). OMB also received comments from Members of Congress, Federal agencies, employees of State governments, and law firms.

Of those comments received, 55 percent supported implementation of Public Law 105–277 in the form of the proposed revision while 37 percent opposed the language of Public Law 105–277 and the proposed revision. The remaining eight percent of those commenting had serious concerns about the proposed revision, suggesting that it be modified in some substantial way.

Commenters offered strongly differing views on the provision contained in Public Law 105–277. Commenters who supported the statutory provision stated that the public has a right to obtain research data that have been funded with tax dollars, particularly when the research findings were used by the Federal Government in developing policy or rules. These commenters also expressed the view that making this data available for public review and validation would improve the scientific process. Commenters who opposed the provision contained in Public Law 105–277 stated that they support the concepts of full disclosure and open access to information. In their comments, they explained that the traditional scientific process operates by requiring researchers to subject their findings to the scrutiny of the scientific community and the general public, so that those findings may be validated, corrected, or rejected. They expressed concern that the approach required by Public Law 105–277 would significantly impair scientific research. In their view, individuals and businesses would be reluctant to agree to participate in research, since the participants' personal privacy and proprietary information could not be assured of confidential treatment.

III. Proposed Clarification of Concepts

Many commenters asked OMB to clarify four concepts found in the proposed revision: ''data,'' ''published,'' ''used by the Federal Government in developing policy or rules,'' and cost reimbursement. OMB agrees that clarification is needed for these concepts and believes development of the final revision, pursuant to the direction of Public Law 105–277, will be advanced by requesting additional public comment.

A. ''Data''

A large number of comments addressed the fact that the term ''data'' is not defined in either the provision contained in Public Law 105–277 or in the proposed revision to the Circular.

Commenters from the scientific community expressed concern that ''data'' might be interpreted expansively to include such things as lab specimens (e.g., cell cultures, tissue or plant samples), a researcher's lab notebooks, working papers, phone logs and electronic mail, or a researcher's financial records. These commenters stated that requiring researchers to turn over such materials would be extremely burdensome and would harm the scientific process. Commenters from the scientific community raised the additional concern that requiring public access to research ''data'' would result in the public disclosure of highly private information about individuals (e.g., information about the medical condition or treatment of research subjects) and the proprietary business information (e.g., intellectual property) of their research partners. In this regard, these commenters were not reassured by the fact that the Federal awarding agency would be able to withhold information that falls within the existing FOIA exemptions that permit agencies to withhold personal and confidential business information. See 5 U.S.C. 552(b). Notwithstanding the applicability of these FOIA exemptions, the commenters from the scientific community asserted that they would no longer be able to promise confidentiality to persons who agree to participate in research studies.

Commenters supporting the provision contained in Public Law 105–277 agreed that the term ''data'' needs to be defined. One argued for a broad interpretation of ''data,'' but agreed that ''[f]inancial records and other personal

data of individual researchers should be excluded from the definition of data in the revised Circular.'' A comment letter from Senators Shelby, Lott, and Campbell, who support the provision contained in Public Law 105–277, stated that ''data'' should be defined ''based on how the term is commonly used in the scientific community and the ultimate goal of this provision. At a minimum, data should include all information necessary to replicate and verify the original results and assure that the results are consistent with the data collected and evaluated under the award.''

Taking into account the concerns that commenters expressed, and in order to advance implementation of the requirements of Public Law 105–277, OMB has developed and seeks comment on a proposed definition of ''research data''. In framing this definition, OMB has sought to ensure that members of the public can obtain the information needed to validate Federally-funded research findings, while ensuring the privacy of research subjects and proprietary interests of scientists and their research partners. OMB proposes to define ''research data'' in a way that does not require recipients to transmit information which, in their judgment, includes ''trade secrets, commercial information,'' or ''personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.'' The Federal awarding agency would retain its right to ask the recipient for additional information, if it believed the recipient's application of these principles was improper.

Accordingly, OMB proposes to define ''research data'' as ''the recorded factual material commonly accepted in the scientific community as necessary to validate researching findings, but not any of the following: preliminary analyses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues.'' This excludes physical objects such as laboratory samples. Moreover, under the proposed definition, ''research data'' would exclude ''(A) trade secrets, commercial information, materials necessary to be held confidential by a researcher until publication of their results in a peer-reviewed journal, or information which may be copyrighted or patented; and (B) personnel and medical files and similar files the disclosure or which would constitute a clearly unwarranted invasion of personal privacy, such as information that could be used to identify a particular research subject in a research study.''

B. ''Published''

Commenters generally supported OMB's clarification that public access pertains to ''published'' research findings. For example, a comment letter from Senators Shelby, Lott, and Campbell, who support the provision contained in Public Law 105–277, stated that ''the OMB reference to published findings is not inconsistent with the underlying statute'' and that ''this limitation to data related to published research findings will ensure that the provision does not disrupt the research process by forcing the premature release of data before the study is completed.''

Notwithstanding the general support for a publication requirement, a significant number of commenters raised questions regarding when research findings have been ''published.'' While there was a general consensus that research findings are ''published'' when they appear in a peer-reviewed scientific or technical journal, commenters asked whether research findings could be considered to be ''published'' at an earlier time. Examples of earlier definitions of ''published'' include: (1) When data are distributed as part of the journal's peer-review process; (2) when a researcher makes a presentation at a scientific meeting open to the public; or (3) when data have been otherwise made available to the public (e.g., through a press release or a presentation to the media). In particular, commenters from the scientific community expressed the concern that defining ''published'' expansively could lead to premature release of data as well as misunderstandings and false claims about what research proves. These commenters also noted that requiring researchers to make their data publicly available prematurely could also prevent future publication in some peer-reviewed journals, and may limit a researcher's patent rights. Additionally, commenters argued that the willingness of private sector organizations to enter into partnerships would be reduced unless their proprietary data can be protected. Other researchers feared harassment from groups that do not support certain scientific methods or those that do not support certain areas of research.

Commenters who support the provision contained in Public Law 105–277 were generally sympathetic to these concerns. However, many expressed the concern that, if ''published'' meant only publication in a peer-reviewed journal, Federal agencies would be able to rely on research findings that have been released to the agency (while not having yet been published in a peer-review journal), but interested members of the public would not be able to obtain the data that are necessary to validate these findings. As one commenter stated, under that scenario ''award recipients would be able to avoid disclosure of data otherwise available to the public merely by failing to submit the data to a formal peer review publication.'' This concern was also raised in the comment letter from Senators Shelby, Lott, and Campbell, which stated that ''[if] federally-funded pre-published data or findings are used to support a federal policy or rule, then the final revision should ensure that such data would also be made publicly available under FOIA. If the data are sufficiently sound to support a federal policy or rule, then they should be able to bear public scrutiny and disclosure * * *. This point is critical to ensuring that our federal rules and policies are based on good science and research findings.''

Taking into account the concerns that commenters expressed, and in order to advance implementation of the requirements of Public Law 105–277, OMB has developed and seeks comment on a proposed definition of ''published.'' In framing this definition, OMB has sought to ensure that members of the public can obtain the information needed to validate Federally-funded research findings, while at the same time ensuring that researchers will continue to be able to engage in the traditional scientific process without fear that they could be forced to release their research prematurely. OMB has also framed this definition based on the understanding that Federal agencies generally rely on research findings that have been peer-reviewed, because until they have been peer-reviewed, research findings may be inherently unreliable. OMB solicits comments on these issues.

Accordingly, OMB proposes to define ''published'' research findings as ''either when (A) research findings are published in a peer-reviewed scientific or technical journal, or (B) a Federal agency publicly and officially cites to the research findings in support of'' an agency action.

C. ''Used by the Federal Government in Developing Policy or Rules''

Many commenters requested clarification on what is meant by ''used by the Federal Government in developing policy or rules.'' Commenters who oppose the provision contained in Public Law 105–277 argued for an interpretation under which ''policy or rules'' would refer to

agency regulations, and ''used'' would refer to the agency's public and official citation of the research findings in support of the agency action. Commenters who support the provision contained in Public Law 105–277 argued for a more expansive interpretation, under which ''policy or rules'' would include such things as agency guidance, surveys, risk assessments and reports, and ''used'' would refer to when the agency first relies internally on the findings—or perhaps even earlier. Referring to situations where ''studies are funded, performed, and published with a clear anticipation that the data in the study will be useful in connection with future government rulemaking or policy development,'' one commenter argued that, in some regulatory situations, such data ''clearly should be available for public scrutiny before the formal regulatory proceedings begin.'' This commenter, though, went on to state that ''OMB should also define a meaningful carve-out for activities that do not influence the development of regulations or policy.'' In explaining this ''carve-out'' approach, the commenter stated that, in contrast to situations where a published study is cited by an agency, ''[w]here materials are merely submitted by the public and not cited by the government decision makers, however, the issue is less clear. In such cases it is often difficult or impossible to determine what studies the government has ''used'' in shaping policy.'' Based on this commenter's view that ''all data adverse to the position of a party impacted by regulatory action should be susceptible of honest scrutiny,'' the commenter addressed the problem of how to identify when research findings are ''used''—when they have not been cited—by concluding that ''if materials are submitted in the course of rulemaking or other government policy formulation, those data should be made available to the public.''

OMB believes that the provision contained in Public Law 105–277 should be implemented in a manner that respects the general framework of the traditional scientific process, and is workable in practice. In this regard, the operating principles that OMB adopts in its revisions to section ____.36 of the Circular should be relatively easy to administer (by the public, Federal agencies, and recipients), should rely on existing processes whenever possible, and should not result in uncertainties and disagreements when they are applied to the facts in individual cases. Based on our review of the comments, OMB believes that the provision contained in Public Law 105–277 can be implemented in the context of the agencies' promulgation of regulations, but that considerable implementation problems would arise if the scope of the provision contained in Public Law 105–277 extended to such agency actions as guidance, surveys, assessments, and reports.

When an agency promulgates a regulation, it does so through the well-established rulemaking process. Through notices in the **Federal Register** (typically proposed and final rulemaking notices), an agency explains regulations and seeks and reacts to public comments. As was pointed out by commenters who support the provision contained in Public Law 105–277, agencies generally cite the sources that support their regulations, often including findings from Federally-funded research in their rulemaking notices published in the **Federal Register.** In so doing, the agency relies on the research findings—in an official and public manner—to explain and justify the agency's regulatory actions to the public, to Congress, and to the courts. Many commenters argued that members of the public should be able to obtain the data that underlies these research findings. This allows the public to seek to validate the findings, evaluate the regulation, submit comments to the agency on the proposed regulations, or seek judicial review of the final regulations.

Among the commenters who addressed this issue, there was a general consensus that the case for the public obtaining the underlying research data is strongest when an agency cites Federally-funded research findings to support the agency's issuance of a regulation. In promulgating a regulation, the agency acts with the force and effect of law. In citing to the research findings to support the agency's regulatory decision, the agency is relying—publicly and officially—on those findings. Indeed, that reliance is given legal significance by the courts during any review of the regulation.

The comments also indicated that an agency's citation to research findings in support of a regulation allows the process to be administered most readily and easily. In such cases, the public access provision should clearly be applicable. Any uncertainty can be resolved by an inspection of the agency's rulemaking records.

When one moves outside the regulatory context and into other areas of agency action, the comments provided less of a justification for the application of the provision contained in Public Law 105–277. It also becomes less clear how members of the public and the agencies would be able to determine when public access would be required in individual cases.

Commenters who support the provision contained in Public Law 105–277 argued that the public should have access to data used in agency guidance, surveys, assessments, and reports, when the data comes from research funded by the Federal taxpayers. Arguably, the need for public access to data would be less for agency actions that do not have the force and effect of law or are not subject to judicial review.

OMB is concerned that a broader proposal would be problematic. It is not clear how the provision contained in Public Law 105–277 would operate in practice outside the regulatory context. When agencies undertake less formal agency action they often do not prepare and issue accompanying explanatory preambles that outline the basis and underlying factual support for the action. In the absence of a formal record that explains the agency's action, it would be far more difficult for the public and the agencies to determine, in individual cases, whether particular research findings were ''used'' by the agency in ''developing'' the agency action. For example, from the comments that we received on the proposed revision, an agency might be viewed as having ''used'' research findings if those findings: (1) Were relied upon in an internal agency memorandum sent to a decision maker; (2) were discussed in an agency staff level communication, such as an email message; or (3) were simply available for the agency staff to read, regardless of whether there was any evidence that the staff relied upon the findings in carrying out their work. In sharp contrast with identifying agency reliance in the regulatory context, none of these tests could be applied readily and easily by members of the public and the agency for determining, in individual cases, whether research data would be publicly available under the provision contained in Public Law 105–277. Instead of being able to rely on the public record, these tests would entail a fact-intensive inquiry into the agency's internal deliberations. This inquiry would be burdensome and time-consuming, and would intrude into the agency's deliberative process.

In sum, based on the comments that OMB has received, it does not appear that the provision contained in Public Law 105–277 can be readily and easily implemented outside of the regulatory context. Given the considerable implementation difficulties, and the lesser public interest in obtaining the

underlying research data when the agency is not taking action that has the force and effect of law, OMB does not believe that the public interest would be served by extending the provision contained in Public Law 105–277 beyond the regulatory context.

Accordingly, in order to advance implementation of the requirements of Public Law 105–277, OMB seeks comment on a proposal to replace ''used by the Federal Government in developing policy or rules'' with ''used by the Federal Government in developing a regulation.'' ''Regulation'' refers to the well-established and long-standing definition of a regulation for which notice and comment is required under the Administrative Procedures Act (5 U.S.C. 553). In framing this proposal, OMB has sought to ensure that members of the public can obtain the information needed to validate those Federally-funded research findings on which Federal agencies rely when they take actions that have the force and effect of law, while at the same time ensuring that the provision contained in Public Law 105–277 can be administered in a manner that is workable for members of the public, Federal agencies and their recipients.

In addition, based on its experience with reviewing agency regulations, OMB believes the public interest in having access to research data is likely to be greatest in the case of those regulations that have the most substantial impact on society. One existing method for identifying these regulations is whether a regulation meets a $100 million impact threshold. This approach is similar to those required by the Unfunded Mandates Reform Act (Public Law 104–4, 2 U.S.C. 1532, 1535) and the Congressional Review Act (Public Law 104–121, 8 U.S.C. 801(a)(3), 804(2)). Therefore, OMB requests comments on whether limiting the scope of the proposed revision to regulations that meet the $100 million threshold would be appropriate. In particular, commenters should identify current and past regulatory actions that do not meet the $100 million threshold, but where they believe the public would have benefitted from having access to the underlying research data sufficiently to justify burdens on, or risks to, the traditional scientific process.

D. Cost Reimbursement

Many commenters sought clarification about the ''reasonable fee'' agencies may charge, pursuant to the provision contained in Public Law 105–277. OMB believes the ''reasonable fee,'' which is intended to cover the cost of obtaining the requested data, is separate from the FOIA fee an agency could assess under 5 U.S.C. 552(a)(4)(A). In light of the congressional intent that Federal agencies and researchers be reimbursed by the requester for the costs that they incur in responding to the request, OMB has concluded that agencies may retain this new fee, in order to reimburse themselves, recipients, and applicable subrecipients, for the costs they incur.

OMB seeks comments on (1) Estimates of potential incremental costs to be incurred by Federal agencies, their recipients, and applicable subrecipients in carrying out the proposed revision, and (2) the mechanisms available to recipients to charge to their awards the costs that they would incur (e.g., ''direct'' versus ''indirect'' charge, or by contract).

After receiving comments, OMB will consider revising OMB Circular A–21, ''Cost Principles for Educational Institutions,'' as necessary to ensure recipient institutions are reimbursed for the incremental costs of complying with the provision contained in Public Law 105–277.

OMB encourages interested parties to provide comments on these four concepts at this time so that any concerns may be addressed in OMB's development of the final revision to the Circular, pursuant to the direction of Public Law 105–277. OMB intends to publish the final revision on or before September 30, 1999.

Issued in Washington, D.C., August 5, 1999.

Norwood J. Jackson,

Acting Controller.

Pursuant to the direction of Public Law 105–277, OMB proposes to amend Section ____.36 of OMB Circular A–110 by revising paragraph (c), redesignating paragraph (d) as paragraph (e), and adding new paragraph (d) to read as follows:

____.36 Intangible property.

* * * * *

(c) The Federal Government has the right to:

(1) Obtain, reproduce, publish or otherwise use the data first produced under an award; and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

(d)(1) In addition, in response to a Freedom of Information Act (FOIA) request for research data relating to published research findings produced under an award that were used by the Federal Government in developing a regulation, the Federal awarding agency shall request, and the recipient shall provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA. If the Federal awarding agency obtains the research data solely in response to a FOIA request, the agency may charge the requester a reasonable fee equaling the full incremental cost of obtaining the research data. This fee should reflect costs incurred by the agency, the recipient, and applicable subrecipients. This fee is in addition to any fees the agency may assess under the FOIA (5 U.S.C. 552(a)(4)(A)).

(2) The following definitions are to be used for purposes of paragraph (d) of this section:

(i) *Research data* is defined as the recorded factual material commonly accepted in the scientific community as necessary to validate researching findings, but not any of the following: preliminary analyses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues. This ''recorded'' material excludes physical objects (e.g., laboratory samples). Research data also do not include:

(A) Trade secrets, commercial information, materials necessary to be held confidential by a researcher until publication of their results in a peer-reviewed journal, or information which may be copyrighted or patented; and

(B) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, such as information that could be used to identify a particular person in a research study.

(ii) *Published* is defined as either when:

(A) Research findings are published in a peer-reviewed scientific or technical journal; or

(B) A Federal agency publicly and officially cites to the research findings in support of a regulation.

(iii) *Used by the Federal Government in developing a regulation* is defined as when an agency publicly and officially cites to the research findings in support of a regulation (for which notice and comment is required under 5 U.S.C. 553).

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[FR Doc. 99–20683 Filed 8–10–99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41698; File No. SR–Amex–99–18]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving Proposed Rule Change and Amendment No. 1 Thereto Amending Amex Rule 901C

August 3, 1999.

I. Introduction

On May 17, 1999, the American Stock Exchange LLL (''Amex'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Amex Rule 901C. On June 8, 1999, Amex filed Amendment No. 1.[3] The proposed rule change and Amendment No. 1 were published for comment in the **Federal Register** on June 24, 1999.[4] No comments were received on the proposed proposal. This order approves the proposal.

II. Description of the Proposal

By adding Commentary .03 to Amex Rule 901C to establish criteria for the splitting of stock indexes, the proposed rule change will permit the Exchange to split broad and narrow-based indexes without submitting a proposed rule change to the Commission. Specifically, the proposal will require the Exchange, prior to instituting an index split, to issue an information circular to the Exchange's membership with details concerning the index split and the adjusting of position and exercise limits until the expiration of the further non-LEAP option contract. In effecting the index split, the Exchange will increase the applicable index divisor; proportionally increase the number of contracts outstanding; and increase the index option's applicable position and exercise limits. Position and exercise limits that are increased to accommodate any outstanding index option positions will revert, following the expiration of the furthest non-LEAP option contract, to their then applicable limit.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of section 6(b).[5] Specifically, the Commission finds that the proposal is consistent with the section 6(b)(5)[6] requirements in that the proposed reduction in the value of an index and the associated temporary increase in the position and exercise limits should remove impediments to and perfect the mechanism of a free and open market in a manner consistent with the protection of investors and the public interest.[7]

By reducing the value of an index, the Commission believes that a broader range of investors will be provided with a means to hedge their exposure to the market risk associated with the stocks underlying an index. Similarly, the Commission believes that reducing the value of an index may attract additional investors, thus creating a more active and liquid trading market for the index options. The Commission notes that, before splitting an index, the Exchange will provide reasonable advance notice of the proposed index split to its membership.[8]

The Commission also believes that Amex's proposed adjustments to its position and exercise limits applicable to an index are appropriate and consistent with the Act. In particular, the Commission believes that the temporary increase of the position and exercise limits is reasonable in light of the fact that the size of the options contracts on an index will be proportionally reduced and that, as a result, the number of outstanding options contracts an investor holds will be increased. The temporary increase of the position and exercise limits, therefore, will ensure that investors will not potentially be in violation of the lower existing position and exercise limits while permitting market participants to maintain, after the split of an index, their current level of investment in the option contracts.

The Commission further believes that increasing an index's divisor will not have an adverse market impact on the trading in these options. After the split, an index will continue to be composed of the same stocks with the same weightings and will be calculated in the same manner, except for the proposed change in the divisor.

Finally, in its release adopting new Rule 19b–4(e),[9] the Commission noted that if the trading rules, procedures and listing standards for the product class included criteria regarding splitting an index, such changes would be permitted without being considered a material change to the derivative securities product and without requiring the filing of a proposed rule change pursuant to Section 19(b) of the Act.[10] The proposed rule change will permit the Exchange to adjust the value of a stock index covered by Commentary .02 to Rule 901C from time to time in response to prevailing market conditions without the need to submit a rule filing to the Commission on each occasion.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[11] that the proposed rule change (SR–Amex–99–18) and Amendment No. 1 are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–20632 Filed 8–10–99; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter to Richard Strasser, Assistant Director, Division of Market Regulation, SEC, from Scott Van Hatten, Legal Counsel, Derivative Securities, Amex, dated June 4, 1999. In Amendment No. 1, Amex amended the text of the proposed rule.

[4] Securities Exchange Act Release No. 41536 (June 17, 1999), 64 FR 33941.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] In approving this rule and amendment, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] From experience, the Commission finds that reasonable notice may include the Exchange providing notice to its membership at least two weeks prior to the implementation of the proposed change to the value of an index and the resulting adjustments to the outstanding options; issuing a second notice to its members just prior to implementing the index reduction setting forth the new divisor and other relevant information; and issuing a circular to its members at least one month prior to the expiration of the furthest non-LEAP options on the index that reminds its member firms that the respective position and exercise limits will revert to their original levels. Although not exclusive, the Commission believes that these proposed time frames should allow for adequate notice to the holders of all open positions in options on an index proposed to be split.

[9] 17 CFR 240.19b–4(e).

[10] *See* Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998) (''New Products Release'').

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41700; File No. SR–BSE–99–04]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Its Minor Rule Violation Plan

August 3, 1999.

I. Introduction

On March 26, 1999, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Summary Fine Schedule of the Minor Rule Violation Plan through the addition of violations of Rule 11Ac1–4 under the Act (''Display Rule'').[3] Notice of the proposed rule change appeared in the **Federal Register** on May 20, 1999.[4] The Commission received no comment letters about the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to amend its Minor Rule Violation Plan (''Plan'') to include violations of the Display Rule which are inadvertent or unintentional. The amendment will allow the assessment of fines, rather than a full disciplinary procedure in such situations.

The proposal provides that failure to display a customer limit order immediately (no later than 30 seconds) after receipt will result in a written warning for the initial offense. A second offense will result in a $50 fine. Subsequent offenses will be fined at $100. The proposal allows for calculation of subsequent violations on the basis of a rolling 12 month period. Where violations of the Display Rule are found to be intentional, however, the Exchange is not precluded under the proposal from initiating formal Disciplinary Proceedings under Chapter XXX or imposing sanctions of more or less than the recommended fines (not to exceed $2,500 in any event).

III. Discussion

The Commission has reviewed carefully the Exchange's proposal, and finds, for the reasons set forth below, that the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange.[5] In particular, the Commission finds that the proposed rule change is consistent with Sections 6(b)(5), 6(b)(6), 11A(a)(1)(C)(iii) and (iv) of the Act and Rule 11Ac1–4 under the Act.[6] Section 6(b)(5) of the Act requires that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Section 6(b)(6) of the Act provides that the rules of an exchange provide that its members and associated persons be appropriately disciplined for violations of the Act and the rules of the exchange.

In Section 11A of the Act, Congress found that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities, and to assure the practicability of brokers executing investors' orders in the best market. The proposed rule change should help to ensure the timely availability of information with respect to quotations.

The Display Rule, which the Commission adopted under Section 11A of the Act, requires specialists to display immediately, *i.e.*, as soon as practicable (which under normal market conditions means no later than 30 seconds from the time of receipt)[7] the price and full size of customer limit orders that would improve the bid or offer in a security or add to the size of the best bid or offer. The Commission believes that displaying customer limit orders benefits investors by providing enhanced execution opportunities and improved transparency.[8] The Commission finds that the proposal reinforces the obligations of an exchange specialist to display immediately certain customer limit orders in accordance with Sections 6 and 11A of the Act and the Display Rule.

Although the Commission believes that certain violations of the Display Rule are amenable to efficient and equitable enforcement and therefore are appropriate for inclusion in the Exchange's Plan, because a violation of the Display Rule amounts to a violation of federal securities law, the Commission expects that the Exchange will err on the side of caution in disposing of such violations under the Plan. The Commission expects the Exchange will continue to resolve intentional violations of the Display Rule through formal disciplinary proceedings.

IV. Conclusion

For the above reasons, the Commission finds that the proposed rule change, as amended, is consistent with the provisions of the Act, and in particular with Sections 6(b)(5), 6(b)(6), 11A(a)(1)(C)(iii) and (iv) of the Act, and rule 11Ac1–4 under the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the act,[9] that the proposed rule change (SR–BSE–99–04), be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–20634 Filed 8–10–99; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.11Ac1–4.

[4] Securities Exchange Act Release No. 41396 (May 13, 1999) 64 FR 27609.

[5] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5), 15 U.S.C. 78f(b)(6), 15 U.S.C. 78k–1(a)(1)(C)(iii) and (iv), and 17 CFR 240.11Ac1–4.

[7] *See* Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) (''Adopting Release''). A specialist is not displaying customer limit orders immediately if the specialist regularly executes customer limit orders at, for example, the 27th second after receipt. The requirement that a limit order be displayed ''immediately'' means that the limit order must be displayed as soon as practicable, but no later than 30 seconds after receipt under normal market conditions. This 30 seconds is an outer limit under normal market conditions and is not to be interpreted as a 30-second safe harbor.

[8] *Id.*

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41702; File No. SR–CBOE–98–53]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendments No. 1 and 2 to the Proposed Rule Change To Amend the Firm Quote Requirement

August 4, 1999.

On December 15, 1998, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') submitted to the

Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] a proposed rule change to amend the Exchange's firm quote requirement. The proposed rule change was published for comment in the **Federal Register** on January 28, 1999.[2] The CBOE submitted Amendments No. 1[3] and 2[4] to the proposed rule change on April 15, 1999, and July 28, 1999, respectively. The Commission received no comments on the proposal. This order approves the approval, as amended.

I. Description of the Proposal

The Exchange proposes to amend CBOE Rule 8.51(a)(2), CBOE's firm quote provision, to require that trading crowds be firm for a number of contracts on less than the RAES contract limit applicable to that class of options.[5] CBOE also proposes to make conforming changes to Interpretation and Policies .01 and .06. The proposal would permit the appropriate Floor Procedure Committee (''FPC'') to establish the firm quote requirement for each particular class of options traded on RAES provided that the requirement is no less than the RAES contract limit and no more than 50 contracts. For classes or series that are not traded on RAES, the appropriate FPC may establish a firm quote requirement between 10 and 50 contracts.[6]

The firm quote requirement will apply at all times,[7] except during an opening or closing trading rotation. Unless there is a contrary ruling by two Floor Officials, the requirement obligates a trading crowd to sell (buy) the established number of contracts at the offer (bid) which is displayed when a buy (sell) customer order reaches the trading station where the particular option class is located for trading. Currently, paragraph (a)(2) of Rule 8.51 requires trading crowds to buy (sell) at least ten (10) contracts under these circumstances.

Because RAES is essentially a form of electronic firm quote, the Exchange believes that in most cases, the firm quote requirement should be no less than the RAES contract limit for a particular options class. In fact, in deciding to raise the firm quote requirement, the Exchange noted that the appropriate FPC responsible for setting the contract limit for RAES in particular option classes recently increased the RAES maximum contract size, such that in most cases the RAES contract limit is now higher than the firm quote requirement.[8] Exchange Rule 8.51 will continue to provide that the appropriate Market Performance Committee may determine the classes and series that will be subject to the requirements of the Rule.

The CBOE also is amending Interpretation and Policy .06 to Rule 8.51 to clarity that the firm quote requirements for spreads and straddles applies only in equity options.[9] The CBOE notes that policy was clearly stated in File No. SR–CBOE–94–54 and in the Commission's order approving that filing.[10] However, the rule language itself does not reflect this limitation. Thus, the CBOE is making this change to clarify in the rule text what was originally intended by that rule filing.

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change meets the requirements of section 6(b)(5) of the Act[11] which states that, among other things, the rules of an exchange must be designed to facilitate securities transactions and to remove impediments to and perfect the mechanism of a free and open market. The Commission believes that the proposal should provide greater depth to the option market and benefit public customers by ensuring that they receive fills of their orders for a greater number of contracts. Moreover, the Commission believes that allowing the FPC to set the firm quote requirement on a class by basis within a given range (*i.e.*, no less than the RAES limit and no more than 50 contracts) will give the Exchange the flexibility to respond to competitive pressures from other markets for multiply listed options while not imposing an undue burden on firms that trade those option classes.

Moreover, as CBOE notes, Rule 8.51 is unclear in its application to spreads and straddles, although the Commission order approving the proposal clearly indicates that the provision only applies to equity options as opposed to index and equity options. As a result, the Commission believes it is appropriate to clarify that the firm quote requirement for spreads and straddles applies only to equity options.

Pursuant to section 19(b)(2) of the Act,[12] the Commission finds good cause to approve Amendments No. 1 and 2 to the proposed rule change prior to the 30th day after the date of publication of notice of filing thereof in the **Federal Register** because the Amendments do not present any new regulatory issues.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendments No. 1 and 2, including whether those amendments are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–

[1] 15 U.S.C. 78s(b)(1).

[2] *See* Exchange Act Release No. 40957 (Jan. 20, 1998), 64 FR 4485.

[3] *See* Letter from Stephanie C. Mullins, Attorney, CBOE, to Richard Strasser, Assistant Director, Division of Market Regulation (''Division''), Commission, dated April 13, 1999 (''Amendment No. 1''). Amendment No. 1 explains why the Exchange believes the proposed rule change will not have anti-competitive effects on small market-makers.

[4] *See* Letter from Stephanie C. Mullins, Attorney, CBOE, to Richard Strasser, Assistant Director, Division, Commission, dated July 27, 1999 (''Amendment No. 2''). Amendment No. 2 sets forth the circumstances under which Floor Officials may grant an exemption to or suspend the firm quote requirement. These include the declaration of a fast market, a system malfunction, an influx or orders, or other unusual circumstances that cause displayed quotations to be inaccurate or not current. Amendment No. 2 also makes certain technical changes to the proposed rule change.

[5] The appropriate Floor Procedure Committee determines the size of orders eligible for entry into RAES. The maximum RAES order size is generally 20 contracts. All classes of securities traded on the Exchange, except Long Term Equity Anticipation Securities (''LEAPS''), are traded on RAES. The firm quote requirement will not apply to orders received from other exchanges or broker/dealers. Phone call between Stephanie C. Mullins, Attorney, CBOE, and Sonia Patton, Attorney, Division, Commission, on June 7, 1999.

[6] The new form quote requirement will remain in effect for that options class indefinitely or until the FPC changes it. The FPC meets once every two weeks. The discretion given to the FPC by the proposed rule change to establish a different firm quote requirement between the RAES contract limit and 50 contracts for a particular class of options is intended to enable the FPC to respond to general trading trends in a given options class. Phone call between Timothy Thompson, Director, Regulatory Affairs, Legal Department, CBOE, Sonia Patton, Attorney, Division, Commission and Constance Kiggins, Special Counsel, Division, Commission, on January 6, 1999.

[7] Under Exchange Rule 8.51(a)(3), however, any two Floor Officials may suspend the firm quote requirement for a class or a series within a class, if it is in the interest of a fair and orderly market.

[8] *See* Regulatory Circulars RG98–102, RG98–117, RG 98–119.

[9] The term ''spreads and straddles'' refers to two-part equity option orders in which the component series are on opposite sided of the market and in a one-to-one-ratio.

[10] Securities Exchange Act Release No. 35785 (May 31, 1995), 60 FR 30125 (June 7, 1995).

[11] 15 U.S.C. 78f(b)(5). In approving this rule change, the Commission has considered the proposal's impact on efficiency, competition, and capital formation, consistent with Section 3 of the Act. 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78s(b)(2).

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, DC. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–98–53 and should be submitted by September 1, 1999.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–CBOE–98–53), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–20631 Filed 8–10–99; 8:45 am]

BILLING CODE 8010–01–M

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41657; File No. SR–DTC–99–17]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change Relating to Arrangements To Integrate The Depository Trust Company and the National Securities Clearing Corporation

July 27, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 6, 1999, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–DTC–99–17) as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments from interested persons.

[1] 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change filed by DTC involves proposed arrangements to integrate DTC and National Securities Clearing Corporation (''NSCC''). The proposal provides for the following:

- DTC and NSCC will form a New York corporation (''Holding Company'') for the purpose of owning directly all of the outstanding stock of NSCC and owning indirectly through a Delaware subsidiary of the Holding Company all of the outstanding stock of DTC.
- After receipt of all necessary regulatory approvals, the Holding Company will conduct exchange offers in which current DC stockholders will have the opportunity to exchange their DTC shares for newly-issued Holding Company common stock on a one-for-one basis and the two current stockholders of NSCC will be offered shares of Holding Company preferred stock on a one-for-one basis in exchange for their NSCC shares (''Exchange Offers'').
- The Holding Company will elect as the Directors of DTC and NSCC the persons elected by the stockholders of the Holding Company.
- As subsidiaries of the Holding Company, DTC and NSCC will continue to operate as they do currently, and each will offer its own services to its own members pursuant to separate legal arrangements and separate risk management procedures.
- The Holding Company itself will not engage in clearing agency activities. Certain support functions, including Human Resources, Finance, Audit, General Administration, Corporate Communications, and Legal will be centralized in the Holding Company, and the Holding Company will provide those services to each of the two subsidiary clearing agencies pursuant to service contracts.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

[2] The Commission has modified the text of the summaries prepared by DTC.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

At their meetings in February 1999, the Boards of Directors of DTC and NSCC voted to proceed with a plan for the integration of the two clearing agencies. A principal goal of the plan is to facilitate the development and timely execution of a strategy to harmonize the processing streams at DTC and NSCC for the clearance and settlement of both institutional and broker transactions. This strategy is intended to accommodate shortened settlement cycles and increased volumes, to improve risk management, and to lower transaction processing costs.

An initial step in the plan was the identification from among the incumbent directors of both Boards of a single group of individual to serve as the Board of Directors for each of the two companies. Since simply adding the membership of DTC's Board of NSCC's Board would have resulted in certain user and marketplace organizations having more than one representative, each of these organizations was asked to select only one representative. Through this process and with the inclusion of DTC and NSCC management Directors, a group of twenty-seven persons was identified. That group has been elected as NSCC Board of Directors by NSCC's stockholders. Since federal banking law applicable to DTC limits the maximum size of DTC's Board to twenty-five members, two of the persons to NSCC's Board will participate in DTC Board meetings as non-voting advisors. The remaining twenty-five persons have been elected as DTC's Board of Directors by DTC stockholders.[3] The next steps in the integration plan, conducting the Exchange Offers and implementing certain stock ownership and corporate governance arrangements for the Holding Company, are the subjects of the proposed rule change.

The Holding Company will issue two classes of stock in connection with the Exchange Offers: common stock to be owned initially by current DTC stockholders and preferred stock to be owned in equal amounts by the New York Stock Exchange (''NYSE'') and the National Association of Securities Dealers, Inc. (''NASD''), the current stockholders of NSCC. As explained in more detail below, DTC believes that DTC and NSCC will satisfy the fair representation requirement of Section

[3] *See* Securities Exchange Act Release No. 41529 (June 15, 1999), 64 FR 33333 [File No. SR–DTC–99–08] (order approving proposed rule change).

17A(b)(3)(C) of the Act[4] in the Holding Company structure by (1) giving participants and members of DTC and NSCC the right to purchase shares or Holding Company common stock on a basis that reflects their use of the services and facilities of DTC and NSCC (based on a system analogous to the system now employed by DTC for reallocating entitlements to purchase shares of DTC stock) and (2) selecting individuals to be directors of the Holding Company (who will also be directors of DTC and NSCC) on a basis that will insure that all major constituencies in the securities industry will have a voice in the business and affairs of DTC and NSCC (based on a process analogous to the process now employed by the two clearing agencies for selecting their directors).

In connection with the exchange offer for shares of DTC stock, the current DTC Stockholders Agreement will be amended to provide that if a specified supermajority of DTC stockholders tender their shares of DTC stock for shares of Holding Company common stock: (1) Any DTC stockholders that fail to tender their shares of DTC stock will cease to be qualified holders of DTC stock; (2) their shares of DTC stock will automatically be transferred to NSCC; (3) NSCC will tender such shares of DTC stock to the Holding Company in exchange for an equivalent number of shares of Holding Company common stock; and (4) the non-tendering DTC stockholders will be paid DTC book value for their shares of DTC stock as when NSCC, in accordance with procedures set forth in the Holding Company Shareholders Agreement, sells or transfers its shares of Holding Company common stock to other participants or members of DTC and NSCC.[5]

The Holding Company's Articles of Incorporation, By-Laws, and Shareholders Agreement (''Basic Documents'')[6] contain provisions designed to preserve the rights that the stockholders of DTC and NSCC currently have and in particular to satisfy the fair representation requirement of Section 17A of the Act. In this regard, the Basic Documents provide for the following.

- As owners of Holding Company preferred stock, the NYSE and the NASD each will have the right to put one person on the Board of Director of the Holding Company, and that person will also serve on the Boards of DTC and NSCC. All other Directors will be elected annually by the owners of Holding Company common stock.
- As discussed above, the rights to purchase Holding Company common stock will be reallocated to the users of both clearing agencies based upon the users' usage. Under the Basic Documents, these rights will be reallocated initially in 2000 and again in 2001. Thereafter, depending upon whether there are significant changes in entitlements and stock purchases, the Board of the Holding Company will be permitted to schedule reallocations every other year or every third year rather than annually.
- The owners of Holding Company common stock will be able to exercise cumulative voting in the election of Holding Company directors.

With respect to the nomination process, each year the Holding Company's Board of Directors will appoint a nominating committee that may include both members and nonmembers of the Board. After soliciting suggestions from all users of the clearing agencies of possible nominees to fill vacancies on the Board, the nominating committee will recommend a slate of nominees to the full Board. The Board may make changes in that slate before submitting nominations to the holders of Holding Company common stock for election. The election ballot included in the proxy materials will provide an opportunity for stockholders to vote for a person not listed as a nominee. Since the Basic Documents provide for cumulative voting, one or more owners of Holding Company common stock could arrange to elect a person not on the slate nominated for election by the Board.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act because it is designed to coordinate further the activities of DTC and NSCC in order to help assure the continued prompt and accurate clearance and settlement of securities transactions in the face of changing business and regulatory requirements for the securities industry.

(B) Self-Regulatory Organization's Statement of burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. DTC and NSCC are utilities created to serve members of the securities industry by providing certain complementary services that are ancillary to the businesses in which industry members complete with one another.

(C)Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments from DTC participants have not been solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rules Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which DTC consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All submission should refer to File No. SR–DTC–99–17 and should be submitted by September 1, 1999.

[4] 15 U.S.C. 78q–1(b)(3)(C).

[5] DTC has informed the Commission that the procedures to be used by NSCC to sell or transfer Holding Company common stock are in all material respects the same as the procedures set forth in DTC's Stockholders Agreement applicable to the sale by a stockholder of DTC shares.

[6] DTC included the Basic Documents as exhibits to its filing, which is available for inspection and copying in the Commission's public reference room and through DTC.

For the Commission by Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–20701 Filed 8–10–99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41704; File No. SR–NASD–99–05]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2 and 3 to the Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Margin for Exempted Borrowers, Good Faith Accounts, Joint Back Office Arrangements and Options Transactions

August 4, 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 January 19, 1999, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly-owned subsidiary, NASD Regulation, Inc. (''NASD Regulation''), 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 NASD Regulation. NASD Regulation amended its proposal on June 1, 1999, July 7, 1999, and July 15, 1999.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation is proposing to amend NASD Rule 2520, ''Margin Requirements,'' to revise the margin requirements for exempted borrowers, good faith accounts, joint back office arrangements and options transactions. The text of the proposed rule change is as follows (additions are italicized; deletions are bracketed):

2520. Margin Requirements

(a) Definitions

For purposes of this paragraph, the following terms shall have the meanings specified below:

* * * * *

(*3*) The term ''customer'' means any person for whom securities are purchased or sold or to whom securities are purchased or sold whether on a regular way, when issued, delayed or future delivery basis. it will also include any person for whom securities are held or carried and to or for whom a member extends, arranges or maintains any credit. The term will not include *the following: (A)* a broker or dealer from whom a security has been purchased or to whom a security has been sold for the account of the member or its customers *[.], or (B) and ''exempted borrower'' as defined by Regulation T of the Board of Governors of the Federal Reserve System (''Regulation T''), except for the proprietary account of a broker-dealer carried by a member pursuant to paragraph (e)(6) of this Rule.*

(b) Initial Margin

For the purpose of effecting new securities transactions and commitments, the customer shall be required to deposit margin in cash and/or securities in the account which shall be at least the greater of:

(1) the amount specified in Regulation T[of the Boad of Governors of the Federal Reserve System]; or

* * * * *

Withdrawals of cash or securities may be made from any account which has as debit balance, ''short'' position or commitments, provided it is in compliance with Regulation T [of the Board of Governors of the Federal Reserve System] and after such withdrawal the equity in the account is at least the greater of $2,000 or an amount sufficient to meet the maintenance margin requirements of this paragraph.

(c) Maintenance Margin

The margin which must be maintained in [margin] *all*[4] accounts of customers, *except for cash accounts subject to other provisions of this rule,* shall be as follows:

* * * * *

[(5) In the case of securities listed on the Emerging Company Marketplace of the America Stock Exchange (AMEX), 100 percent of the market value in cash, of each security held ''long'' in the account, unless the AMEX determines that the security satisfies the criteria enumerated in Sections 220.17(a) and (b) of Regulation T of the Board of Governors of the Federal Reserve System for inclusion and continued inclusion on the List of OTC Margin Stocks, except for the requirement relating to the number of dealers in Sections 220.17(a)(1) and (b)(1)].

* * * * *

(e) Exceptions to Rule

The foregoing requirements of this [paragraph] *Rule*[5] are subject to the following exceptions:

* * * * *

(2) Exempted Securities, Marginable Corporate Debt Securities and Baskets

* * * * *

(C) Non-Convertible Corporate Debt Securities

On any positions in non-convertible corporate debt securities, which are listed or traded on a registered national securities exchange or quality as an ''OTC margin bond,'' as defined in Section 220.2(t) of Regulation T [of the Board of Governors of the Federal Reserve System], the margin to be maintained shall be 20 percent of the current market value or 7 percent of the principal amount, whichever amount is greater, except on mortgage related securities as defined in Section 3(a)(41) of the Act the margin to be maintained for an exempt account shall be 5 percent of the current market value. For purposes of this subparagraph, and exempt account shall be defined as a member, non-member broker/dealer, ''designated account'' or any person having net tangible assets of at least sixteen million dollars.

* * * * *

(3) Joint Accounts in Which the Carrying Member or a Partner or Stockholder Therein Has an Interest

In the case of a joint account carried by a member in which such member, or

[7] 17 CFR 200.30–3(a)(12)

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), Commission, dated June 1, 1999 (''Amendment No. 1''); Letter from Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division, Commission, dated July 7, 1999 (''Amendment No. 2''); and Letter from Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, to Richard C. Strasser, Assistant Director, Division, Commission, dated July 15, 1999 (''Amendment No. 3''). Amendment No. 1 conforms several provisions of NASD Rule 2520 to New York Stock Exchange (''NYSE'') Rule 431. Among other things, Amendment No. 1 indicates that, for purposes of the joint back office provisions of NASD Rule 2520, the NASD will interpret the terms ''carrying and clearing member'' and ''carrying member'' in the same manner as NYSE. Amendment No. 1 also provides additional information regarding the proposed changes to the provisions of NASD Rule 2520 governing control and restricted securities. Amendment Nos. 2 and 3 make technical changes to the text of NASD Rule 2520.

[4] *See* Amendment No. 1, *supra* note 3.

[5] *See* Amendment No. 2, *supra* note 3.

any partner, or stockholder (other than a holder of freely transferable stock) of such member participates with others, each participant other than the carrying members shall maintain an equity with respect to such interest pursuant to the margin provisions of this paragraph as if such interest were in a separate account.

Pursuant to the Rule 9600 Series, the Association may grant an exemption from the provisions of paragraph (e)(3), if the account is[:]

[(A)] confined exclusively to transactions and positions in exempted securities[;].

[(B) maintained as a Market Functions Account conforming to the conditions of Section 220.12(e) (Odd-lot dealers) of Regulation T of the Board of Governors of the Federal Reserve System; or]

[C) maintained as a Market Functions Account conforming to the conditions of Section 220.12(c) (Underwritings and Distributions) of Regulation T of the Board of Governors of the Federal Reserve System and each other participant margins his share of such account on such basis as the Association may prescribe.] [6]

* * * * *

(5) Specialists' and Market Makers' Accounts

(A) A member many carry the account of an ''approved specialist or market maker,'' which account is limited to specialist or market making transactions, upon a margin basis which is satisfactory to both parties. The amount of any deficiency between the equity in the account and the [margin required by the other provisions of this paragraph and the] *haircut requirements pursuant to SEC Rule 15c3–1* shall be charged against the member's net capital when computing net capital under SEC Rule 15c3–1.

For the purpose of this subparagraph, the term ''approved specialist or market maker'' means either:

(i) a specialist or market maker, who is deemed a specialist for all purposes under the Act and who is registered pursuant to the rules of a national securities exchange; or

(ii) an OTC market maker or third market maker, who meets the requirements of Section 220.*7.(g)(5)*[12(d) of Regulation T [of the Board of Governors of the Federal Reserve System].

(B) In the case of joint account carried by a member in accordance with subparagraph (i) above in which the member participates, the equity maintained in the account by the other participants may be in any amount which is mutually satisfactory. The amount of any deficiency between the equity maintained in the account by the other participants and their proportionate share of the [margin required by the other provisions of this paragraph] *the haircut requirements pursuant to SEC Rule 15c3–1* shall be charged against the member's net capital when computing net capital under SEC Rule 15c3–1.

(6) Broker/Dealer Accounts

(*A*) A member may carry the proprietary account to another broker/dealer, which is registered with the Commission, upon a margin basis which is satisfactory to both parties, provided the requirements of Regulation T [of the Board Governors of the Federal Reserve System] are adhered to and the account is not carried in a deficit equity condition. The amount of any deficiency between the equity maintained in the account and the [margin required by the other provisions of this paragraph] *haircut requirements pursuant to SEC Rule 15c3–1* shall be charged against the member's net capital when computing net capital under SEC Rule 15c3–1.

(B) Joint Back Office Arrangements An arrangement may be established between two or more registered broker-dealers pursuant to Regulation T Section 220.7, to form a joint back office (''JBO'') arrangement for carrying and clearing or carrying accounts or participating broker-dealers. Members must provide written notification to the Association prior to establishing a JBO arrangement.

(i) A carrying and clearing, or carrying member must:

a. maintain a minimum tentative net capital of $25 million as computed pursuant to SEC Rule 15c3–1, except that a member whose primary business consists of the clearance of options market-maker accounts may carry JBO accounts provided that it maintains a minimum net capital of $7 million as computed pursuant to SEC Rule 15c3–1. In addition, the member must include in its ratio of gross options market maker haircuts required by the provisions of SEC Rule 15c3–1 gross deductions for JBO participant accounts. Clearance of option market maker accounts shall be deemed a broker-dealer's primary business if a minimum of 60% of the aggregate deductions in the above ratio are options market maker deductions. In the event that a carrying and clearing, or a carrying member's tentative net capital, or net capital, respectively, has fallen below the above requirements, the firm shall: (a) promptly notify the Association in writing of such deficiency, (b) take appropriate action to resolve such deficiency within three consecutive business days, or not permit any new transactions to be entered into pursuant to the JBO arrangement;

b. maintain a written risk analysis methodology for assessing the amount of credit extended to participating broker/dealers which shall be made available to the Association on request; and

c. deduct from net capital haircut requirements pursuant to SEC Rule 15c3–1 amounts in excess of the equity maintained in the accounts of participating broker/dealers.

(ii) A participating broker/dealer must:

a. be a registered broker/dealer subject to the SEC's net capital requirements;

b. maintain an ownership interest in the carrying/clearing member organization pursuant to Regulation T of the Federal Reserve Board, section 220.11; and

c. maintain a minimum liquidating equity of $1 million in the JBO arrangement exclusive of the ownership interest established in (ii)(b) above. When the minimum liquidating equity decreases below the $1 million requirement, the participant must deposit an amount sufficient to eliminate this deficiency within 5 business days or be subject to margin requirements pursuant to the other provisions of this Rule.[7]

(7) Nonpurpose Credit

In a nonsecurities credit account, a member may extend and maintain nonpurpose credit to or for any customer without collateral or on any collateral whatever, provided,

(A) the account is recorded separately and confined to the transactions and relations specifically authorized by Regulation T [of the Board of Governors of the Federal Reserve System];

* * * * *

The term ''nonpurpose credit'' means an extension of credit other than ''purpose credit'' as defined in Section 220.2[(u)] of Regulation T [of the Board of Governors of the Federal Reserve System].

[6] *See* Amendment No. 1, *supra* note 3.

[1] NASD Regulation agreed to revise NASD Rule 2520(e)(6)(B) to: (1) Replace a period at the end of NASD Rule 2520(e)(6)(B)(i)(a) with a semi-colon; and (2) revise NASD Rule 2520(e)(6)(B)(ii)(c) to refer to the preceding paragraph as (ii)(b) rather than (2). Telephone conservation between Elliott R. Curzon, Assistant General Counsel, NASD Regulation, and Yvonne Fraticelli, Special Counsel, Division, Commission, on July 19, 1999.

(8) Shelf-Registered, Control and Restricted Securities

* * * * *

(B) Control and Restricted Securities—The equity in accounts of customers for control securities and other restricted securities of issuers who continue to maintain a consistent history of filing annual and periodic reports in timely fashion pursuant to the formal continuous disclosure system under the Act, which are subject to Rule 144 or 145(d) under the Securities Act of 1933, shall be 40 percent of the current market value of such securities ''long'' in the account, provided the member:

(i) in computing net capital, deducts any margin deficiencies in customers' accounts based upon a margin requirement as specified in subparagraph (c)(ii) below for such securities and values only that amount of such securities which are then salable under Rule 144 or 145(d) under the Securities Act of 1933 in conformity with all of the applicable terms and conditions thereof, for purposes of determining such deficiencies; and

* * * * *

(C) Additional Requirements on Shelf-Registered Securities and Control and Restrict Securities—A member extending credit on shelf-registered, control and other restricted securities in margin accounts of customers shall be subject to the following additional requirements:

(i) The Association may at any time require reports from members showing relevant information as to the amount of credit extended on shelf-registered, control and restricted securities and the amount, if any, deducted from net capital due to such security positions.

(ii) Concentration Reduction. A concentration exists whenever the aggregate position in control and restricted securities of any one issue, *excluding excess securities (as defined below),*[8] exceeds:

a. 10 percent of the outstanding shares or

b. 100 percent of the average weekly volume during the preceding three-month period. Where a concentration exists, for purposes of computing subparagraph (B)(i) above, the margin requirement on such securities shall be, based on the greater of (ii) a or b, above, as specified below:

Percent of outstanding shares	or, Percent of average weekly volume	Margin requirement
Up to 10 percent	Up to 100 percent	25 percent.
Over 10 percent and under 15 percent	Over 100 percent and under 200 percent	30 percent.
15 percent and under 20 percent	Over 200 percent and under 300 percent	45 percent.
20 percent and under 25 percent	300 percent and under 400 percent	60 percent.
25 percent and under 30 percent	400 percent and under 500 percent	75 percent.
30 percent and above	500 percent and above	100 percent.

For purposes of this sub-paragraph (e)(8)(C)(ii), ''excess securities'' shall mean the amount of securities, if any, by which the aggregate position in control and restricted securities of any one issue exceeds the aggregate amount of securities that would be required to support the aggregate credit extended on such control and restricted securities if the applicable margin requirement were 50%.

(D) Restricted Securities—Securities either:

(i) [held by non-affiliates of the issuer which are] then salable [by non-affiliate] pursuant to the terms and conditions of Rule 144(k) under the Securities Act of 1993, or

(ii) [which have been acquired by non-affiliates of the issuer in connection with Rule 145(a) transaction under the Securities Act of 1933 which are] then salable [by such non-affiliate] pursuant to the terms and conditions of Rule 145 (d)(2) or (d)(3) under such Act,

shall not be subject to the provisions of this subparagraph [H] *(e)(8),* provided that the issuer continues to maintain a consistent history of filing annual and periodic reports in timely fashion pursuant to the formal continuous disclosure system under the Act.[9]

(f) Other Provisions

* * * * *

(2) Puts, Calls and Other Options

* * * * *

(H)

* * * * *

(iv)

* * * * *

In the case of a put on an option contract (including a put on a broad index stock group), the letter of guarantee must certify that the guarantor holds for the account of the customer as security for the letter, cash or cash equivalents which have an aggregate market value, computed as at the close of business on the day the put is written, of not less than 100 percent of the aggregate exercise price of the put and that the guarantor will promptly pay the member the exercise settlement amount (in the case of a put on a broad index stock group) or the aggregate exercise price (in the case of any other put on an option contract) in the event the account is assigned an exercise notice. Cash equivalents shall mean those instruments referred to in Section 220.2 of Regulation T [of the Board of Governors of the Federal Reserve System.]

* * * * *

(L) Exclusive designation—A customer may designate at the time an option order is entered which security position held in the account is to serve in lieu of the required margin, if such service is offered by the member; or the customer may have a standing agreement with the member as to the method to be used for determining on any given day which security position will be used in lieu of the margin to support an option transaction. Any security held in the account which serves in lieu of the required margin for a short put or short call shall be unavailable to support any other option transaction in the account.

(M) Cash account transactions—A member may make option transactions in a customer's cash account, providing:

(i) The transaction is permissible under Regulation T, Section 220.8; or

(ii) The transaction is a debit put spread in listed broad-based index options with European-style exercise comprised of a long put(s) coupled with a short put(s) overlying the same broad-based index with an equivalent underlying aggregate index value and the short put(s) and long put(s) expire simultaneously, and the strike price of

[8] *See* Amendment No. 1, *supra* note 3.

[9] *See* Amendment No. 1, *supra* note 3.

the long put(s) exceed the strike price of the short put(s).

* * * * *

(3) ''When Issued'' and ''When Distributed'' Securities

(A) Margin Accounts

* * * * *

When an account has a ''short'' position in a ''when issued'' security and there are held in the account securities upon which the ''when issued'' security may be issued, such ''short'' position shall be marked to the market and the balance in the account shall for the purpose of this [paragraph (c)] *Rule* [10] be adjusted for any unrealized loss in such ''short'' position.

(B) Cash Accounts

* * * * *

The provisions of this subparagraph [(B)]*(f)(3)* shall not apply to any position resulting from contracts on a ''when issued'' basis in a security:

* * * * *

(6) Time Within Which Margin or ''Mark to Market'' Must Be Obtained

The amount of margin or ''mark to market'' required by any provision of [this paragraph (c)] *this Rule* shall be obtained as promptly as possible and in any event within fifteen business days from the date such deficiency occurred, unless the Association has specifically granted the member additional time.

(7) Practice of Meeting Regulation T Margin Calls by Liquidation Prohibited

When a ''margin call,'' as defined in Section 220.2[(1)] of Regulation T [of the Board of Governors of the Federal Reserve System], is required in a customer's account, no member shall permit a customer to make a practice of either deferring the deposit of cash or securities beyond the time when such transactions would ordinarily be settled or cleared, or meeting the margin required by the liquidation of the same or other commitments in the account.

* * * * *

(8) Special Initial and Maintenance Margin Requirements

* * * * *

(B) Day-Trading

The term ''day-trading'' means the purchasing and selling of the same security on the same day. A ''day-trader'' is any customer whose trading shows a pattern of day-trading. Whenever day-trading occurs in a customer's margin account the margin to be maintained shall be the margin on the ''long'' or ''short'' transaction, whichever occurred first, as required pursuant to the other provisions of this Rule. When day-trading occurs in the account of a ''day-trader'' the margin to be maintained shall be the margin on the ''long'' or ''short'' transaction, whichever occurred first, as required by Regulation T [of the Board of Governors of the Federal Reserve System] or as required pursuant to the other provisions of this Rule, whichever amount is greater.

* * * * *

(9) Free-Riding in Cash Accounts Prohibited

No member shall permit a customer (other than a broker/dealer or a ''designated account'') to make a practice, directly or indirectly, of effecting transactions in a cash account where the cost of securities purchased is met by the sale of the same securities. No member shall permit a customer to make a practice of selling securities with them in a cash account which are to be received against payment from another broker/dealer where such securities were purchased and are not yet paid for. A member transferring an account which is subject to a Regulation T 90-day freeze to another member firm shall inform the receiving member of such 90-day freeze. The provisions of Section 220.8(c) of Regulation T [of the Board of Governors of the Federal Reserve System] dictate the prohibitions and exceptions against customers' free-riding. Members may apply to the Association in writing for waiver of a 90-day freeze not exempted by Regulation T.

* * * * *

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 Association 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 Association 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

NASD Regulation is proposing to adopt amendments to the provisions of NASD Rule 2520 relating to exempted borrowers, good faith accounts, joint back office (''JBO'') arrangements and options transactions to conform NASD Rule 2520 to recent changes to NYSE Rule 431 and recently adopted changes to Regulation T promulgated by the Board of Governors of the Federal Reserve System (''Federal Reserve Board''). NASD Regulation is also proposing other minor changes to eliminate obsolete provisions and correct errors in the text of NASD Rule 2520.

Margin Requirements for Exempted Borrowers and Good Faith Accounts. Under the recent changes to Regulation T, the Federal Reserve Board has created a new category of account called the ''good faith account'' to replace the ''non-purpose,'' ''arbitrage,'' and ''government securities'' accounts. In the good faith account, a customer can purchase certain securities (exempted and non-equity securities, and money market and exempted securities mutual funds) on ''good faith'' margin (the amount of margin specified by the creditor in the exercise of sound credit judgment) or the margin specified by the regulatory authority, whichever is greater. Regulation T no longer specifies initial margin, payment and liquidation time frames for transactions in these securities in a good faith account. NASD Regulation believes that these changes to Regulation T represent a continuing philosophical shift away from government mandated credit regulation and toward greater reliance on industry self-regulation and risk assessment.

NASD Regulation believes that transactions in good faith accounts raise the same safety and soundness questions as transactions in cash and margin accounts. Accordingly, the proposed amendments require all accounts (except for cash accounts) to maintain margin as required by NASD Rule 2520. Cash accounts will continue to be subject only to certain specific requirements, not to the overall requirements of the rule.

In addition, NASD Regulation states that the Federal Reserve Board exempted a class of borrowers called ''exempted borrowers'' (broker-dealers that do substantial public business) from the requirements of Regulation T. The proposed amendments to NASD Rule 2520 will recognize the exemption

[10] *See* Amendment No. 3, *supra* note 3.

adopted by the Federal Reserve Board by codifying the exemption in the definition of ''customer'' in paragraph 2520(a)(3). However, the proposed amendments will require that the proprietary accounts of an introducing member that are carried or cleared by another member remain subject to the equity requirements of 2520(e)(6), which prohibit a member from carrying a proprietary account in a deficit equity condition and require the difference between the account equity and the margin required by NASD Rule 2520 to be deducted from the member's net capital.[11]

Amendments to Provide for Joint Back Office Arrangements.[12] NASD Regulation is also proposing amendments to provide for JBO arrangements established pursuant to Section 220.7 of Regulation T. A JBO arrangement is one in which the creditor is a carrying and clearing broker-dealer or a carrying broker-dealer[13] owned jointly or individually by other creditors. The amendments would require members, prior to establishing a JBO arrangement, to notify the Association. In addition, a carrying and clearing broker-dealer or a carrying broker-dealer in a JBO arrangement must maintain minimum net capital of $25 million. If a carrying and clearing broker-dealer or a clearing broker-dealer only clears options market-maker accounts, it must maintain minimum net capital of $7 million.

A carrying and clearing broker-dealer or a carrying broker-dealer in a JBO arrangement must include in its ratio of gross options market maker haircuts for net capital purposes the gross deductions of JBO participant accounts. In the event that a carrying and clearing broker-dealer or a carrying broker-dealer's tentative net capital or net capital falls below the requirements, the broker-dealer must notify the Association of the deficiency and resolve the deficiency within three business days. If the deficiency is not resolved, the broker-dealer may not permit any new transactions under the JBO arrangement. In addition, a carrying and clearing broker-dealer or a carrying broker-dealer in a JBO arrangement must maintain a written risk analysis methodology for assessing credit extensions and deduct the excess equity of participating broker-dealers from its net capital haircuts.

A participating broker-dealer must be registered as a broker-dealer, maintain an ownership interest in the carrying and clearing broker-dealer or the carrying broker-dealer, and have a liquidating equity of $1 million in the JBO arrangement, exclusive of its ownership interest in the carrying and clearing broker-dealer or the carrying broker-dealer.

Control and Restricted Securities. Currently, the ''Concentration Reduction'' provision in NASD Rule 2520(e)(8)(C)(ii) is designed to impose increasing margin requirements for customer positions in control and restricted securities based upon the percent of outstanding shares or the percent of average weekly volume that the position represents. The effect of the provision, however, is to impose a margin requirement on the entire position, rather than on part of the position that actually collateralizes the loan extended to the customer. Thus, the customer is penalized for maintaining a position that exceeds the collateral necessary to cover his margin loan. To eliminate this unintended penalty, the proposed rule change adds language excluding ''excess securities'' from the concentration reduction calculation. The proposal defines ''excess securities'' as the amount of securities by which the aggregate position in control and restricted securities of any one issue would be required to support the aggregate credit extended on such control and restricted securities if the applicable margin requirement was 50% percent. Thus, under the proposed rule change, the concentration reduction calculation will be performed on an aggregate position that is only as large as the collateral necessary to support a margin loan of 50% percent.

In addition, the proposed rule change expands the exception in paragraph (e)(8) to include all restricted securities that can be sold pursuant to SEC Rules 144(k), 145(d)(2), or 145(d)(3). Currently, only those restricted securities that can be sold by non-affiliates of the issuer pursuant to SEC Rules 144(k), 145(d)(2), or 145(d)(3) are excepted from paragraph (e)(8). Thus, in the event of a customer default, members will be permitted to sell certain restricted securities pursuant to SEC Rule 144(k) without being subject to the requirements of NASD Rule 2520. Accordingly, those customer-owned, restricted securities that can be sold under SEC Rule 144(k) would be subject to the same maintenance margin requirements that presently apply to ordinary stock (25%).

Amendments to Margin Rules governing Options Transactions. NASD Regulation is proposing to amend paragraph (f)(2) to add subparagraphs (L) and (M), which are identical to current provisions in NYSE Rule 431, to permit customers to designate securities positions to margin options trades, and to permit options transactions in customer cash accounts to the extent the transaction is permissible under Regulation T, or that has certain other specific characteristics.

Amendments to Conform to Changes to Regulation T. NASD Regulation is also proposing to amend NASD Rule 2520 to conform references to Regulation T to the amendment to

[11] According to NASD Regulation, under the National Securities Markets Improvement Act of 1996 (''NSMIA''), the Federal Reserve Board no longer has the authority to regulate credit for the market making transactions of a registered market maker (transactional exemption); however, broker-dealers that are not market makers and that do not qualify as exempted borrowers because they do not meet the Regulation T definition are treated like ordinary customers for purposes of Regulation T initial margin. Currently, NASD Rule 2520 permits good faith maintenance margin for broker-dealer's market making and proprietary accounts. *See* Rule 2520(e)(5) and (e)(6). This good faith maintenance margin standard will not be changed under the proposed amendments.

[12] The Chicago Board Options Exchange, the Chicago Stock Exchange, the NYSE, the Philadelphia Stock Exchange, and the Pacific Exchange have filed similar proposed rule changes with the Commission relating to JBOs. Notices of the exchanges' JBO proposals have been published for comment. *See* Securities Exchange Act Release Nos. 39418 (December 10, 1997), 62 FR 66154 (December 17, 1997) (File No. SR–CBOE–97–58); 40384 (August 31, 1998), 63 FR 48286 (September 9, 1998) (File No. SR–CHX–98–12); 39497 (December 29, 1997), 63 FR 899 (January 7, 1998) (File No. SR–NYSE–97–28); 39680 (February 18, 1998), 63 FR 9622 (February 25, 1998) (File No. SR–PCX–97–49); and 39419 (December 10, 1997), 62 FR 66169 (December 17, 1997) (File No. SR–PHLX–97–56).

[13] Like the NASD's current proposal, the NYSE's JBO proposal permits ''carrying and clearing'' broker-dealers and ''carrying'' broker-dealers to establish JBOs. The NYSE sought and obtained interpretative guidance from the Federal Reserve Board of Governors indicating that a broker-dealer that would carry the accounts of JBO participants on its books but would not itself clear the JBO participants' accounts would be a ''clearing and servicing broker'' for purposes of Section 220.7(c) of Regulation T and, accordingly, would be permitted to establish a JBO. *See* Letter from Scott Holz, Counsel, Federal Reserve Board of Governors, to Raymond J. Hennessy, Vice President, Member Firm Regulation, NYSE, dated April 16, 1999 (''April 16 Letter''). NASD Regulation understands that the NYSE uses the terms ''clearing member'' and ''carrying member'' to refer to two distinct forms of activity engaged in by certain firms. In addition, NASD Regulation agrees with the interpretation set forth in the April 16 Letter and intends for the terms ''carrying and clearing member'' and ''clearing member'' to have the same meaning in NASD Rule 2520 as they have in NYSE Rule 431. NASD Regulation states that it intends for NASD Rule 2520 to be substantially identical to NYSE Rule 431 to minimize confusion regarding margin requirements for NASD members who are also NYSE members. Accordingly, NASD Regulation intends that, unless otherwise specifically noted or where the language of NASD Rule 2520 differs substantively from NYSE Rule 431, the two rules are to be read and interpreted in the same manner. *See* Amendment No. 1, *supra* note 3.

Regulation T recently adopted by the Federal Reserve Board.

Miscellaneous Amendments. NASD Regulation is proposing to eliminate paragraph (c)(5) prescribing maintenance margin for American Stock Exchange Emerging Company Marketplace securities because the Emerging Company Marketplace no longer exists. NASD Regulation is also proposing to eliminate paragraphs (e)(3)(B) and (C) because Section 220.12 of Regulation T was deleted under the recent amendments to Regulation T.[14]

2. Statutory Basis

The Association believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that the rules of an Association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes it reasons for so finding or (ii) as to which the NASD 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 proposal 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying a the principal office of the NASD. All submissions should refer to File No. SR–NASD–99–05 and should be submitted by September 1, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–20636 Filed 8–10–99; 8:45 am]

BILLING CODE 8010–01–M

[14] Telephone conversation between Elliott R. Curzon, Assistant General Counsel, NASD Regulation, and Anitra Casssas, Division, Commission, on July 8, 1999.

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41703; File No. SR–NYSE–99–24]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. To Amended Rules 13 and 72

August 4, 1999.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 10, 1999, 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 NYSE. 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 proposed rule change consists of amendments to NYSE Rules 13 and 72 to define XPress orders and describe how such orders are to be executed. Below is the text of the proposed rule change. Proposed new language is in *italics.*

* * * * *

Rule 13 Definitions of Orders

XPress order

An order to buy or sell a security for no less than such number of shares as the Exchange shall from time to time determine and no more than the displayed size of an XPress quote, as defined below, which order is to be executed in whole or in part at the price of the XPress quote, if available, or at a better price if obtainable. The portion not so executed shall be treated as cancelled.

An XPress quote is a quote so indicated by the Exchange. In order to be indicated as an XPress quote, a published bid or offer must be at the same price, for no less than the number of shares and the minimum period of time that the Exchange shall from time to time determine. If the XPress bid or offer price changes or the published bid or offer size is less than such number of shares, the bid or offer shall no longer be indicated as an XPress quote. (See also Rule 72.50.)

The Exchange shall make known to its membership to minimum size for XPress orders and the minimum size and time requirements for XPress quotes.

Rule 72 Priority and Precedence of Bids and Offers

* * * * *

(f) *Except as provided in .50 below,* a sale shall remove all bids from the Floor except that if the number of shares of stock or principal amount of bonds offered exceeds the number of shares or principal amount specified in the bid having priority or precedence, a sale of the unfilled balance to other bidders shall be governed by the provisions of these Rules as though no sales had been made to the bidders having priority or precedence.

* * * * *

.50 XPress Orders.—An execution of an XPress order, in whole or in part, shall not remove bids or offers from the Floor. Once an XPress order has been represented in the Crowd, no part of the XPress bid or offer against which the XPress order is to be executed shall be withdrawn, except to provide price improvement to all or part of the XPress order. When an XPress order has been executed in part at an improved price, the remainder of such order shall be executed at the XPress bid or offer up to the number of shares then available, regardless of whether such number is less than the minimum size for an XPress quote. All XPress orders shall be executed in strict time priority with respect to each other. A member who is providing a better price to an XPress order must trade with all other market interest having priority at that price before trading with the XPress order.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

As part of its continuing efforts to enhance participation in its auction market, the Exchange proposes to create a new type of order, known as an ''XPress Order.'' The Exchange believes this order type responds to the needs of market participants for ''clean'' executions when entering large-size orders in response to bids and offers which have been displayed for a minimum time period. NYSE Rule 13 would be amended to define XPress order and XPress quote. NYSE Rule 72 would be amended to provide the requirements for executing XPress orders.

An XPress order is an order of a specified minimum size which is to be executed against a displayed XPress quote, or at an improved price, if obtainable. In order to be indicated as an XPress quote, a published bid or offer must be for no less than the specified minimum share size at the same price for no less than 30 seconds. The Exchange proposes to initially set the minimum size for XPress orders and XPress quotes at 25,000 shares. Within six months after implementation, as experience is gained with XPress orders, the NYSE proposes to reduce the minimum size to 15,000 shares, unless experience indicates that it would not be appropriate to do so. The 30 second minimum requirement for XPress quotes would also be reviewed by the NYSE at such time, with consideration given to possibly decreasing this minimum.

It is possible for one or both sides of a quote to be indicated as XPress. If the XPress bid or offer *price changes* or the published bid or offer *size becomes less than* the specified minimum size, the bid or offer will no longer be indicated as an XPress quote. For example, if there is an XPress offer of 40,000 shares at 50 and the offer changes to 40,000 shares at $49\frac{15}{16}$, the offer is no longer XPress, as it has not been the same price for 30 seconds.

XPress orders will be delivered to the specialist's post via the Exchange's automated order routing system. Multiple XPress orders in the same stock will be executed in strict time priority with respect to each other and with respect to other orders. The size of the XPress order may not exceed the size of the XPress bid or offer against which it is to be executed at the time of order entry. An XPress order is guaranteed an execution at the XPress quote price up to the full size of the displayed XPress quote, if available.

If an XPress order is received at the specialist's post and the quote is no longer XPress, the XPress order will be cancelled. For example, assume there is an XPress offer of 30,000 shares when an XPress order to buy 25,000 shares is entered and a broker in the Crowd buys 25,000 shares (*i.e.,* takes 25,000 shares of the offer) before the XPress order is received at the post. The XPress order will be cancelled as the 5,000 share offer is less than the minimum size required and therefore is no longer an XPress offer. however, if the quote had been reduced in size from time of order entry, but was still an XPress quote (*i.e.,* still greater than minimum size), the full size of the XPress order would be represented and be given an opportunity for price improvement. Any portion of the XPress order not executed, at either the XPress or an improved price, would be cancelled.

All or part of an XPress order may be executed at an improved price, if available. An execution of an XPress order, in whole or in part, does not remove bids or offers from the Floor. This means that an XPress order that has been executed in part at an improved price retains its priority [3] (*i.e.,* is first in line for execution) and does not have to compete (*i.e.,* be on parity) with newly entered bids or offers at the XPress quote. For example, if 30,000 shares are offered at $50\frac{2}{16}$ (XPress), an XPress order could come in to buy 30,000 at $50\frac{2}{16}$ and be partially executed at an improved price (*e.g.,* 15,000 at $50\frac{1}{16}$). The remainder of the XPress order would retain priority to be executed at $50\frac{2}{16}$ (the XPress offer price) and would not have to compete on parity with other subsequent bidders at $50\frac{2}{16}$. (Without this proposed provision, Rule 72(f), which provides that a trade clears the Floor, would apply; in which case, once 15,000 traded $50\frac{1}{16}$, all bids and offers would be removed from the Floor and a new auction would begin. If that were the case, the XPress bid to buy the remaining 15,000 shares at $50\frac{2}{16}$ would no longer have priority and would be on a parity with any other bids made at that price, thereby defining the purpose of the XPress order type.)

Once the specialist has represented an XPress order in the Crowd, no part of the XPress bid or offer against which the XPress order is to be executed may be withdrawn, except to provide price improvement to all or part of the XPress order. The remainder of such order would be executed at the XPress bid or offer up to the number of shares then available, regardless of whether such number is less than the minimum size for an XPress quote.

For example, assume there is an XPress offer of 30,000 shares at 50 which consists of 20,000 shares offered by Broker A and 10,000 shares offered by Broker B. If an XPress order to buy 25,000 shares arrives at the post, the specialist will ask if anyone is willing to offer price improvement to a 25,000 share XPress order to buy at 50. Broker B could withdraw 10,000 shares offered at 50 and offer to sell 10,000 shares at $49\frac{15}{16}$. The XPress order would then buy 10,000 shares at the improved price of $49\frac{15}{16}$. Broker A could not then withdraw 20,000 shares offered at 50 because the XPress order has already been represented. The XPress order is entitled to 15,000 at 50 to complete the order, even though the quote is now below the minimum size.

All or part of the balance of an XPress bid or offer could be withdrawn after an XPress order has been executed and before any subsequent XPress orders are represented.

A member who is providing a better price to an XPress order must trade with all other market interest having priority at that price before trading with the XPress order. For example, assume the market is quoted $49\frac{15}{16}$ bid for 5,000 shares and 60,000 shares offered at 50 which is an XPress offer. If an XPress order to buy 30,000 shares at 50 comes in and a broker in the Crowd offers to improve the price by selling 30,000 shares at $49\frac{15}{16}$, the broker must first trade with the 5,000 share bid at $49\frac{15}{16}$ which has priority. The XPress order would then buy 25,000 shares at $49\frac{15}{16}$ and would complete the order by buying 5,000 shares at 50.

The effective date of the proposed rule change will be based on the implementation of enhancements to NYSE systems as well as the state of readiness of the member firm community. The preliminary target is to

[3] Exchange Rules 71 and 72 provide that the first bid made at the highest price has priority. Similarly, the first offer at the lowest price has priority.

complete NYSE systems enhancements to support XPress orders by the third quarter of 2000.

2. Statutory Basis

The Exchange believes that the basis under the Act for this proposed rule change is the requirement under section 6(b)(5)[4] that an Exchange have rules that are 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. The NYSE believes the proposed rule change would perfect the mechanism of a free and open market by permitting orders that meet the rule's requirements to interact with exposed XPress bids and offers to the fullest extent possible, thus providing more options for market participants. The Exchange believes that the proposed rule change is designed to protect investors and the public interest by requiring that bids and offers be of a minimum size and be displayed for a minimum period of time before becoming XPress, and thus should give brokers and non-XPress orders the opportunity to interact with the quote before coming XPress eligible. In addition, brokers may interact with an XPress order by providing price improvement. The Exchange believes that the proposed rule change should protect bids and offers on the book or in the Crowd that have priority at an improved transaction price and all orders are executed in time and price priority.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

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 reason 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, NW, Washington, DC 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 File No. SR–NYSE–99–24 and should be submitted by September 1, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–20630 Filed 8–10–99; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78f(b)(5).

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41701; File No. SR–NYSE–99–20]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Examination Specifications and Content Outline for the Front Line Specialist Clerk Qualification Examination (Series 21)

August 3, 1999.

I. Introduction

On May 14, 1999, the New York Stock Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to examination specifications and content outline for the Front Line Specialist Clerk Qualification Examination (Series 21). The proposed rule change was published for comment in the **Federal Register** on June 18, 1999.[3] The Commission did not receive any comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

Exchange Rule 35 requires that employees of members and member organizations be registered with and approved by the Exchange prior to admittance to the Trading Floor. Currently, the registration process for Floor employees functioning as Front Line Specialist Clerks (''FLS Clerks'') primarily consists of submission of a completed Form U–4 (''Uniform Application for Securities Industry Registration or Transfer'') and fingerprints. Under a proposed interpretation of Rule 35, which has been approved separately by the Commission (SR–NYSE–99–19), these FLS Clerks also will have to be qualified by taking and passing an appropriate qualification examination and by meeting appropriate training requirements.

The Front Line Specialist Clerk Qualification Examination (''Series 21'') and Content Outline, which the Exchange is asking the Commission to approve in this filing, were developed by the Exchange, in conjunction with a committee of Floor representatives (members, Specialists, and FLS Clerks)

[1] 15 U.S.C. 78s(b)(1)

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 41515 (June 10, 1999), 64 FR 32911.

to qualify FLS Clerks pursuant to the new interpretation of Rule 35. The Series 21 examination will help ensure that FLS Clerks have the basic knowledge, skills, and abilities necessary to perform their duties, which include assisting Floor Specialists.

The Series 21 examination is a 90-minute test consisting of 65 questions. The examination covers such topics as preparing for the market opening, operating the display book, preparing for the market close, and generating trade reports. The requirement to take and pass the Series 21 examination to qualify as an FLS Clerk will apply to both current and prospective FLS Clerks. All candidates must pass the Series 21 examination before functioning as an unsupervised FLS Clerk, *i.e.*, functioning without the specialized supervision required during the training period.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules regulation thereunder applicable to a national securities exchange.[4] In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(c)(3)(B) of the Act,[5] which provides that the Exchange may bar a natural person from becoming a member or person associated with a member, if such natural person does not meet such standards of training, experience, and competence as are prescribed by the rules of the Exchange. The Commission finds that the subject matter included in the Series 21 Examination and the content outline by the Exchange is consistent with Section 6(c)(3)(B) because it provides the Exchange with an appropriate means for measuring an FLS Clerk's ability and qualifications. The Series 21 Examination and content outline covers such topics as preparing for the market opening, operating the display book, preparing for the market close, and generating trade reports. Requiring all current and future FLS to pass the Series 21 Examination will help ensure that they are adequately trained and qualified to perform their duties competently.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[6] that the proposed rule change (SR–NYSE–99–20) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–20635 Filed 8–10–99; 8:45 am]

BILLING CODE 8010–01–M

[4] In approving the proposed rule change, the Commission also has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f(c)(3)(B).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41699; File No. SR–PCX–99–15]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Market Maker Surcharges

August 3, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] notice is hereby given that on June 1, 1999, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by PCX. On June 25, 1999, and July 16, 1999, the PCX filed with the Commission Amendment Nos. 1 and 2, respectively, to the proposed rule change.[2] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX is proposing to amend its rules to adopt a one-year pilot program under which the Exchange will impose a fee on Market Makers for contracts traded by Market Makers in particular option issues. The fee will be used to reduce order book execution charges on the PCX. Below is the text of the proposed rule change. Proposed new language is in *italic*.

* * * * *

RULE 16.1

RATES AND CHARGES

Market Maker Surcharge for Customer Rate Reduction

Rule 16.1(a) Definitions

(1) Resident Market Maker. A Resident Market Maker in a particular issue of options is a Market Maker who transacted at least 80% of his or her market maker contracts in option issues traded in the trading crowd where the particular option issue is traded in the prior calendar month.

(2) Standard OBO Rate. The Standard OBO Rate is any rate for Order Book Official (''OBO'') floor brokerage established by the Exchange for the particular equity option issue traded on the Exchange Floor, other than pursuant to this Rule.

(3) Standard Market Maker Fees. Standard Market Maker Fees are the total market maker fees established by the Exchange for the particular option issue other than any fees implemented pursuant to this Rule.

(4) Market Maker Surcharge. The Market Maker Surcharge is the amount of the fee, not to exceed 25 cents per contract, that the Exchange may impose on Market Makers for a particular issue of option pursuant to this Rule that is in addition to the Standard Market Maker Fees for the option issue.

(b) Generally.

(1) The Options Floor Trading Committee (''OFTC'') may impose a Market Maker Surcharge for transactions in a particular issue of options, which Surcharge will be imposed on a per contract basis for every contract traded by every Market Maker, whether in-person or by order, in that option issue during the period for which the Market Maker Surcharge is in effect.

(2) In imposing the fee, the OFTC will consider the vote of the Resident Market Makers for a particular option issue, as described in paragraph (d) of this Rule. In addition, the OFTC will consider the views of any Market Maker in favor of or opposed to the recommended Surcharge or in favor of some other Surcharge amount. The OFTC will provide notice of its meeting schedule for the consideration of the Market Maker Surcharge and the deadline for the submission of other materials for its consideration. The OFTC will determine the manner in which it will review the submitted materials and whether it will allow personal appearances before the OFTC. A decision of the OFTC may be appealed to the Exchange's Board of Appeals Committee pursuant to Rule 11; however, the Surcharge will be

[1] 15 U.S.C. 78s(b)(1).

[2] In Amendment No. 1, the Exchange removed a provision that permitted the Options Floor Trading Committee (''OFTC'') to delegate responsibility and corrected a typographical error. *See* letter from Michael D. Pierson, Director, Regulatory Policy, PCX, to Michael A. Walinskas, Associate Director, Division of Market Regulation (''Division''), Commission, dated June 24, 1999 (''Amendment No. 1''). In Amendment No. 2, the Exchange corrected a typographical error. *See* letter from Michael D. Pierson, Director, Regulatory Policy, PCX, to Michael A. Walinskas, Associate Director, Division, Commission dated July 15, 1999 (''Amendment No. 2'').

effective until the matter has completed the Exchange's review process. The OFTC through authority delegated by the Board of Governors will submit a rule filing pursuant to Section 19(b)(3) of the Exchange Act before the implementation of any new Surcharge or any change in the Surcharge or change in the OBO rate made pursuant to this Rule.

(3) The Market Maker Surcharge will be used to reimburse the Exchange to the extent the OFTC reduces the OBO brokerage rate applicable to the particular option issue below the standard OBO Rate pursuant to paragraph (g) of this Rule. Any amount remaining after the Exchange has been reimbursed will be refunded to each Market Maker who paid the Surcharge in that issue (on a pro rata basis). The Market Maker Surcharge generally will be assessed after the end of the month in which transactions on which the Market Maker Surcharge was based occurred.

(c) Time Period. The Market maker Surcharge generally will be instituted for a minimum period of one month.

(d) Vote to Recommend a Market Maker Surcharge Amount.

(1) Any Resident Market Maker may recommend a Market Maker Surcharge amount by the Friday prior to the vote or by any other time and date required by the OFTC. The vote of the Resident Market Makers to recommend the Surcharge will take place at the trading post where the applicable option issue is traded on the Tuesday of expiration week for equity options, or on any other day selected by the OFTC. The OFTC must provide 24 hour notice of the time and date of the vote to the trading crowd if the vote is to be held at a different time or on a different day. The OFTC will determine how the vote will be conducted. Any Resident Market Maker personally present at the trading post when the vote is conducted may vote on the amount of the Surcharge to be recommended. The Order Book Official at the particular trading post will conduct the vote.

(2) Each Resident Market Maker's vote will be weighted equally.

(3) Any Surcharge amount that receives a majority of the votes cast will be the Surcharge recommended to the OFTC. If any Surcharge amount does not receive a majority on the first ballot, the OBO may conduct subsequent ballots with the proposed Surcharges received the most votes or may solicit Resident Market Makers for other proposed Surcharge amounts.

(c) Option Issues. The OFTC may specify those option issues on which a Surcharge may be assessed pursuant to paragraph (b) of this rule. In no event may the OFTC permit a Surcharge to be assessed on an issue that is not also listed for trading on at least one other options exchange. In addition, the Surcharge may not be assessed for an option issue that has been allocated to a Lead Market Maker.

(f) Book Brokerage Rates. The OFTC may reduce the Exchange's OBO Rate for a particular option issue below the Standard OBO Rate upon a recommendation of the Resident Market Makers pursuant to the terms of the vote in paragraph (d). In determining to reduce the OBO brokerage rate, the OFTC will consider not only the vote of the Resident Market makers, but also the views of any other Floor Broker or Market Maker who submits views to the OFTC pursuant to the published schedule for such submissions. Notice of the hearing, governance of the hearing, and all appeal rights will be the same as those set forth in paragraph (b)(ii) of this Rule. If the OFTC determines to reduce the OBO brokerage rate below the Standard OBO Rate, the Exchange will make the appropriate filing as required by the Exchange Act. To the extent the OFTC reduces the OBO brokerage rate below the Standard OBO Rate, any Market Maker Surcharge will be sued to reimburse the Exchange for the difference pursuant to paragraph (b)(iii). If the Exchange determines on its own initiative, otherwise than pursuant to this Rule, to lower the Standard OBO Rate for a particular equity option issue, the Market Maker Surcharge will not be used to reimburse the Exchange for such reduction.

(g) Pilot Program. This Rule will be in effect as a pilot program until one year from [date of SEC approval of this Rule.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis or, the Proposed Rule Change

In its filing with the Commission, PCX 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. PCX has prepared summaries, set for in Sections A, B, and C below, of the most significant aspect of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background. Many options traded on the PCX are traded in crowds where the quotes are established by competing Market Makers.[3] In the PCX's competing market maker crowds, the agency function is performed by OBOs, who are PCX employees, and Floor Brokers. An OBO maintains the limit order book in reach option issue. Only non-broker/dealer customer orders may be placed with an OBO.[4] Orders that cannot be placed with an OBO must be manually represented in the trading crowd. Other exchanges, such as the American Stock Exchange and Philadelphia Stock Exchange, have a specialist system whereby specialists can serve both the agency and principal functions. At the Chicago Board Options Exchange (''CBOE''), certain issues are traded by Designated Primary Market Makers (''DPMs''), who can also serve both functions.[5]

As a result of the differences between competing market maker crowds and specialist and DPM systems, the OBO's rates at the PCX compete with rates charged by specialists and DPMs at other exchanges with respect to orders that can be placed with an OBO. The Exchange notes that specialists and DPMs can reduce their book execution rates to attract order flow and can offset such reductions through revenue they earn from the principal part of their business. Because the PCX's non-LMMs (who cannot represent agency orders) lack the flexibility over pricing enjoyed by specialists and DPMs at other exchanges, the PCX developed the current proposal to allow the PCX and its member firms to better compete with other exchanges in order book rates.

General Description of the Proposal. The Exchange is proposing a new PCX Rule 16.1 that would allow the

[3] Other options on the PCX are traded in a Lead Market Maker (''LMM'') system. The LMM functions in approved option issues as a market and, for those LMMs participating in the LMM Book Program, in the place of the Order Book Official (''OBO''). *See* PCX Rule 6.82; Securities Exchange Act Release No. 40548 (October 14, 1998) 63 FR 56283 (October 21, 1998). This proposal will apply to option issues traded by market maker trading crowds, but will not apply to issues traded by LMMs.

[4] *See* PCX Rule 6.52(a).

[5] The proposal is similar to a recent CBOE rule change. *See* Securities Exchange Act Release No. 41121 (February 26, 1999) 64 FR 11523 (March 9, 1999). At the CBOE, like the PCX, some, but not all option issues are traded by market maker trading crowds (and are not traded under the DPM or LMM system).

Exchange to impose a fee on Market Makers (''Surcharge'') for contracts traded by Market Makers in a particular option issue. This fee, not to exceed $0.25 per contract,[6] will be collected by the Exchange and will be used to reimburse the Exchange to the extent the OBO brokerage rate is reduced if such reduction is based upon a recommendation of the Resident Market Makers.[7] Any remaining amount of the Surcharge collected sill then be refunded to each Market Maker who paid the Surcharge (on a pro rata basis). The proposed Surcharge would allow the PCX to compete with other exchanges based on the respective fee each exchange charges a firm to execute an order on the limit order book.

How the Surcharge Will be Determined. Under proposed PCX Rule 16.1, the OFTC,[8] under authority delegated to it by the PCX's Board of Governors, will determine the issues option for which the Surcharge would be assessed as well as what that Surcharge, if any, will be.[9] Any Resident Market Maker can recommend a Surcharge amount. All Residents Market Makers then vote on the recommended amounts of the Surcharge, with each person having an equal vote. Any amount that receives a majority of the votes is the Surcharge amount that is recommended to the OFTC, which then decides the actual Surcharge. In reaching its decision, the OFTC must consider the vote of the Resident Market Makers and the views of any Market Maker in favor of or opposed to the recommended Surcharge.[10] The OFTC is not bound, however, to follow the Resident Market Makers' recommendation. The OFTC is free to impose a different Surcharge than the one recommended or to impose no Surcharge at all. Any Market Maker may appeal the decision of the OFTC to the Exchange's Appeals committee pursuant to PCX Rule 11.7. The Surcharge will remain in effect until the appeal has been decided.

Once the OFTC determines to implement a Surcharge and change the OBO fee, it will file a rule proposal with the Commission pursuant to Section 19(b)(3)(A) under the Act. After determining to impose or amend a Surcharge, the OFTC will notify the PCX Board of Governors at the meeting following the determination. Any Surcharge to be paid by the Market Makers would be in effect for at least one month to avoid disrupting normal Exchange billings and accounting procedures.

2. Statutory Basis

The PCX believes the proposed rule change is consistent with Section 6(b)[11] of the Act, in general, and furthers the objectives of Section 6(b)(5)[12] in particular, because it is designed to facilitate transactions in securities, perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the 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 at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of PCX. All submissions should refer to File No. SR–PCX–99–15 and should be submitted by September 1, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

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[6] Bids and offers in options series trading below $3 are expressed in sixteenths of a dollar, *i.e.*, $0.0625. Because standard option contracts have a multiplier of 100 (*i.e.*, they represent interest in 100 shares of the underlying security), the value of the minimum spread between any option contract listed on the Exchange would be $6.25 ($0.0625 times 100). Options priced over $3 have a minimum spread of one eighth of a dollar (12.50 value for the minimum spread). Thus, the 25-cent cap on the Surcharge will ensure that it remains far below the minimum quote increment for options trade on the PCX.

[7] The proposed defines a ''Resident Market Maker'' as someone who transacted at least 80% of his or her market maker contracts in option issues traded in the trading crowd in the prior calendar month. If the Exchange decides on its own initiative to reduce the OBO rate for a particular option issue, then the Surcharge would not be used to reimburse the Exchange.

[8] Generally, the OFTC consists of 14 members who trade on the Options Floor. OFTC members that would be impacted by the Surcharge would be required to recuse themselves from that vote.

[9] The proposal is limited, however, to option issues that are multiply traded, and does not include LMM option issues. As of May 28, 1999, approximately 800 standard equity options are traded on the PCX, and of those, approximately 100 would be eligible for participation in this pilot program.

[10] The OFTC must give notice of its meeting schedule for the consideration of the Surcharge and the deadline for the submission of other matierals for its consideration.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Notice of Sale of Commercial Loans

AGENCY: Small Business Administration.

ACTION: Notice of Sale of Commercial Loans-Loan Sale #1.

SUMMARY: This notice announces the Small Business Administration's (''SBA'') intention to sell approximately 4,000 secured and unsecured commercial loans (the ''Loans'') in a sealed bid auction. The total unpaid principal balance of the Loans to be sold in Loan Sale #1 is approximately $350 million (US). Some of the Loans were previously guaranteed by SBA under various sections of the Small Business

Act, as amended, 15 U.S.C. 631 *et seq.*, or the Small Business Investment Act, as amended, 15 U.S.C. 695 *et seq.* All SBA guarantees have been paid and no SBA guaranty is available to the successful bidders. In addition, the remainder of the Loans were directly originated and funded by SBA. The collateral for those Loans that are secured includes commercial and residential real estate and other business and personal property located nationwide. This notice also summarizes the bidding process for the Loans.

DATES: The Bidder Information Package will be available to qualified bidders beginning July 2, 1999. The Bid Date is currently scheduled for August 17, 1999, and closings are currently scheduled to occur between September 7, 1999, and September 21, 1999.

ADDRESSES: Bidder Information Packages will be available from SBA's Financial Advisor, KPMG, LLP (''KPMG'') 2001 M Street, N.W., Washington, D.C. 20036, 888–660–8060. KPMG will forward Bidder Information Packages to qualified bidders via overnight courier. Bidder Information Packages will be made available only to parties that have submitted a completed Confidentiality Agreement and Bidder Qualification Statement and demonstrated that they are qualified bidders. Interested parties can obtain a Confidentiality Agreement and Bidder Qualification Statement from the SBA Asset Sales website: *www.sba.gov/assets* or by calling 888–660–8060. This is a toll free number. Imaged files for the Loans included in the sale are available for review by qualified bidders that have paid the due diligence fee and visit the due diligence facility located at 409 Third Street, S.W., Suite C–970, Washington, D.C. 20416. To schedule a visit to the due diligence facility qualified bidders should contact Wayne Thornton, METEC Asset Management, L.C. at 202–401–3059. This is not a toll free number. The due diligence facility will be open between the hours of 8 am and 8 pm, Monday through Friday and 9 am to 5 pm on Saturday. The due diligence facility opened on July 6, 1999 and is currently scheduled to close on or about August 13, 1999.

FOR FURTHER INFORMATION CONTACT: Richard C. Blewett, Director Asset Sales, Small Business Administration, 409 Third Street, S.W., Washington, DC 20416; 202–205–4202. This is not a toll free number. Hearing or speech-impaired individuals may access this number via TDD/TTY by calling the Federal Information Relay Service at 1–800–877–8339. This is a toll-free number.

SUPPLEMENTARY INFORMATION: SBA intends to sell approximately 4,000 commercial loans. The Loans include loans that are performing, subperforming and non-performing. The Loans will be divided into loan pools on the basis of performance status, collateral status, collateral type and geographic location of the collateral. A list of the Loans, loan pools and pool descriptions is contained in the Bidder Information Package. SBA will offer interested persons an opportunity to bid competitively on loan pools, subject to conditions set forth in the Bidder Information Package. SBA shall use its sole discretion to evaluate and determine winning bids. No Loans will be sold individually.

SBA has fully honored its guaranty payment obligation for each Loan in the sale. The Loans are not currently guaranteed and will be sold without SBA guarantees. The majority of the Loans are currently serviced by SBA. One group of Loans are currently serviced by a single servicer/approved lender.

The Bidding Process

To ensure a uniform and fair competitive bidding process, the terms of sale are not subject to negotiation.

SBA will describe in detail the procedure for bidding on the Loans in the Bidder Information Package, which will include bid forms, a non-negotiable loan sale agreement prepared by SBA (''Loan Sale Agreement''), specific bid instructions, as well as pertinent information on the Loans such as total outstanding unpaid principal balances, interest rates, maturity terms, payment history and collateral information including its geographic location and type. The Bidder Information Package also includes computer diskettes containing data on the Loans.

The Bidder Information Package will be available approximately 6 weeks prior to the Bid Date. The Bidder Information Package will contain procedures for obtaining supplemental information about the Loans. Any interested party may request a copy of the Bidder Information Package by sending a written request together with a duly executed Confidentiality Agreement and a Bidder Qualification Statement to the address specified in the **ADDRESSES** section of this notice.

Prior to the Bid Date, a Bidder Information Package Supplement will be mailed to all qualified bidders. It will contain the final list of loans included in Sale #1.

Each bidder must include with its bid a deposit equal to 10% of the amount of its highest bid. If a successful bidder fails to abide by the terms of the Loan Sale Agreement, including paying SBA any remaining sums due pursuant to the Loan Sale Agreement and closing within the time period specified in the Loan Sale Agreement, SBA shall retain any deposit as liquidated damages.

Due Diligence Facility

A bidder due diligence period will take place beginning on or about July 6, 1999. During the bidder due diligence period, qualified bidders may, for a non-refundable fee of $500 US, review all asset file documents which have been imaged onto a database by visiting the due diligence facility located at 409 Third Street, S.W., Washington, D.C. 20416 and/or via modem. Bidders that have paid the due diligence fee of $500 US may also request CD ROM discs that contain substantial due diligence materials such as payment histories for each Loan and Brokers' Price Opinions, where available.

Specific instructions for ordering information in electronic format or making an appointment to visit the due diligence facility are included in the Bidder Information Package.

SBA Reservation of Rights

SBA reserves the right to remove loans from the sale and to add loans at any time prior to the Bid Date, for any reason and without prejudice to its right to include any loans in a later sale. SBA also reserves the right to terminate this sale at any time prior to the Bid Date.

SBA reserves the right to use its sole discretion to evaluate and determine winning bids. SBA also reserves the right in its sole discretion and for any reason whatsoever to reject any and all bids.

SBA reserves the right to conduct a ''best and final'' round wherein bidders will be given the opportunity to increase their bids. A best and final round shall not be construed as a rejection of any bid or preclude SBA from accepting any bid made by a bidder.

Number of Bids

Bidders may submit a maximum of 30 bids of any type. A bidder may divide its bids among any combination of a portfolio bid, multiple pool bids and/or individual pool bids, however, a bidder can submit only individual pool bids for certain loan pools identified in the Bidder Information Package.

Ineligible Bidders

The following individuals and entities (either alone or in combination with

others) are ineligible to bid on any one or combination of the loans included in the sale:

(1) Any employee of SBA, any member of any such employee's household and any entity controlled by an SBA employee or by a member of such employee's household;

(2) Any individual or entity that is debarred or suspended from doing business with SBA or any other agency of the United States Government;

(3) Any contractor, subcontractor, consultant, and/or advisor (including any agent, employee, partner, director, principal, or affiliate of any of the foregoing) who will perform or has performed services for, or on-behalf of, SBA either in connection with this sale or the development of SBA's loan sale program;

(4) Any individual that was an employee, partner, director, agent, or principal of any entity, or individual described in paragraph (3) above at any time during which the entity or individual performed services for, or on behalf of, SBA either in connection with this sale or the development of SBA's loan sale program;

(5) Any individual or entity that has used or will use the services, directly or indirectly, of any person or entity ineligible under any of paragraphs (1) through (4) above to assist in the preparation of any bid in connection with this sale.

Loan Sale Procedure

SBA has selected a competitive sealed bid auction as the method to sell the Loans. Historically, this method of sale optimizes the return on the sale of loans and, affords the greatest opportunity for all interested parties to bid. This method also provides the quickest and most efficient vehicle for the SBA to dispose of the Loans.

Post Sale Servicing Requirement

The Loans will be sold servicing released. Purchasers of the Loans, and their successors and assigns, will be required to service the Loans in accordance with the applicable provisions of the Loan Sale Agreement. In addition, the Loan Sale Agreement establishes certain requirements that a servicer must satisfy to service the Loans.

Scope of Notice

This notice applies to Loan Sale Number #1, and does not establish agency procedures and policies for other loan sales. If there are any conflicts between this Notice and the Bidder Information Package, the contents of the Bidder Information Package shall prevail.

Dated: August 4, 1999.

Jane Palsgrove Butler,

Associate Administrator for Financial Assistance.

[FR Doc. 99–20654 Filed 8–10–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster #9D47]

State of Arizona

Pima County and the contiguous counties of Cochise, Graham, Maricopa, Pinal, Santa Cruz, and Yuma in the State of Arizona constitute an economic injury disaster loan area as a result of severe storms on July 13–15, 1999, that caused landslides and resulting road closures. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance as a result of this disaster until the close of business on May 2, 2000 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795.

The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The economic injury number for this disaster is 9D4700.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: August 2, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99–20622 Filed 8–10–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 350 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 12, 1999, [FR 64, page 12399].

DATES: Comments must be submitted on or before September 10, 1999. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Pilot Schools.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0009.

Forms(s): FAA Form 8420–8.

Affected Public: Applicants who wish to be issued pilot school certificates and associated ratings.

Abstract: The information on FAA Form 8420–8, Application for Pilot School Certificates, is required from applicants who wish to be issued pilot school certificates and associated ratings. Pilot schools train private, commercial, flight instructor, and airline transport pilots, along with training for associated ratings in various types of aircraft. The information is also necessary to assure continuing compliance with 14 CFR Part 141, renewal of certificates every 24 months, and for any amendments to pilot school certificates.

Estimated Annual Burden Hours: 28,878 burden hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention: FAA Desk Officer.

Comments Are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; 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 on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on August 5, 1999.

Steve Hopkins,

Manager, Standards and Information Division, APR–100.

[FR Doc. 99–20711 Filed 8–10–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–99–24]

Petitions for Waiver; Summary of Petitions Received

AGENCY: Federal Aviation Administration [FAA], DOT.

ACTION: Notice of petitions for waivers received.

SUMMARY: This notice contains the summary of petitions requesting waivers from the final compliance date required of 14 CFR part 91, § 91.853. Requesting a waiver is allowed through § 91.873. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion of omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before August 26, 1999.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. 28680, 800 Independence Avenue, SW., Washington, DC 20591. Comments may also be sent electronically to the following internet address: nprmcmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Agela Anderson (202) 267–9681 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issues in Washington, DC, on August 5, 1999.

Donald P. Byrne,

Assistant Chief Counsel for Regulations

Petitions for Exemption

Docket No.: 29447
Petitioner: ABX Air, Inc.
Sections of the FAR Affected: 14 CFR 91.873
Description of Relief Sought: To allow ABX to operate two Stage 2 DC–8–61 after 12/31/99, pending replacement on a one-for-one basis with B–767 aircraft scheduled for the end of 2000.

Docket No.: 29440
Petitioner: Kitty Hawk International, Inc.
Sections of the FAR Affected: 14 CFR 91.973
Description of Relief Sought: To allow non-revenue Stage 2 operations under certain conditions such as hushkitting, scraping, and exporting. Currently, similar requests are handled by special flight authorizations under SFAR–64, which expires 12/31/99.

Docket No.: 29440
Petitioner: Kitty Hawk Aircargo, Inc.
Sections of the FAR Affected: 14 CFR 91.973
Description of Relief Sought: To allow non-revenue Stage 2 operations under certain conditions such as hushkitting, scraping, and exporting. Currently, similar requests are handled by special flight authorizations under SFAR–64, which expires 12/31/99.

Docket No.: 29440
Petitioner: ABX Air, Inc.
Sections of the FAR Affected: 14 CFR 91.873
Description of Relief Sought: To allow non-revenue Stage 2 operations under certain conditions such as hushkitting, scraping, and exporting. Currently, similar requests are handled by special flight authorizations under SFAR–64, which expires 12/31/99.

Docket No.: 29440
Petitioner: Delta Air Lines, Inc.
Sections of the FAR Affected: 14 CFR 91.873
Description of Relief Sought: To allow non-revenue Stage 2 operations under certain conditions such as hushkitting, scraping, and exporting. Currently, similar requests are handled by special flight authorizations under SFAR–64, which expires 12/31/99.

Docket No.: 29440
Petitioner: U.S. Airways, Inc.
Sections of the FAR Affected: 14 CFR 91.873
Description of Relief Sought: To allow non-revenue Stage 2 operations under certain conditions such as hushkitting, scraping, and exporting. Currently, similar requests are handled by special flight authorizations under SFAR–64, which expires 12/31/99.

Docket No.: 29440

Petitioner: Southwest Airlines

Sections of the FAR Affected: 14 CFR 91.873

Description of Relief Sought: To allow non-revenue Stage 2 operations under certain conditions such as hushkitting, scraping, and exporting. Currently, similar requests are handled by special flight authorizations under SFAR–64, which expires 12/31/99.

Docket No.: 29440

Petitioner: Express One International, Inc.

Sections of the FAR Affected: 14 CFR 91.873

Description of Relief Sought: To allow non-revenue Stage 2 operations under certain conditions such as hushkitting, scraping, and exporting. Currently, similar requests are handled by special flight authorizations under SFAR–64, which expires 12/31/99.

Docket No.: 29440

Petitioner: Florida West International Airways, Inc.

Sections of the FAR Affected: 14 CFR 91.873

Description of Relief Sought: To allow non-revenue Stage 2 operations under certain conditions such as hushkitting, scraping, and exporting. Currently, similar requests are handled by special flight authorizations under SFAR–64, which expires 12/31/99.

Docket No.: 29440

Petitioner: Trans World Airways, Inc.

Sections of the FAR Affected: 14 CFR 91.873

Description of Relief Sought: To allow non-revenue Stage 2 operations under certain conditions such as hushkitting, scraping, and exporting. Currently, similar requests are handled by special flight authorizations under SFAR–64, which expires 12/31/99.

[FR Doc. 99–20714 Filed 8–10–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 165; Minimum Operational Performance Standards for Aeronautical Mobile Satellite Services

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee (SC)–165 meeting to be held September 1, 1999, starting at 9:00 a.m. The meeting will be held at RTCA, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC, 20036. (This plenary meeting will follow a meeting of SC–165 Working Group (WG)–3, Minimum Aviation System Performance Standards, on August 30–31.)

The agenda will include: (1) Welcome and Introductions; (2) Review Summary of the Previous Meeting; (3) Chairman's Remarks; (4) Review comments from the ballot of draft document DO–210D, Minimum Operational Performance Standards for Geosynchronous Orbit Aeronautical Mobile Satellite Services (AMSS) Avionics. Incorporate accepted ballot comments into the final draft document to forward to the Program Management Committee. (5) Overview of Related Activities: a. AEEC 741 and 761 Characteristics; b. EUROCAE Working Group 55; c. AMS(R)S Spectrum Issues; d. AMCP WG–A on AMSS; e. Industry, Users, Government; (6) Review of SC–165 Working Group Activities: a. WG–1, AMSS Avionics Equipment Minimum Operational Performance Standards; b. WG–3, AMSS System/Service Performance Criteria; (7) Other Business; (8) Date and Place of Next Meeting; (9) Closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 5, 1999.

Janice L. Peters,

Designated Official.

[FR Doc. 99–20712 Filed 8–10–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Research and Development Programs Meeting

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice announces a public meeting at which NHTSA will describe and discuss specific research and development projects. Further, the notice requests suggestions for topics to be presented by the agency.

Dates and Times

The National Highway Traffic Safety Administration will hold a public meeting devoted primarily to presentations of specific research and development projects on September 16, 1999, beginning at 1:30 p.m. and ending at approximately 5:00 p.m. The deadline for interested parties to suggest agenda topics is 5:00 p.m. on August 31, 1999. Questions may be submitted in advance regarding the agency's research and development projects. They must be submitted in writing by September 3, 1999, to the address given below. If sufficient time is available, questions received after the September 3 date will be answered at the meeting during the discussion period. The individual, group, or company asking a question does not have to be present for the question to be answered. A consolidated list of answers to questions submitted by September 3 will be available at the meeting and will be mailed to requesters after the meeting.

ADDRESSES: The meeting will be held at the Tysons Westpark Hotel, 8401 Westpark Drive, McLean, Virginia. Suggestions for specific research and development topics as described below and questions for the September 16, 1999, meeting relating to the agency's research and development programs should be submitted to the Office of the Associate Administrator for Research and Development, NRD–01, National Highway Traffic Safety Administration, Room 6206, 400 Seventh St., SW, Washington, DC 20590. The fax number is (202) 366–5930.

SUPPLEMENTARY INFORMATION: In recent years, since April 1993, NHTSA has provided detailed information about its research and development programs in presentations at a series of public meetings. The purpose is to make available more complete and timely information regarding the agency's research and development programs. This is the twenty-fourth meeting in that series, and it will be held on September 16, 1999, at the Tysons Westpark Hotel, 8401 Westpark Drive, McLean, Virginia.

Based on the suggestions received in previous meetings, NHTSA intends to limit its presentation at the September 16, 1999, meeting to a single research topic. NHTSA requests suggestions from interested parties on the specific agenda topic to be presented at this meeting. NHTSA will base its decisions about the agenda, in part, on the suggestions it receives by 5:00 p.m. on August 31, 1999. Before the meeting, NHTSA will publish a notice with an agenda listing the research and development topic to be discussed. The agenda can also be obtained by calling or faxing the request to the telephone numbers listed in this notice, through the E-mail address listed in this notice, or from NHTSA's Web site under Announcements/Public Meetings at URL http://www.nhtsa.dot.gov/nhtsa/announce/meetings/.

NHTSA asks that the suggestions be limited to three, in priority order, so that the presentation at the September 16, 1999, meeting can be most useful to the audience. Specific research and development topics are listed below. Many of these topics have been discussed at previous meetings. Suggestions for agenda topics are not restricted to this listing, and interested parties are invited to suggest other research and development topics of specific interest to their organizations. Additionally, if any interested parties would like to make a presentation regarding technical issues concerning any of NHTSA's research programs, information concerning the proposed topic and speaker should be submitted in writing by 5:00 p.m. on August 31, 1999.

Specific R&D topics are: Fiscal Year 1999 R&D Research Efforts, International Harmonized Research Activities (IHRA), On-line tracking system for NHTSA's research projects, and Crash Injury Research and Engineering Network (CIREN).

Specific Crashworthiness R&D topics are:

Status of advanced air bag research and up-to-date results,
Demonstration of CD ROM for child restraint/vehicle compatibility,
Preparation of new dummies for assessment of advanced air bag technology,
Improved frontal crash protection (program status, problem identification, offset testing),
Upgrade side crash protection,
Child restraint/air bag interaction (CRABI) dummy testing,

Head and neck injury research,

Lower extremity injury research, and

Thorax injury research.

Specific Crash Avoidance R&D topics are:

National Advanced Driving Simulator (NADS),

Intelligent vehicle initiative (the rear-end collision avoidance system operational test),

Drowsy driver monitoring,

Driver workload assessment, and Lane change/merge collision avoidance system guidelines.

Specific National Center for Statistics and Analysis (NCSA) topics are:

NCSA Overview,

Fatality Analysis Reporting System (FARS), and

Special crash investigation studies of air bag cases.

Separately, questions regarding research projects that have been submitted in writing not later than 5:00 p.m. on September 3, 1999, will be answered. The summary minutes of the meeting, copies of materials handed out at the meeting, and answers to the questions submitted for response at the meeting will be available for public inspection in the DOT Docket in Washington, DC, within 3 weeks after the meeting. Copies of this material will then be available at ten cents a page upon request to DOT Docket, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. The DOT Docket is open to the public from 10:00 a.m. to 5:00 p.m. The summary minutes, handouts, and answers to the questions will also be available on NHTSA's Web site at Announcements/Public Meetings at URL http://www.nhtsa.dot.gov/nhtsa/announce/meetings/.

NHTSA will provide technical aids to participants as necessary, during the Research and Development Programs Meeting. Thus, any person desiring the assistance of ''auxiliary aids'' (e.g., sign-language interpreter, telecommunication devices for deaf persons (TTDs), readers, taped texts, braille materials, or large print materials and/or a magnifying device), please contact Rita Gibbons by telephone on (202) 366–4862, by telefax on (202) 366–5930, or by E-mail at rgibbons@nhtsa.dot.gov by 5:00 p.m. September 7, 1999.

FOR FURTHER INFORMATION CONTACT: Rita Gibbons, Staff Assistant, Office of Research and Development, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366–4862. Fax number: (202) 366–5930. E-mail: rgibbons@nhtsa.dot.gov.

Issued: August 6, 1999.

Raymond P. Owings,

Associate Administrator for Research and Development.

[FR Doc. 99–20710 Filed 8–10–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–99–6062]

Notice of Receipt of Petition for Decision That Nonconforming 1996 Toyota RAV4 Multi-Purpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1996 Toyota RAV4 multi-purpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1996 Toyota RAV4 MPVs that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is September 10, 1999.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas (''Wallace'') (Registered Importer 90–005) has petitioned NHTSA to decide whether a 1996 Toyota RAV4 MPV that was manufactured for European and other foreign markets is eligible for importation into the United States. The vehicle which Wallace believes is substantially similar is the 1996 Toyota RAV4 MPV that was manufactured for importation into and sale in the United States and certified by its manufacturer, Toyota Motor Corporation, as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1996 Toyota RAV4 MPV to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Wallace submitted information with its petition intended to demonstrate that the non-U.S. certified 1996 Toyota RAV4 MPV, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1996 Toyota RAV4 MPV is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence* * * *, 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 113 *Hood Latch Systems,* 114 *Theft Protection,* 116 *Brake Fluid,* 119 *New Pneumatic Tires for Vehicles other than Passenger*

Cars, 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) inscription of the word ''Brake'' on the brake failure indicator lamp lens; (b) replacement of the speedometer/odometer with a unit calibrated in miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlamp assemblies; (b) installation of U.S.-model rear sidemarker assemblies; (c) installation of a high mounted stop lamp.

Standard No. 111 *Rearview Mirror:* inscription of the required warning statement in the passenger side rearview mirror.

Standard No. 120 *Tire Selection and Rims for Motor Vehicles other than Passenger Cars:* installation of a tire information placard.

Standard No. 208 *Occupant Crash Protection:* (a) installation of a seat belt warning lamp and buzzer; (b) replacement of the driver's and passenger's side air bags and knee bolsters with U.S.-model components on vehicles that are not already so equipped. The petitioner states that the vehicle is equipped with Type 2 seat belts at the front and rear outboard seating positions.

301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Additionally, the petitioner states that U.S.-model components must be added to the non-U.S. certified 1996 Toyota RAV4 MPV so that it complies with the Bumper Standard found in 49 CFR Part 581.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicles to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9 am to 5 pm]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 99–20733 Filed 8–10–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–6 (Sub–No. 384X)]

The Burlington Northern and Santa Fe Railway Company—Abandonment Exemption—in Minnehaha County, SD

The Burlington Northern and Santa Fe Railway Company (BNSF) has filed a notice of exemption under 49 CFR part 1152 Subpart F—*Exempt Abandonments* to abandon a 2.98-mile line of its railroad between milepost 147.15 and milepost 150.13 near Sioux Falls, in Minnehaha County, SD. The line traverses United States Postal Service Zip Code 57105.

BNSF has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 10, 1999, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by August 23, 1999. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 31, 1999, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Sarah Whitley Bailiff, Senior General Attorney, The Burlington Northern and Santa Fe Railway Company, 3107 Lou Menk Drive, Fort Worth, TX 76131–2830.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

BNSF has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by August 16, 1999. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), BNSF shall file a notice of consummation with the Board to signify that it has exercised the authority

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[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

granted and fully abandoned the line. If consummation has not been effected by BNSF's filing of a notice of consummation by August 11, 2000, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

By the Board, David M. Konschnik, Director, Office of Proceedings.

Decided: August 4, 1999.

Vernon A. Williams,

Secretary.

[FR Doc. 99–20565 Filed 8–10–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request U.S. Customs Declaration (Customs Form 6059B)

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the U.S. Customs Declaration. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before October 12, 1999, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, DC 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper perfromance of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: U.S. Customs Declaration.

OMB Number: 1515–0041.

Form Number: Customs Form 6059B.

Abstract: The U.S. Customs Declaration, Customs Form 6059B, facilitates the clearance of persons and their goods arriving in the territory on the U.S. by requiring basic information necessary to determine Customs exception status and if any duties of taxes are due. The form is also used for the enforcement of Customs and other agencies laws and regulations.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Individuals, travelers.

Estimated Number of Respondents: 42,000,000.

Estimated Time Per Respondent: 3 minutes.

Estimated Total Annual Burden Hours: 2,100,000.

Estimated Total Annualized Cost on the Public: N/A.

Dated: August 5, 1999.

J. Edgar Nichols,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 99–20609 Filed 8–10–99; 8:45 am]

BILLING CODE 4820–01–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Application for Withdrawal of Bonded Stores For Fishing Vessels and Certification of Use

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application for Withdrawal of Bonded Stores For Fishing Vessels and Certification of Use. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before October 12, 1999, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Application for Withdrawal of Bonded Stores For Fishing Vessels and Certification of Use.

OMB Number: 1515–0032.

Form Number: Customs Form 5125.

Abstract: The Customs Form 5125 is used for the withdrawal and lading of

bonded merchandise (especially alcoholic beverages) for use on board fishing vessels and foreign or domestic vessels involved in international trade. The form also certifies the use: total consumption or partial consumption with secure storage for use on next voyage.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 42.

Estimated Total Annualized Cost on the Public: $504.00.

Dated: August 5, 1999.

J. Edgar Nichols,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 99–20610 Filed 8–10–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

August 4, 1999.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Interested persons may obtain copies of the submission(s) by calling the OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

DATES: Submit written comments on or before September 10, 1999.

OMB Number: 1550–0087.

Form Number: Not Applicable.

Type of Review: regular.

Title: Measurement Survey—Examination Standards.

Description: This information collection is a key element in the OTS' activities under the National Performance Review. The OTS must obtain feedback from the thrift institutions it regulates to properly evaluate the effectiveness of our examination process and agency communications. This information collection is needed to: (a) Provide this feedback on the content and conduct of OTS examinations; (b) encourage and facilitate thrift input; and (c) promote OTS/thrift communications.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Recordkeepers: 1302.

Estimated Burden Hours Per Recordkeepers: 0.25 hours.

Frequency of Response: Once for each examination.

Estimated Total Recordkeeping Burden: 325 hours.

Clearance Officer: Mary Rawlings-Milton, (202) 906–6028, Office of Thrift Supervision, 1700 Street, NW, Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

John E. Werner,

Director, Information & Management Services.

[FR Doc. 99–20647 Filed 8–10–99; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

August 4, 1999.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Interested persons may obtain copies of the submission(s) by calling the OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

DATES: Submit written comments on or before September 10, 1999.

OMB Number: 1550–0066.

Form Number: OTS Form 1499, also known as Form DV.

Type of Review: Extension.

Title: Voluntary Dissolution.

Description: 12 CFR Section 546.4 sets forth the requirement for the submission of a statement of reasons and a plan of dissolution. The submission of this documentation provides the basis for the OTS to determine whether the dissolution will be in the best interests of all concerned, including insured depositors and all other parties affected by such action.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Recordkeepers: 1.

Estimated Burden Hours Per Recordkeeper: 239 hours.

Frequency of Response: Once per submission.

Estimated Total Recordkeeping Burden: 239 hours.

Clearance Officer: Mary Rawlings-Milton, (202) 906–6028, Office of Thrift Supervision, 1700 Street, NW, Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

John E. Werner,

Director, Information & Management Services.

[FR Doc. 99–20648 Filed 8–10–99; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0028]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Office of Information and Technology, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Information and Technology (IT), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed Reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed from veteran service organizations requesting to be placed on the mailing lists for specific VA publications.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 12, 1999.

ADDRESSES: Submit written comments on the collection of information to Barbara Epps (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0028'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Barbara Epps at (202) 273–8013 or FAX (202) 273–5981.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, IT invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of IT's functions, including whether the information will have practical utility; (2) the accuracy of IT's estimate of the burden of the proposed collection of information; (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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application of Service Representative for Placement on Mailing List, VA Form 3215.

OMB Control Number: 2900–0028.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: VA operates an outreach services program to ensure veterans and beneficiaries have information about benefits and services to which they may be entitled. To support the program, VA distributes copies of publications to veterans service organizations representatives. The information collected on VA Form 3215 is used to process a request from a service organization to be placed on the mailing list for specific VA publications.

Affected Public: Individuals or households.

Estimated Annual Burden: 25 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 150.

Dated: July 2, 1999.

By Direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–20724 Filed 8–10–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0108]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments for information to determine eligibility for income-based benefits programs.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 12, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0108'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Report of Income from Property or Business, VA Form 21–4185.

OMB Control Number: 2900–0108.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The form is used to derive net income from property or business. The information is used to determine whether the beneficiary is eligible for VA benefits and, if eligibility exists, to determine the proper rate of benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 29,500 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 59,000.

Dated: July 9, 1999.

By Direction of the Secretary.

Sandra McIntyre,

Management and Program, Analyst, Information Management Service.

[FR Doc. 99–20725 Filed 8–10–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0024]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 10, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: James Good, Information Management Service (045A4), Department of Veterans

Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8001 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0024.''

SUPPLEMENTARY INFORMATION:

Title: Insurance Deduction Authorization, VA Form 29–888.

OMB Control Number: 2900–0024.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used by the insured to authorize VA to make deductions from benefit payments to pay premiums, loans and/or liens on his/her insurance contract. The information requested is used by VA to process the insured's request.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on March 18, 1999 at page 13471.

Affected Public: Individuals or Households.

Estimated Annual Burden: 622 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 3,732.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0024'' in any correspondence.

Dated: July 12, 1999.

By Direction of the Secretary.

Sandra S. McIntyre,

Management and Program Analyst, Information Management Service.

[FR Doc. 99–20726 Filed 8–10–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0047]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 10, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: James Good, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8001 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0047.''

SUPPLEMENTARY INFORMATION:

Title: Financial Statement, VA Form 26–6807.

OMB Control Number: 2900–0047.

Type of Review: Extension of a currently approved collection.

Abstract: This form is used primarily by purchasers assuming a veteran's home loan in release of liability cases authorized by 38 U.S.C. 3714 and by veteran-purchasers seeking substitution of entitlement by 38 U.S.C. 3702(b)(2).

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 29, 1999 at page 4745.

Affected Public: Individuals or Households.

Estimated Annual Burden: 30,000 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 40,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0047'' in any correspondence.

Dated: July 9, 1999.

By direction of the Secretary.

Sandra S. McIntyre,

Management and Program Analyst, Information Management Service.

[FR Doc. 99–20727 Filed 8–10–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0116]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 10, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: James Good, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8001 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0116.''

SUPPLEMENTARY INFORMATION:

Title: Notice to Department of Veterans Affairs of Veteran or Beneficiary Incarcerated in Penal Institution, VA Form 21–4193.

OMB Control Number: 2900–0116.

Type of Review: Extension of a currently approved collection.

Abstract: This form is used by penal institutions to furnish information to VA regional offices about incarcerated VA beneficiaries.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 23, 1998 at page 71194.

Affected Public: Individuals or Households, Federal Government, State, Local or Tribal Government.

Estimated Annual Burden: 416 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 1,664.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0116'' in any correspondence.

Dated: July 9, 1999.

By direction of the Secretary.

Sandra S. McIntyre,

Management and Program Analyst, Information Management Service.

[FR Doc. 99–20728 Filed 8–10–99; 8:45 am]

BILLING CODE 8320–01–P

federal register

Wednesday
August 11, 1999

Part II

Environmental Protection Agency

Cancellation of Pesticides for Non-Payment of 1999 Registration Maintenance Fees; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPP–64042; FRL 6086–8]

Cancellation of Pesticides for Non-Payment of 1999 Registration Maintenance Fees

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Since the amendments of October, 1988, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) has required payment of an annual maintenance fee to keep pesticide registrations in effect. The fee due last January 15 has gone unpaid for about 1,003 registrations. Section 4(i)(5)(D) of FIFRA provides that the Administrator may cancel these registrations by order and without a hearing; orders to cancel all 1,003 of these registrations have been issued within the past few days.

FOR FURTHER INFORMATION CONTACT: For further information on the maintenance fee program in general, contact by mail: John Jamula, Office of Pesticide Programs (H7504C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: Rm. 226, Crystal Mall No. 2, 1921 Jefferson Davis Highway South, Arlington, VA 22202, (703) 305–6426; e-mail: jamula.john@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Important Information

A. Does this apply to me

You may be potentially affected by this notice if you are an EPA registrant with any approved product registration(s). Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed in the FOR FURTHER INFORMATION CONTACT section.

B. How can I get additional information or copies of support documents

1. *Electronically*. You may obtain electronic copies of this document and various support documents are available from the EPA Home Page at the Federal Register-Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/).

2. *In person*. The official record for this notice, as well as the public version, has been established under docket control number [OPP–64042], (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

II. Introduction

Section 4(i)(5) of FIFRA as amended in October, 1988, and again in December, 1991, requires that all pesticide registrants pay an annual registration maintenance fee, due by January 15 of each year, to keep their registrations in effect. This requirement applies to all registrations granted under section 3 as well as those granted under section 24(c) to meet special local needs. Registrations for which the fee is not paid are subject to cancellation by order and without a hearing.

The 1990, Farm Bill amended FIFRA to allow the Administrator to reduce or waive maintenance fees for minor agricultural use pesticides when she determines that the fee would be likely to cause significant impact on the availability of the pesticide for the use. The Agency has waived the fee for 99 minor agricultural use registrations at the request of the registrants.

In late November, 1998, all holders of either section 3 registrations or section 24(c) registrations were sent lists of their active registrations, along with forms and instructions for responding. They were asked to identify which of their registrations they wished to maintain in effect, and to calculate and remit the appropriate maintenance fees. Most responses were received by the statutory deadline of January 15. A notice of intent to cancel was sent in mid-February to companies who did not respond and to companies who responded, but paid for less than all of their registrations. Late payments of the fees were accepted until May 15, when the actual process of cancellation was begun.

Since mailing the notices, EPA has maintained a toll-free inquiry number through which the questions of affected registrants have been answered.

Maintenance fees have been paid for about 16,343 section 3 registrations, or about 95% of the registrations on file in November. Fees have been paid for about 2,484 section 24(c) registrations, or about 86% of the total on file in November. Cancellations for non-payment of the maintenance fee affect about 672 section 3 registrations and about 331 section 24(c) registrations.

The cancellation orders generally permit registrants to continue to sell and distribute existing stocks of the canceled products until the due date for the next annual registration maintenance fee, January 15, 2000. Existing stocks already in the hands of dealers or users, however, can generally be distributed, sold or used legally until they are exhausted. Existing stocks are defined as those stocks of a registered pesticide product which are currently in the U.S. and which have been packaged, labeled and released for shipment prior to the effective date of the action.

The exceptions to these general rules are cases where more stringent restrictions on sale, distribution, or use of the products have already been imposed, through Special Reviews or other Agency actions. These general provisions for disposition of stocks should serve in most cases to cushion the impact of these cancellations while the market adjusts.

III. Listing of Registrations Canceled for Non-Payment

Table 1, lists all of the section 24(c) registrations, and Table 2, lists all of the section 3 registrations which were canceled for non-payment of the 1998 maintenance fee. These registrations have been canceled by order and without hearing. Cancellation orders were sent to affected registrants via certified mail in the past several days. It is Agency policy to rescind cancellation of any particular registration only if the cancellation resulted from Agency error.

TABLE 1—SECTION 24(C) REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE

SLN No.	Product Name
AL–95–0003	Dual Herbicide
AL–95–0004	Dual 8E Herbicide
AL–98–0005	Aquathol Super K Granular Aquatic Herbicide
AL–98–0006	Abound Fungicide
AR–88–0006	Triumph 4E Insecticide
AR–95–0003	Command 4EC Herbicide
AR–95–0009	Starfire Herbicide
AR–97–0006	Dimilin 25W for Cotton/Soybean
AR–98–0004	Abound Fungicide
AZ–83–0004	Dimethogon 267 EC

TABLE 1—SECTION 24(C) REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

SLN No.	Product Name
AZ–83–0005	Dual 8E Herbicide
AZ–88–0002	De-Fend E-267 Dimethoate Systemic Insecticide
AZ–88–0003	Dimethoate 267 EC
AZ–94–0001	Prefar 4-E Herbicide
AZ–95–0007	Telone II
AZ–97–0001	Treflan H.F.P.
CA–77–0053	Kelthane MF
CA–77–0136	Niagara Furadan 5 Granules Insecticide
CA–79–0139	Guthion 35% Wettable Powder Crop Insecticide
CA–79–0149	Guthion 35% Wettable Powder (PVA)
CA–81–0089	Dupont Lorox Weed Killer WP
CA–82–0034	Red-Top Golden-Dew (fungicide and Insecticide)
CA–82–0042	Dupont Lorox DF Weed Killer
CA–82–0095	Funginex Emulsifiable Concentrate
CA–85–0059	Niagara Furadan 4 Flowable
CA–88–0020	Monitor 4
CA–88–0025	Carzol SP
CA–88–0029	Kelthane 35 Agricultural Miticide
CA–90–0003	Gnatrol - AS
CA–90–0021	Guthion 2S
CA–91–0002	Clean Crop Prometryne 80W Herbicide
CA–92–0012	Captan 50 Wettable Fungicide
CA–92–0020	Vectobac-12AS
CA–92–0021	Rally 40W Agricultural Fungicide In Water Soluble Pouch
CA–93–0010	Pounce 3.2 EC Insecticide
CA–93–0017	Prokil Diazinon 4 EC
CA–96–0014	DI - Syston 8
CA–97–0020	Dimilin 25W for Cotton/soybean
CA–98–0005	Logic Fire Ant Bait

TABLE 1—SECTION 24(C) REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

SLN No.	Product Name
CO–88–0013	Drexel Carbaryl 4L
CO–95–0001	Comite II
CO–98–0005	Dual Herbicide
CO–98–0006	Dual II Herbicide
CO–98–0007	Dual 8E Herbicide
DE–94–0003	Dual Herbicide
DE–94–0004	Dual 8E Herbicide
DE–98–0003	Abound Fungicide
FL–88–0001	Malathion ULY
FL–88–0021	Triumph 4E Insecticide
FL–88–0023	Sodium Hypochlorite Solution
FL–88–0029	Enquik
FL–89–0030	Illoxan 3EC Herbicide
FL–90–0004	Enquik
FL–93–0001	Dual 8E Herbicide
FL–93–0011	Methyl Bromide 99.5%
FL–95–0006	Gibgro 4LS
FL–96–0012	Enquik
FL–97–0013	Abound Fungicide
GA–90–0006	Illoxan 3EC Herbicide
GA–95–0003	Dual Herbicide
GA–95–0004	Dual 8E Herbicide
GA–96–0006	Ridomil Copper 70W
GA–97–0001	Authority 75 Df Herbicide
GA–98–0004	Abound Fungicide
HI–90–0005	Goal 1.6e Herbicide
HI–92–0009	Drexel Sulfur 90W
HI–92–0010	Drexel Sulfur 90W
HI–93–0001	Banvel Herbicide
HI–93–0007	Thiolux Dry Flowable Micronised Sulfur
HI–93–0008	Thiolux Dry Flowable Micronised Sulfur
HI–94–0005	Roundup Herbicide
IA–88–0004	Triumph 4e Insecticide
ID-80-0021	Guthion 50% Wettable Powder Crop Insecticide
ID-80-0047	Ded-Weed Sulv-Amine

TABLE 1—SECTION 24(C) REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

SLN No.	Product Name
ID–86–0016	Dimethoate 2.67 EC
ID–88–0008	Kumulus S
ID–91–0018	Zinc Phosphide Concentrate for Muskrat and Nutria
ID–95–0005	Furadan CR–10
ID–96–0011	Diva Fungicide
ID–98–0008	Clarity Herbicide
ID–98–0009	Jms Stylet-Oil
IL–88–0006	De-Fend E–267 Dimethoate Systemic Insecticide
IL–93–0001	Furadan 4F
IL–97–0003	Topsin M WSB
IN–89–0005	Carzol SP
KS–97–0002	Dual II Herbicide
KY–94–0003	Dual Herbicide
KY–94–0004	Dual 8E Herbicide
KY–95–0003	Dual Herbicide
KY–95–0004	Dual 8E Herbicide
KY–96–0001	Ziram 76DF Fungicide
KY–96–0004	Command 4EC Herbicide
KY–97–0001	Authority 75 Df Herbicide
LA–88–0005	Dual 8E Herbicide
LA–88–0013	Triumph 4E Insecticide
LA–93–0004	Dithane F-45 Ag., Fungicide
LA–93–0005	Dithane DF Ag., Fungicide
LA–93–0006	Command 4 EC
LA–93–0007	Illoxan Herbicide
LA–93–0008	Dupont Karmex Df Herbicide
LA–95–0006	Dual 8E Herbicide
LA–95–0015	Starfire Herbicide
LA–96–0008	Florida Mosquito Larvicide
LA–96–0009	Gramoxone Extra Herbicide
MA-83-0005	Geigy Diazinon 14g (14.3% Granular) Insecticide
MA–95–0003	Dual Herbicide
MA–95–0004	Dual 8E Herbicide
ME–91–0004	Gowan Azinphos-M 2 EC

TABLE 1—SECTION 24(C) REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

SLN No.	Product Name
ME–91–0008	Kelthane 35 Agricultural Miticide
ME–92–0004	Diazinon 500–AG
ME–92–0005	Diazinon 500–AG
ME–95–0002	Devrinol 50–DF Selective Herbicide
MI–91–0007	Imidan 50–WP Agricultural Insecticide
MI–91–0008	Tri-Lux II Antifouling
MI–95–0005	Dual 8E Herbicide
MI–95–0006	Dual Herbicide
MN–91–0001	Furadan CR 10
MN–93–0003	Stampede 80 EDF
MN–96–0004	Diva Fungicide
MN–98–0002	Aquathol Super K Granular Aquatic Herbicide
MN–98–0004	Clarity Herbicide
MO-80-0023	Ded-Weed Sulv-Amine
MO–89–0003	Triumph 4E Insecticide
MO–95–0007	Resource Herbicide
MO–96–0002	Diva Fungicide
MO–96–0004	Stellar Herbicide
MO–96–0005	Stellar Herbicide
MO–96–0006	Stellar Herbicide
MO–96–0007	Stellar Herbicide
MO–96–0008	Stellar Herbicide
MO–96–0010	Resource Herbicide
MO–96–0012	Starfire Herbicide
MO–96–0013	Gramoxone Extra Herbicide
MS–88–0004	Guthion 35% Wettable Powder Crop Insecticide
MS–88–0007	Triumph 4E Insecticide
MS–91–0006	Dursban TC
MS–93–0006	Statesman Herbicide
MS–95–0006	Dual 8E Herbicide
MS–95–0014	Gramoxone Super Herbicide
MS–97–0009	Dimilin 25W for Cotton/soybean
MT-80-0006	Ded-Weed Sulv-Amine

TABLE 1—SECTION 24(C) REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

SLN No.	Product Name
MT–94–0004	Dimethogon 267 EC
MT–98–0003	Clarity Herbicide
MT–98–0004	Clarity Herbicide
NC–88–0007	Triumph 4E Insecticide
NC–88–0008	Carzol SP
NC–89–0002	Triumph 4e Insecticide
NC–91–0002	Dursban Turf Insecticide
NC–91–0013	Kleen-Tac 85
NC–92–0004	Dual Herbicide
NC–92–0005	Dual 8E Herbicide
NC–96–0001	Dual Herbicide
NC–96–0002	Dual 8E Herbicide
NC–96–0004	Gibgro 4LS
NC–97–0001	Authority 75 Df Herbicide
NC–98–0002	Aquathol Super K Granular Aquatic Herbicide
NC–98–0003	Abound Fungicide
ND-80-0010	Ded-Weed Sulv-Amine
ND–86–0001	Furadan CR–10
ND–93–0001	Stampede 80 EDF Herbicide
ND–96–0004	Dithane F–45 Flowable Agricultural Fungicide
ND–98–0004	Clarity Herbicide
ND–98–0005	Clarity Herbicide
NE–93–0003	Bicep Herbicide
NE–97–0002	Dual II Herbicide
NJ–93–0002	Furadan 4F
NJ–93–0003	Command 4EC
NJ–93–0007	Command 4EC
NJ–94–0002	Guthion 50% Wettable Powder Crop Insecticide
NJ–95–0004	Dual Herbicide
NJ–95–0005	Dual 8E Herbicide
NJ–95–0006	Dual Herbicide
NJ–95–0007	Dual 8E Herbicide
NJ–97–0004	Dual Herbicide
NJ–97–0005	Dual 8E Herbicide
NJ–98–0002	Sodium Hypochlorite Solution
NJ–98–0003	Abound Fungicide

TABLE 1—SECTION 24(C) REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

SLN No.	Product Name
NM–80–0001	Du Pont Sinbar Terbacil Weed Killer
NM–82–0001	Ded-Weed Sulv-Amine
NM–85–0004	Dual 8E Herbicide
NM–86–0004	Dual 8E Herbicide
NV–80–0014	Red-Top Superior Spray Oil
NV–83–0007	Ded-Weed Sulv Herbicide
NV–88–0001	Dimethogon 267 EC
NV–90–0005	Wilbur-Ellis Dimethoate 267
NV–92–0005	10% Strychnine Alkaloid Paste
NV–97–0003	Dual 8E Herbicide
NY–90–0001	Dual 8E Herbicide
NY–93–0005	Express Herbicide
NY–97–0003	Dual 8E Herbicide
NY–97–0007	Pyramite
OH–81–0017	Guthion 50% Wettable Powder Crop Insecticide
OH–81–0018	Guthion 2S
OH–88–0005	Drexel Diazinon Insecticide
OH–97–0003	Dual Herbicide
OH–97–0004	Dual 8E Herbicide
OK–82–0008	Ded-Weed Sulv-Amine
OK–86–0003	Dual 8E Herbicide
OK–92–0009	Du Pont Sinbar Herbicide
OR–79–0026	Ded-Weed Sulv-Amine
OR–80–0036	Guthion 50% Wettable Powder Crop Insecticide
OR–85–0003	Orco Patrol
OR–85–0042	Dimethogon 267 EC
OR–85–0043	Dimethogon 267 EC
OR–85–0044	Dimethogon 267 EC
OR–85–0045	Dimethogon 267 EC
OR–85–0046	Dimethogon 267 EC
OR–89–0011	Dupont Karmex DF Herbicide
OR–91–0007	Dual 8E Herbicide

TABLE 1—SECTION 24(C) REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

SLN No.	Product Name
OR–92–0003	Du Pont Sinbar Herbicide
OR–92–0015	Dupont Karmex DF Herbicide
OR–93–0007	Supracide 2E Insecticide-Miticide
OR–93–0020	Dupont Karmex DF Herbicide
OR–93–0022	Dual 8E Herbicide
OR–94–0009	Dupont Karmex Df Herbicide
OR–94–0018	Dupont Lorox Df Herbicide
OR–95–0008	Gowan Cryolite Bait
OR–95–0019	Triumph 4E Insecticide
OR–95–0024	Dual Herbicide
OR–95–0025	Dual 8E Herbicide
OR–96–0009	Thiolux Dry Flowable Micronised Sulfur
OR–96–0019	Enquik
OR–96–0033	Diva Fungicide
OR–96–0035	Select Herbicide
OR–96–0038	Dual 8E Herbicide
OR–96–0039	Dual Herbicide
OR–96–0041	Transline
OR–97–0027	Bird Shield Bird Repellent Concentrate
OR–98–0003	Hydrothol 191
OR–98–0017	Clarity Herbicide
PA–90–0003	Du Pont Sinbar Terbacil Weed Killer
PA–94–0003	Furadan 4F
PA–95–0001	Dual 8E Herbicide
PA–95–0002	Dual Herbicide
PA–97–0001	Stauffer Captan 10 Dust
PA–98–0003	Abound Fungicide
PR–98–0002	Carbamate WDG Fungicide
SC–88–0005	Triumph 4E Insecticide
SC–91–0007	Kleen-Tac 85
SC–92–0004	Imidan 50-WP Agricultural Insecticide
SC–97–0003	Authority 75 DF Herbicide
SC–98–0001	Abound Fungicide

TABLE 1—SECTION 24(C) REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

SLN No.	Product Name
SD–93–0001	Stampede 80 EDF Herbicide
SD–93–0002	Banvel Herbicide
SD–96–0001	Banvel Herbicide
SD–98–0003	Clarity Herbicide
SD–98–0004	Clarity Herbicide
TN–93–0002	Orthene 75 S Soluble Powder
TN–93–0010	Triumph 4E Insecticide
TN–94–0007	Starfire Herbicide
TN–97–0001	Authority 75 DF Herbicide
TN–97–0002	Abound Fungicide
TN–97–0003	Dimilin 25W for Cotton/soybean
TX–78–0030	Weedar Mcpa Concentrate
TX–82–0011	Ded-Weed Sulv-Amine
TX–83–0011	Dual 8E Herbicide
TX–92–0021	Du Pont Lorox Df Herbicide
TX–95–0004	Dual 8E Herbicide
TX–95–0005	Busan 85
TX–96–0007	Treflan E.C.
TX–98–0002	Dual 8E Herbicide
TX–98–0003	Dual Herbicide
UT–83–0010	Ded-Weed Sulv Herbicide
UT–88–0001	Dimethogon 267 EC
UT–90–0004	Dimethogon 267 EC
UT–94–0002	Bmp 144 Primary Powder
UT–98–0001	Clarity Herbicide
VA–89–0005	Kelthane 35 Agricultural Miticide
VA–90–0004	Du Pont Sinbar Terbacil Weed Killer
VA–91–0009	Kleen-Tac 85
VA–92–0002	Furadan 4F
VA–92–0004	Dual 8E Herbicide
VA–92–0005	Dual Herbicide
VA–94–0007	Dual Herbicide
VA–94–0008	Dual 8E Herbicide
VA–94–0009	Dual 8E Herbicide
VA–94–0010	Dual Herbicide
VA–96–0002	Dual Herbicide
VA–96–0003	Dual 8E Herbicide

TABLE 1—SECTION 24(C) REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

SLN No.	Product Name
VA–97–0001	Dual Herbicide
VA–97–0002	Dual 8E Herbicide
VA–98–0005	Abound Fungicide
VA–98–0007	Aquathol Super K Granular Aquatic Herbicide
VT–78–0004	Guthion 50% Wettable Powder Crop Insecticide
WA–79–0065	DED-Weed Sulv-Amine
WA–81–0002	DED-Weed Sulv-Amine
WA–87–0032	Dimethoate 267 EC
WA–87–0033	Dimethoate 25% Wettable Powder Systemic Insecticide
WA–88–0005	Dupont Karmex Df Herbicide
WA–89–0009	Enquik
WA–90–0017	Du Pont Lorox DF Herbicide
WA–90–0026	Vinco Formaldehyde Solution
WA–91–0003	Hopkins Zinc Phosphide Mouse Bait for Control of Mice
WA–91–0018	Hopkins Zinc Phosphide Mouse Bait for Control of Mice
WA–91–0027	Vinco Formaldehyde Solution
WA–92–0004	Dimethoate 267 EC
WA–92–0022	Orco Patrol Ground Squirrel Bait
WA–92–0023	Du Pont Karmex DF Herbicide
WA–92–0038	Busan 1020
WA–92–0039	Metam Soil Fumigant
WA–93–0007	Du Pont Sinbar Herbicide
WA–94–0008	Dupont Manzate 200 DF Fungicide
WA–94–0016	Dupont Karmex DF Herbicide
WA–94–0019	Supracide 2E Insecticide-Miticide

TABLE 1—SECTION 24(C) REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

SLN No.	Product Name
WA–94–0023	Dupont Manzate 200 DF Fungicide
WA–95–0008	Dual Herbicide
WA–95–0011	Imidan 70–Wp Agricultural Insecticide
WA–95–0012	Imidan 70–WSB
WA–95–0013	Imidan 70–WP Agricultural Insecticide
WA–95–0014	Imidan 70–WSB
WA–95–0017	Furadan CR–10
WA–95–0018	Gowan Cryolite Bait
WA–95–0023	Mycoshield Brand of Agricultural Terramycin
WA–95–0024	Dual 8E Herbicide
WA–95–0044	Parapel II Paraffinized Pellets
WA–96–0009	Clean Crop Nemasol 42%
WA–98–0002	Captan 50–WP
WA–98–0022	Jms Stylet-Oil
WA–98–0024	Clarity Herbicide
WI–94–0001	Dual 8E Herbicide
WI–94–0005	Dupont Lorox Df Herbicide
WI–95–0004	Diazinon G–14
WI–96–0005	Dual 8E Herbicide
WI–96–0006	Dual Herbicide
WI–97–0002	Diazinon G–14
WI–98–0002	Dual 8E Herbicide
WI–98–0004	Aquathol Super K Granular Aquatic Herbicide
WY–92–0002	Zp Rodent Bait Ag
WY–92–0006	Banvel Herbicide
WY–98–0003	Clarity Herbicide
WY–98–0007	Clarity Herbicide

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE

Reg. No.	Product Name
000003–00006	Formula BF–201 (Roach and Ant Killer)

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
000003–00007	Formula BF–301 (Flea and Tick Killer)
000019–00003	Hexzene No. 2
000070–00055	Kill-KO Bean Beetle Dust 1% Rotenone
000070–00133	Kill KO Thro Pac Rat Killer
000070–00170	Kill KO Rat Killer
000070–00259	Rigo Streptomycin Sulfate
000070–00292	Rigo 3–In–1 Vegetable Dust
000100–00635	Triumph Technical
000100–00643	Triumph 4E Insecticide
000100–00777	Dividend 0.15 Fs Fungicide
000100–00778	Dividend 0.31 Fs Fungicide
000100–00891	Mertect DF Fungicide
000106–00077	Pro Quat 256B
000150–20004	Bac - Off
000192–00206	Dexol Preemergent Weed and Grass Preventer 2
000239–02574	Orthenex Insect & Disease Control Formula II
000239–02575	Isotox Insect Killer Formula III
000275–00036	Dipel 4l Worm Killer
000275–00048	Dipel 6l
000275–00051	Dipel 8l
000275–00059	Dipel 6af Worm Killer
000275–00067	Dipel 8af Worm Killer
000275–00079	Ditera Technical Powder
000275–00080	Ditera Wettable Powder
000275–00087	Dipel 2X WDG Biological Insecticide
000275–00113	Biobit-Wettable Powder
000275–00114	Biobit Flowable Concentrate
000275–00121	Biobit Technical Powder
000275–00123	Bactimos Wettable Powder

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
000334–00104	Spoox Residual Roach Liquid
000334–00246	Swinger the Reserve Power Detergent with Germ-Disinfecting Action
000334–00290	Hy-Kil Fly & Roach Spray
000334–00381	PS 75 Insect Killer for House & Garden
000334–00449	Hysan FIK–20 Insect Killer
000334–00545	Bendiocide
000334–00565	Dragnet Residual Insecticide
000402–00095	Hill #74 Roach & Insect Spray
000407–00287	Imperial Sevin 50w Garden Spray
000407–00338	Imperial Garden Weed Preventer
000407–00370	Imperial 50% Methoxychlor Wettable Powder
000407–00383	Imperial Sevin Suspension
000407–00401	Imperial Lime Sulphur Spray
000407–00416	Imperial 5% Dacthal
000421–00371	400 Insecticide
000475–00250	Germicidal Sani-Flush Thick Liquid Toilet Bowl Cleaner
000475–00330	Germicidal Sani-Flush Chlorinating Thick Liquid Toilet Bowl Cleaner
000491–00265	Bug Blitz
000498–00120	Spraypak Wasp & Hornet Spray 0.15%
000498–00123	Spraypak Professional Strength Ant & Roach Killer
000498–00143	Spraypak Automatic Room Fogger, Formula 3
000498–00145	Spraypak Indoor Insect Fogger, Formula 2
000527–00092	Mill-O-Cide 100

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
000527–00119	Bytech Bysan
000550–00177	Chlorine Liquified Gas
000572–00107	Rockland 5% Sevin Brand Carbaryl Insecticide Dust
000572–00237	Rockland Super Dacthal 686
000655–00688	Prentox Cube Flea & Tick Dip
000655–00790	Prentox Larva-Lur
000655–00791	Prentox Ban Bug Bait
000662–00076	12.5% Sodium Hypochlorite Solution
000675–00045	Quatsyl 256
000675–00047	Premeasured Quatsyl 256
000706–00099	Claire Jet Stream Wasp and Hornet Killer
000706–00102	House & Garden Insect Spray
000707–00167	Kathon CS–30 Oil Field Microbiocide
000707–00168	Kathon CS–35
000707–00169	Kathon CS–25 Oil field Micro Biocide
000707–00171	Kathon Mwx
000769–00309	Fish-Tox–5 (5% Rotenone)
000769–00653	Kills Rats with Para Blox Weather Proof Paraffinized Rat Bait Flavor
000769–00655	Smcp Para-Blox Weather Proof Rat Bait Fish and Grain Flavor
000769–00656	Smcp Zinc Phosphide
000769–00657	Smcp Diphacin (r) 110
000769–00659	Smcp Singe-Kil
000769–00660	Smcp Para Blox Kills Rats Weath Prf Paraffin Rat Bait Flavor Meat
000769–00669	Commerical Size Para-Blox (Cereal & Molasses)
000769–00670	Kill Rats with Para-Blox
000769–00671	Commercial Para Blox Meat & Blood Flavored
000769–00706	Pelletized Slug and Snail Bait
000769–00707	Crumblized Slug and Snail Bait
000769–00741	Zinc Phosphide (Rumetan) 90%
000769–00743	AFC Zinc Phosphide 80 (Rumetan)
000769–00756	Zinc Phosphide Rodenticide for Controlling Orchard Mice
000769–00758	Afc Diphacinnone 0.1%
000769–00787	DI-Mix 110
000769–00832	Miller V–75 A Dust
000769–00836	Miller Dacthal 5G
000769–00837	Miller Turf Food 12–6–6 Plus 3
000769–00842	Pratt DX Insect Spray
000769–00854	Tomato & Vegetable Dust or Spray
000769–00855	Pratt 1% Rotenone Dust or Spray
000769–00889	Agrisect Rotenone Dust 1%
000769–00904	Science 1% Rotenone
000769–00911	Science Garden Weeder
000802–00360	Lilly/Miller Diazinon Insect Dust
000802–00442	Miller's Sevin 5% Dust Insecticide
000802–00513	Lilly/Miller Lawn & Turf Weed Bomb
000802–00526	Millers Multi-Purpose House Plant Insect Spray
000802–00540	Lily/Miller Tomato & Vegetable Garden Spray
000802–00547	Ultragreen Weed & Feed
000802–00559	Lilly/Miller Feed & Weed
000802–00563	Lilly/Miller Granular Noxall Vegetation Control
000802–00568	Lilly/Miller Ready-To-Use Spurge and Oxalis Killer
000802–00571	Lily/Miller Casoron Granules 1.5%
000802–00572	Lilly/Miller Ready-To-Use Knock-Out II
000802–00575	Lilly/Miller Hose'n Go Lawn Bug Spray
000802–00576	Lilly/Miller Ultragreen Crabgrass Control & Lawn Food
000802–00577	Lilly/Miller Fence and Grass Edger
000802–00578	Lilly/Miller Crabgrass Killer
000802–00582	Lilly/Miller Knock-Out II Weed & Grass Killer
000802–00585	Lilly Miller Sevin Brand Carbaryl Insecticide Spray
000802–00587	Lilly/Miller Noxall Vegetation Killer Concentrate
000802–00598	Lilly/Miller Diazinon Insect Spray
000861–00024	Wonder Pine Aroma Disinfectant
000875–00130	Citru Quat–3 Disinfectant, Cleaner, Fungicide, Deodorant
000876–00330	Velsicol Technical Heptachlor
000909–00103	Cooke Sevin Brand Liquid Carbaryl Insecticide
000909–00105	Cooke Fungicide
000961–00242	Lebanon Dandelion Killer
000961–00290	Lebanon Improved Bug Out
000961–00291	Improved Two-Way Winter Green
000961–00298	Greenview Two-Way Green Power

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
000961–00336	Lebanon Betasan 4–E Emusifiable Liquid
000961–00337	Lebanon Country Club 19–4–9 with Betasan
000961–00338	Lebanon Betasan 7% Granular
000961–00339	Lebanon Weed Control with Fertilizer 32–3–3
000961–00344	Lebanon Country Club Fertilizer with Oftanol Insect Control
000961–00355	Lebanon Turf Food with Sevin Insect Control
000961–00357	Lebanon Lawn Food with Insect Control contains 1.0% Dursban
000961–00363	Lebanon Fertilizer with Barricade Preemergence Weed Control (0.65%)
000961–00366	Lebanon Fertilizer with Turcam Insect Control
000961–00372	Crabgrass Preventer with 0.20 Barricade Preemergence Herbicide
000961–00373	Fertilizer Plus 0.50% Oftanol Par Ex
000961–00374	Fertilizer Plus 0.67% Oftanol Par Ex
000961–00375	Fertilizer Plus 0.96% Oftanol Par Ex
000961–00378	Par Ex Fertilizer Plus 0.96 l% Ronstar
000961–00381	Par Ex Fertilizer Plus 2.0% Ronstar
000961–00387	Par Ex Slow Release Fertilizer with 0.434% Barricade
001021–00535	Personal Repellent Formula 5731
001021–00608	Pyrocide Intermediate 5951
001021–01007	Pyrocide Intermediate 6893

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
001021–01090	Pyrocide Intermediate 7004
001021–01121	Pyrocide Intermediate 7007
001021–01175	D-Trans Intermediate 1914
001021–01196	D-Trans Intermediate 1940
001021–01267	Pyrocide Intermediate 7168
001021–01397	Multicide (r) Intermediate 2155
001021–01421	Synergized Industrial Aerosol From MGK/esbiol/intermediate 1972
001021–01423	Multicide Intermediate 2209
001021–01466	Esbiol Intermediate 2207
001021–01486	Evercide Intermediate 2302
001021–01568	Evercide Emulsifiable Concentrate 2462
001021–01577	Evercide Total Release Fogger 2522
001021–01579	Evercide Total Release Fogger 2524
001021–01581	Evercide Concentrate 2529
001021–01585	Multicide Total Release Aerosol 2554
001021–01590	Evercide Concentrate 2518
001021–01591	Evercide Intermediate 2497
001021–01592	Evercide Total Release Aerosol 2525
001021–01593	Evercide Concentrate 2517
001021–01604	Evercide Intermediate 2546
001022–00006	Ambrocide
001022–00550	Chapco SA–1
001043–00036	Amerse
001057–00067	Dolge Food Plant Fogging Aqueous Pyrethrum Insecticide
001072–00010	Surge Mitrocin Plus

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
001072–00018	Bab-O-Dyne
001124–00063	Sani-Turge Disinfectant Cleaner
001203–00005	Delta Foremost 4820 Del-Kill Insecticide
001203–00035	Foremost 4812 - Es Ambush Residual Insecticide
001239–00015	D/S/D
001270–00172	Zep 10–X Insecticide
001270–00199	Zep Stop
001270–00251	Zep Mini Fog
001304–00064	Mcness Free-Choice Vitamin & Mineral Mix
001317–00065	Sani-Du Chlorine Sanitizer
001386–00445	Unico Sevin Spray Powder
001409–00022	Marine Woodlife Ready To Use
001409–00029	Us Plywood Boxlife-C Penetrating Fungi Water Repel Wood Ready To Use
001409–00065	Woodlife P Wood Preservative
001452–00019	Hilo Dip for Cats
001452–00037	Hilo Gold Shampoo
001452–00049	Hilo Lawn Spray
001452–00050	Hilo Carpet Powder
001452–00051	Hilo Flea & Tick Spray II
001452–00052	Hilo Flea and Tick Shampoo Plus
001553–00101	Momar No Mow II
001553–00109	Imperial XX
001553–00111	Imperial V Thermal Fogger
001553–00124	Aquatrol C–2610
001553–00126	Aquatrol C–2540
001553–00131	Contract
001553–00132	R.i.p. Ima Bug Residual Insecticide
001553–00133	Imperial XXX
001609–00014	Moorwood Semi-Transparent Stain & Wood Preservative

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
001609–00015	Moorwood Penetrating Clear Wood Finish & Preservative
001685–00034	Heavy Duty Terg-O-Cide Formula No. 132
001685–00069	Formula 296 State Roach & Ant Killer
001685–00071	State Formula 298 Ras Residual Roach & Ant Spray
001685–00104	State Formula 429 Was Wasp Killer
001685–00113	State Formula 425 Microcide
001791–00046	North Coast Pyrethol
001812–00349	Cotton Pro 80df
002011–00006	Vigortone Bovotone Fc ''007'' Mg
002021–00025	168–Wp
002269–00175	Gold Kist 5–5–25 with Ronstar
002269–00176	Gold Kist 14–14–14 with Ronstar
002269–00177	St., Augustine Weed and Feed
002270–00706	Excelcide Cold Fog #1
002270–00707	Excelcide Cold Fog
002296–00093	Ionox Disinfectant Cleaner
002382–00145	Knockout Spray Concentrate #1
002382–00146	Permethrin-IGR #7 Flea and Tick Spray for Dogs
002393–00517	Diphacinone 110 S Concentrate Rodenticide
002437–00015	Elko Sani-Scrub
002596–00114	Hartz Blockade for Cats
002596–00115	Hartz Blockade for Dogs
002630–00012	Crest-O-Pine
002675–00013	N.p.s. Sanitizing Agent II
002686–00011	One Step Totil
002724–00279	Zoecon RF–156 Collar for Dogs

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
002724–00354	Zoecon RF–271 RTU Pump Spray
002724–00479	Fluvalinate 25% Bulk An Insecticide for Manufacturing Use Only
002724–00482	Fluvalinate 22.3%f Bulk
002781–00010	Happy Jack X-Pel Flying Insect Repellent
002792–00049	Deccozil- EC 79
002792–00064	Deco Salt No. 35
003008–00009	Osmose Clear Water Repellent & Wood Preservative
003008–00062	Osmose Pcp 40% Concentrate
003125–00123	Guthion 2s
003125–00128	Di-Syston 2% Granular Systemic Insecticide for Repackaging Only
003125–00193	Guthion 50% Wettable Powder Crop Insecticide
003125–00330	Oftanol 5% Granular Insecticide
003125–00331	Oftanol 1.5% Granular
003125–00338	Guthion 3 Flowable Insecticide
003125–00350	Lawn Food and Insecticide
003125–00378	Guthion 35% Wettable Powder Insecticide
003125–00379	Guthion Solupak 35% Wettable Powder In Water Soluble Packets
003125–00425	Guthion Technical
003125–00426	Guthion 2l
003125–00427	Guthion 3 Flowable Insecticide
003125–00435	Oftanol 5% Granular Turf and Ornamental Insecticide
003342–00004	Tiger Brand 1.0% Rotenone Dust

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
003342–00014	Tiger Brand 4% Malathion Dust
003342–00051	Tiger Brand 5% Sevin Dust
003342–00053	Tiger Brand Two Way Vegetable Dust
003342–00056	Tiger Brand Sevin Vegetable Dust
003342–00069	Tiger Brand - 10% Sevin Dust
003342–00100	Garden Special
003635–00264	Duklor
003696–00136	Dow Disinfectant Bathroom Cleaner
003838–00034	Quat 42 Germicidal Cleaner
004077–00040	ORB Industrial Aerosol Insecticide
004077–00079	ORB No. 116 Total Release Clean Out Fogger
004091–00008	Seal Treat II
004238–00026	Diasof
004238–00027	Calusa Mildew Preventive
004238–00028	Diasof Powder
004462–00047	Beaver Udder-Cide with Lanolin Iodine Sanitizer & Udder Wash
004925–00004	Special King Vapor-Generating Mosquito Mat
004959–00044	Sure sect– 50 Liquid Spray 0.50%
004959–00045	C-San 28 Wash Sanitizer
005481–00189	Alco Slug'm
005481–00195	Metaldehyde Methiocarb Granules 2–1
005481–00332	Metaldehyde Methiocarb Granules 2–1 for Home Owner Use
005481–00333	Slug' M for Homeowners Use
005549–00050	Brozone Preplant Soil Fumigant
005602–00164	V-Twenty-Three
005602–00171	Lethalaire A–50

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
005602–00173	Lethalaire A–41
005602–00179	Procide All Purpose Insecticide
005602–00180	V Clear-Out
005602–00185	V Clean-Out II
005664–00050	Tech 10
005815–00035	Triple X Garden Weed Preventer
005887–00001	1% Rotenone Garden Dust
005887–00148	Black Leaf Tomato & Vegetable Insect Killer
005887–00149	Rose & Flower Insect Killer
005887–00178	Kill-Ko Rat and Mouse Bait Packs
005887–00180	Kill-Ko Rat and Mouse Pellets
005887–00181	Kill-Ko Mouse Bait Station
005887–00182	Kill-Ko Rat and Mouse Weatherproof Bait Blocks
005891–00012	Now Sanitizer
005967–00151	Coxysul Wettable Powder Fungicide
006325–00011	Yellow Jacket Manufacturing Sulfur
006325–00015	Yellow Jacket Flowable Sulfur
006390–00011	Vikol #af–25
006409–00001	Original Professional Do It Yourself Exterminator's Kit Formual 305
006484–00004	Bacti-Con
006830–20005	Calcium Hypochlorite, Technical
007115–00012	Chex-Flame Preservative Coating for Canvas
007122–00032	Guardian Rat Bait
007152–00043	Sea/gran Sanitizer–21
007173–00197	Ridall-Zinc Tracking Powder for Control of House Mice
007180–00005	Chlor-Rite

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
007294–00007	Shaklee Highly Concentrated Insecticide Insect Control
007299–20003	Brenco 550 Hi-Chlor
007405–00003	Chemi-Cap Insect Spray
007405–00044	Chemi-Cap Wasp-Hornet Spray
007579–00002	Rid-A-Bird Perch 1100 Solution
007779–00007	Slimex 14 Slimicide
007925–00010	Bleach
007969–00143	San 1297h 70wg Herbicide
008120–00060	Super Tropical 280-S–2771
008123–00056	Amine Selective Weed Control
008155–00016	Husky *H/W/T Germicidal Cleaner
008220–00043	Flea & Tick Spray for Cats & Dogs
008220–00045	Shield Flea and Tick Control for Cats
008220–00064	X-O-Trol Dt Flea & Tick Fogger
008220–00065	X-O-Trol 7 Flea & Tick Fogger
008591–00042	Microcide Ca–39
008591–00044	Microcide L–60
008637–00001	Mitco Cc–3t Algicide
009161–20004	Fast-N Easy Bleach
009198–00001	Fatal
009198–00024	Tee Time Fertilizer 20–4–10 with Dacthal
009807–00004	Double-D
009820–00001	D.G.D.
009852–00021	R/O Formula 101 Diazinon (with Synergized Pyrethrins)
009852–00054	Rite Off Surface Disinfectant and Deodorant
009852–00057	Rite-Off Germicidal Foam Cleaner
009852–00065	Rite-Off Residual Spray with Dursban

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
009852–00073	Platinum Multi-Purpose Insect Killer
009852–00075	Platiunum Wasp & Hornet Killer
009852–00077	Platinum Indoor Fogger
010031–00004	Petersens Pocket Gopher Killer IV
010107–00001	Pesti Sack Horn Fly Dust
010107–00004	All in 1 Turf 16=4=6
010107–00005	Methoxychlor E2
010107–00015	Diazinon 6000 Granular Turf & Garden Insect Control
010107–00019	Diazinon Ag 500
010107–00020	Diazinon 14G Granular Insecticide
010107–00027	Weed Pro 4 Lb. Low Vol
010107–00031	Weedpro 4 Lb. Amine
010107–00037	2% Malathion Grain Insecticide Dust
010107–00040	Weed Pro 6 Lb. Low Vol
010107–00044	Sevin 2l
010107–00049	Lawn King 20–7–5 Lawn Fertilizer with Diazinon
010107–00055	Cornbelt Super Turf 25 Insect and Grub Control Granules
010107–00059	Majestic Green Benefin 10 Sprayable
010107–00061	Majestic Green Turf King with Balan 17–5–5
010107–00070	Potato Seed Treater with Bark
010107–00082	Cornbelt Dacthal 5-G
010107–00093	Seed Shield Potato Seed Treater No. 7.5
010107–00096	Seed Shield Potato Seed Treater No. 15

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
010107–00098	Seed Shield Potato Seed Treater with Captan-Streptomycin
010107–00102	Seed Shield Potato Seed Treater
010107–00106	Two Plus Two Bromacil and Diuron
010107–00107	Four Plus Four Bromacil and Diuron
010107–00108	Top Moth 25
010107–00128	Protox Seed Protectant Drill Box Treatment
010107–00144	Majestic Green Bordeaux Mixture
010107–00145	Majestic Green Banvel + 2, 4-D
010107–00154	Cornbelt's Magnum B.T.
010163–00096	Gowan Dicofol 1.6 EC
010163–00119	Prokil Azinphos-M
010182–00020	Talon Rodenticide Mini-Pellets
010182–00021	Talon Rodenticide Bait Pack (mini-Pellets)
010182–00024	Talon Rodenticide Bait Pack (pellets)
010182–00025	Talon-G Rodenticide Mini-Pellets In Mouse Box
010182–00026	Talon Rodenticide Pellets
010182–00038	Talon-G Rodenticide Pellets
010182–00039	Talon-G Rodenticide Bait Pack (pellets)
010182–00040	Talon-G Rodenticide Bait Pack (mini-Pellets)
010182–00041	Talon-G Rodenticide Mini-Pellets
010182–00048	Weatherblok Bait
010182–00060	Havoc Rodenticide Bait Pack (mini-Pellets)

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
010182–00061	Havoc Rodenticide Bait Pack (pellets)
010182–00075	Havoc Rodenticide Mini-Pellets
010182–00076	Havoc Rodenticide Pellets
010182–00093	Havoc Rodenticide Bait Pack (pellets)
010182–00152	Eptam 6–E
010182–00169	Vernam 10G
010182–00221	Vernam 7–E
010182–00257	Vernam-Technical Selective Herbicide
010182–00390	Flexstar Herbicide
010292–00004	Mint Odor Disinfectant Cleaner
010292–00022	906 Fogging Insecticide
010332–00005	Algaecide Bm
010350–00011	Duratrol Household Flea Spray
010350–00014	Duratrol Flea and Tick Dip for Dogs No. 1487
010350–00017	Duratrol Flea & Tick Dip for Dogs
010350–00019	Sectrol Flea Foam
010350–00029	Duratol Plus Household Flea Spray
010350–00030	Duratrol Plus Flea & Tick Dip for Dogs
010350–00031	Duratrol Plus Flea Spray for Dogs
010466–00031	Ultrafresh DM–50 CC
010663–00008	Thermal Firing Squad Fogging Concentrate
010663–00037	Zap Insecticide
010707–00013	Magnacide 4551
010707–00024	Magnacide 656
010806–00063	Contact Indoor Fogger V
010806–00086	Contact Insect Repellent
010806–00091	Contact Hornet and Wasp Killer IV
010806–00095	Contact Indoor Fogger VII

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
010900–00073	857 Wasp and Hornet Killer II
010902–00004	Home Pest Control
010951–00008	Britz Diazinon 50W
011314–00003	Straight Arrow Stable Care II Fly Repellent Spray
011350–00025	7284 Hi-Build Antifouling Red Brown
011350–00032	5297 RD Sigmaplane Ecol Antifouling 1154 Redbrown
011411–00016	W–30–12
011556–00100	Para-Premise Residual Premise Insecticide
011694–00082	Double Action Liguid Insecticide
011694–00089	Baysect Residual Spray Insecticide
012255–00001	Acme Algaecide
012714–00003	Golden Sun Feeds Hi Phos ''12'' Larvi-Ban
013283–00004	Rainbow Fire Ant Control
019713–00255	Drexel Vernam 7–E
019713–00259	Drexel Vernam 10g
020375–00001	Nutmeg Nc–54
028059–00003	Microbio-San
028059–00004	Hydro-Cide
028293–00088	Unicorn Coumaphos Screwworm Spray
028293–00091	Unicorn Coumaphos Livestock Duster
028293–00122	Unicorn Coumaphos Fly and Louse Dust
028293–00198	Unicorn Rotenone Fire Ant Killer
029728–00001	Foodtown Fresh Scent Bleach
032273–00008	#90 Deck & Fencepost Preservative
032802–00017	Dacthal 5–G Plus
032802–00027	Dacthal 5–G Weed Preventer

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
033009–00003	Glidco Pine Oil–140
033270–00008	Us Sentry Trifluralin
033354–00017	Fresh Mark Fresh Wax 36 CF-R2
033560–00049	Oxy Chloracil
033631–00003	Casco Sanitizer
034702–00008	Aqueous Wasp & Hornet Spray 12685
034704–00302	Malaspray 50 EC
034704–00457	Cythion 5 EC
034704–00544	Cythion 5–E Insecticide
034704–00618	Clean Crop Vapona 40–E Insecticide
034704–00641	Mcpp 4 K
034704–00683	Bt–50 Biological Insecticide
034704–00752	Hopkins BT Spray
034704–00755	BT 320 Dust
034810–00032	WEX-Cide 200
035138–00067	Aero Roach Spray
035138–00077	Aero Pyrethrum Concentrate
035512–00024	Turf Pride 15–0–15 with 1% Ronstar
035512–00026	Turf Pride 12–0–12 with 75% Ronstar
035512–00031	Turf Pride with 0.5% Ronstar
035512–00035	Turf Pride with .67% Ronstar
035512–00040	Southern Garden Lawn Weed Killer ''S''
035576–00035	Fiesta Insecticide Spray No. 2
035896–00022	Cupric Oxide 808 Technical
035896–00023	Cupric Oxide 761 Technical
036330–00002	San-It
037023–00001	Kenic Flea-Rid Spray for Puppies & Kittens
037023–00004	Kenic Flea Rid Spray for Cats
037023–00010	Kenic Flea-Rid Clear Dip
037023–00011	Kenic Flea Rid Tri-Ex Flea and Tick Shampoo
037733–00008	Reddick Bro-Mean Sol
039444–00010	Micropur Mt 20
039444–00011	Micropur Mt 5
039529–00001	WEI–625 Liquid Algaecide
040510–00002	Paranitrophenol, Technical
041014–00009	Marlate 400 Flowable Concentrate
041014–00011	Marlate 300 Methoxychlor Flowable
041835–00003	Durakyl Shampoo
041835–00004	Durakyl Pet Spray
041835–00006	Durakyl Pet Dip
041835–00008	Durakyl II Flea & Tick Control Pet Spray
041835–00009	Durakyl II Flea and Tick Control Pet Shampoo
041878–00002	M–100 Mosquito Repellent Solution
042373–00005	Waterbed Conditioner
042389–00020	Fire Ant Killer 2
042408–00001	Gipco Cide 922
042519–00013	Dorsan Insecticide
043602–00003	Blast 'em Residual Roach & Ant Insecticide
043757–00001	Eastern Minerals' Fly Control Mineral with Rabon Oral Larvicide
043921–00001	14 Day Flea & Tick Spray
043921–00003	Carpet Treatment #1
044666–00001	Marshall Minerals' Fly Control Mineral with Rabon Oral Larvicide
044716–00009	Fearing Permethrin Insecticide Spray
044716–00010	Fearing Insecticide Concentrate 10% EC
044716–00012	Show & Trail
045087–00029	Zema Super Flea & Tick Spray for Cats & Dogs
045087–00031	Zema Indoor Premise Spray
045087–00052	Zema Equitec Repellent Spray
045087–00055	Zema Fast Acting Carpet Powder
046372–20006	CT–244 Biocide
047550–00002	Elite Flea & Tick Spray Mist
047898–00001	Polyace S–1000
048099–00001	Bear Skunker
048242–00006	RAM Poly - Algaecide
048242–00009	RAM Mustard Out
049403–00012	Nipacide Cmx
049403–00022	Ottasept
049668–00001	Superfine Dusting Sulphur
049668–00003	Redball Technical Sulphur
049721–00001	Liquefied Chlorine Gas Under Pressure
050416–20001	Proclean Pro-San Sanitizer/bleach
050534–00011	2 Plus 2 (mcpp + 2,4-D Amine)
050534–00131	2, 4-D Acid Technical Flake
050534–00151	Triban-D
050534–00153	2,4-D + Dicamba Turf Care Herbicide
050534–00194	DS–33
050534–00203	Reach
050654–00002	Insekten Killer
050654–00004	Insectkiller Cockroach Carpet
050654–00005	Bio-Hautschutz Repellent
050697–00001	Blue Lustre Flea Killer for Carpets
051890–00001	Algaecide Al–101
052142–00004	Dog Repellent
052200–00007	Greensward Premium Fertilizer Plus Dursban
052779–00001	Magna Q–43
052779–00002	Magna Q–25
052779–00005	Magna CAS–5
052779–00007	Magna DIN–15

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
052779–00014	Magna CP–1
052779–00015	Magna Phen–100
052779–00017	Magna Phen–100/256
052951–00002	Foura-Lemon
052951–00003	FY-Sol-Mint
053114–20206	Bugaway
053265–00001	LX Flowable Sulfur
054045–00002	VIP Mosquito Mat
054287–00006	Insect Guard
054287–00012	Deet Plus Composite Spray
054471–00005	Cunap Coat
055146–00065	Champ Formula II Dry Flowable Water Soluble Packaging
055236–00006	White Copper Antifouling Paint
055460–00009	Carlson Company 6% Malathion Grain Protector
055467–00003	Tenkoz Trifluralin 4 Hfp
055500–00001	Z-Stop
055501–00001	The Recipe
055638–00013	Condor G Bio-insecticide
056336–00009	Consep SPR1 Tomato Pinworm Sprayable Bead Pheromone
056336–00010	Consep SPR2 Oriental Fruit Moth Pheromone Sprayable
056387–00006	Pyrinyl II Lice Control Spray
056392–00005	Hospital Foam Cleaner Disinfectant
056629–00002	Amber Guard 425
056658–00001	Loveland Flea Busters Flea and Tick Shampoo
056667–20202	US Pro-Kill
056938–00001	Bacto
057125–00001	Purex Bleach
057159–20003	San 2000
058225–00003	WES 615
059144–00003	5% Sevin Brand Carbaryl Insecticide Dust

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
059144–00005	10% Sevin Brand Carbaryl Insecticide Dust
059144–00006	Green Charm Liquid Sevin Insect Spray
059144–00007	Green Charm Home Pest Insect Control
059144–00026	Ant, Flea, Tick & Grub Granules with Sevin 1% Brand Carbaryl Insect
059144–00027	Ant, Flea, Tick & Grub Control
059301–00002	Liquified Chlorine Gas Under Pressure
059639–00088	Orthene Turf, Tree & Ornamental Sprayable Wsp
060038–00002	Roach Food
060061–00052	Pettit Marine Paint Unepoxy Antifouling Super slick 1290 Blue
060061–00053	Pettit Marine Paint Unepoxy Antifouling Super slick 1690 Red
061282–00008	Gold Crest Promar Tracking Powder Rodenticide
061451–00001	TCIPN
061451–00002	Chlorothalonil Technical
062207–00004	Fox-Chlor Concentrate
062562–00002	Quvatek
062562–00003	Quvasys
062719–00091	Exetor
062719–00177	Dowelanco Basal
063720–00002	Diacide Dialyzer Disinfecting Solution
064240–00028	Combat Ant Killer Granular Bait 0.65%
064248–00007	Maxforce Ant Killer Granular Bait 0.65%
064296–00003	Bio-Path Cockroach Control Chamber
064350–00001	W–30–14

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
064721–00001	Supernatural Brand D-E Insecticide
064721–00002	Supernatural Brand Plant Protection Insecticide
064854–00002	Kefa Biowash-Q
065260–20001	Sodium Hypochlorite 12.5%
065263–00001	Dr. Biosedge
065264–00001	Body Armor
065382–00005	X–1 Manufacturing-Use Only
065462–00001	Organic Plus Diatomaceous Earth Crawling Insect Killer
065462–00004	Organic Plus Pyrethrin/diatomaceous Earth Insecticide
065462–00005	Organic Plus Pco Pyrethrin/diatomaceous Earth / Piperonyl Butoxide Insect
065462–00006	Organic Plus Crop Insecticide
065462–00007	Organic Plus Diatomaceous Earth/pyrethrin Insecticide
065608–00001	Guard-U
065626–00001	Mycotrol GH-OF for Rangeland and Improved Pastures
065626–00003	Mycotrol GH-OF for Repackaging Use Only
065626–00004	Mycotrol GH-ES for Rangeland and Improved Pastures
065626–00005	Mycotrol GH-ES for Crops
065626–00006	Mycotrol GH-ES for Repackaging Only
066232–00001	Swim Kleer
066306–00002	Sunsect Insect Repellant with Aloe - Spf 4
066306–00003	Sunset Insect Repellent Sunscreen W/aloe Spf 8

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
066306–00008	Sunset Safari Gel - Spf 23 (formula 6321/5)
066480–00001	Eco-Fresh
066480–00002	Eco-Fresh No Fleas
066480–00004	Eco-Fresh Brand De Insect and Slug Killer
066524–00001	Expedite Broadleaf Herbicide 3-Way Amine
066551–00001	Buzz Away
066551–00002	Buzz Away
066551–00003	Buzz Away Insect Repellent
066674–00002	Terminator Plus
066676–00002	Farnam No-Gnaw
066760–00001	Liquified Chlorine Gas Under Pressure
066963–00002	Espree Pet Spray
066963–00006	Espree Insecticide for Horses
066986–00004	Safecide Brand M-Pede Insecticide
067200–00003	Chase A-Way Insect Repelling Wristband Bug-Me-Not X Formulation
067278–00001	Bio Bug Insect Repellent
067544–00001	Liquified Chlorine Gas Under Pressure
067572–00060	Staffel's Dipel Garden Caterpillar Dust
067624–00001	Liquified Chlorine Gas Under Pressure
067748–00001	Phytohealth J08 Post-Harvest Fungicide
067748–00002	Phytohealth M14 Post-Harvest Fungicide
067801–00001	Thidiazuron 50WP Cotton Defoliant
067801–00002	Paraquat Concentrate
067801–00003	Butifos 6 Emulsifiable Defoliant
067801–00004	Pendimethalin

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
067813–00001	Dow Liquid Disinfectant Formulation 2A
067813–00002	Dow Liquid Disinfectant Formulation 3A
067813–00003	Dow Disinfectant Formulation 4A
067985–00001	Liquefied Chlorine Gas Under Pressure
068158–00001	Wst Iodinated Resin Cartridge
068171–00001	Exterminator Plus
068182–00011	ESC–10 Biofungicide Technical
068182–00013	ESC–11 Biofungicide Technical
068197–00001	Ecoplug Implant, containing Rodeo Herbicide
068316–00001	Barnacle Ban Antifouling Paint
068316–00002	Hotbottom White Paint
068329–00010	Alpha 412
068329–00019	Alpha 415
068357–00001	Skeeto-Ban Insect Repellent
068401–00002	Total Control
068451–00002	Deltamethrin 3% Collar
068476–00002	Flea-Away
069152–00001	Repello's Products Repelling Wristband
069152–00002	Repello Products Disposable Insect Repelling Tablecloth
069152–00006	Repello Products Insect Repelling Towellette
069152–00015	Repello Products Insect Repelling Candle
069152–00017	Repello Products No Bites Ssf Insect Repelling Towellete
069240–00001	No More Fleas
069298–00002	Lipopel Insect Repellent Spray 2610
069328–00001	Sta-Clear Jumbo Tablets
069328–00002	Sta-Clear "shock"

TABLE 2—SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF THE 1999 MAINTENANCE FEE—Continued

Reg. No.	Product Name
069407–00003	ADL Flea and Tick Shampoo
069407–00004	ADL Flea and Tick Dip
069408–00001	Omniban
069494–00001	Getem Roach Killer
070060–00002	M–97–002 Kaolin
070395–00002	Gone Insect Repelling Tablecloth
070422–00001	Horse Guard Equine Fly Spray
070480–00001	Protopac Total Control Brand
070480–00002	Protopac Total Control 3 Brand
070597–00001	Bio Slime Retardant
070844–00001	Unocal Neutral "90" Spray Oil
071096–00001	OR-Cal Stabilized Malathion 400
071096–00003	OR-Cal Ziram 400
071096–00005	OR-Cal Colloidal Lindane
071125–00001	White Magic Flea Carpet Treatment
071156–00001	BT–1100
071176–00001	Cyfly Technical
071176–00002	Cyfly 1% Premix
071240–00003	Zerepel 2
071566–00001	Top Crop Flowable

IV. Public Docket

Complete lists of registrations canceled for non-payment of the maintenance fee will also be available for reference during normal business hours in the OPP Public Docket, Rm. 119, Crystal Mall 2, 1921 Jefferson Davis Highway South, Arlington VA, and at each EPA Regional Office. Product-specific status inquiries may be made by telephone by calling toll-free 1–800–444–7255.

Dated: July 29, 1999.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

[FR Doc. 99–20469 Filed 8–10–99; 8:45 am]

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federal register

Wednesday
August 11, 1999

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Parts 32 and 36

1999–2000 Refuge—Specific Hunting and Sport Fishing; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 32 and 36

RIN 1018–AF52

1999–2000 Refuge—Specific Hunting and Sport Fishing Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We propose to add additional national wildlife refuges (refuges) to the list of areas open for hunting and/or sport fishing, along with pertinent refuge-specific regulations for such activities; and amend certain regulations on other refuges that pertain to migratory game bird hunting, upland game hunting, big game hunting, and sport fishing for the 1999–2000 season. These regulations would provide additional recreational opportunity consistent with the primary purposes of the National Wildlife Refuge System.

DATES: Submit comments on or before September 10, 1999.

ADDRESSES: Submit written comments to Chief, Division of Refuges, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 670 ARLSQ, Washington, DC 20240. See **SUPPLEMENTARY INFORMATION** for information on electronic submission.

FOR FURTHER INFORMATION CONTACT: Leslie A. Marler, (703) 358–2397; Fax (703) 358-2248.

SUPPLEMENTARY INFORMATION: The National Wildlife Refuge System Act of 1966 closes national wildlife refuges to hunting and sport fishing until we open them by rulemaking. The Secretary of the Interior (Secretary) may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the purposes of the refuge. The action also must be in accordance with provisions of all laws applicable to the areas, must be consistent with the principles of sound fish and wildlife management and administration, and otherwise must be in the public interest. This ensures that we maintain the biological integrity, diversity, and environmental health of the National Wildlife Refuge System (System) for the benefit of present and future generations of Americans.

We review refuge hunting and fishing programs annually to determine whether to add additional refuges or whether individual refuge regulations governing existing programs need modification, deletion or additions made to them. Changing environmental conditions, State and Federal regulations, and other factors affecting wildlife populations and habitat may warrant modifications ensuring continued compatibility of hunting and fishing programs and that these programs will not materially interfere with or detract from the fulfillment of the mission of the System or the purposes of the refuge.

50 CFR part 32 contains provisions governing hunting and fishing on national wildlife refuges. We regulate hunting and fishing on refuges to:

- ensure compatibility;
- properly manage the fish and wildlife resource;
- protect other refuge values; and
- ensure refuge user safety.

On many refuges, our general policy of adopting regulations identical to State hunting and fishing regulations is adequate in meeting these objectives. On other refuges, it is necessary to supplement State regulations with more restrictive Federal regulations to ensure that we meet our management responsibilities, as outlined under the section entitled ''Statutory Authority.'' We issue refuge-specific hunting and fishing regulations when we open wildlife refuges to either migratory game bird hunting, upland game hunting, big game hunting, or sport fishing. These regulations list the wildlife species that you may hunt or those species subject to sport fishing, seasons, bag limits, methods of hunting or fishing, descriptions of open areas, and other provisions as appropriate. 50 CFR part 32 contains previously issued refuge-specific regulations for hunting and fishing. We are promulgating many of the amendments to these sections to standardize and clarify the existing language of these regulations.

Plain Language Mandate

The vast majority of the proposed revisions in this proposed rule to the individual refuge units are to comply with a Presidential mandate to use plain language in regulations and do not modify the substance of the previous restrictions. These types of changes include using ''you'' to refer to the reader and ''we'' to refer to the Service and using the word ''allow'' instead of ''permit'' when we do not require the use of a permit for an activity. Only a handful of proposed refuge-specific regulations contain the substantive changes discussed below.

Use of Only Approved Nontoxic Shot

Waterfowl and migratory birds can get lead poisoning by ingesting lead shot or sinkers when they feed. You can get scientific information on this by requesting the publication, ''Toxicity of Lead Shot to Wildlife,'' from us by calling 1–800–582–3421 or by accessing the bibliographic databases information directly on the Internet at: http://www.fws.gov/fwrefser.html.

In the November 21, 1986, **Federal Register** (51 FR 42107) we began the conversion to nontoxic shot nationwide for waterfowl hunting on refuges, which we implemented in the 1991–1992 hunting season. In the December 4, 1995, **Federal Register** (60 FR 62035), we issued final regulations adopting requirements to use nontoxic shot to hunt wildlife species other than waterfowl and coots on certain refuges beginning with the 1996–97 hunting season. Prior to that time we requested voluntary compliance. For Alaska we delayed implementation until the 1997–98 season to allow coordination with the State and outlying villages. We also provided delays for Waterfowl Production Areas (WPAs), principally in North Dakota, South Dakota, Minnesota, Montana, Wisconsin, and Iowa until the 1998–99 season, with voluntary compliance requested in the meantime. We took these actions to allow adequate time for additional coordination and educational outreach with the affected States, hunting organizations, and the general public on the effects of toxic lead shot to waterfowl and other migratory birds. We requested voluntary hunter use of nontoxic shotshells until we adopted final rules. In the September 3, 1998, **Federal Register** (63 FR 46910) we identified the refuges subject to the rule.

50 CFR part 32 prohibits the use or possession of toxic shotgun pellets by upland game hunters on WPAs and certain other areas (refuges or areas within refuges) of the System to the extent needed to protect against significant exposure to migratory birds. We delineated these areas on maps, leaflets and/or signs (available at each refuge headquarters or posted at each refuge) or as stated in refuge-specific regulations. Where we allow turkey and deer hunting, you may use slugs and shot containing lead to hunt these species unless prohibited by refuge-specific regulations.

We specifically identify the shot allowed in areas of the System by reference to the shot identified in 50 CFR 20.21(j). We sometimes grant new shot types conditional approvals until we complete all necessary studies. These conditional approvals change yearly, and we add new shot types to our approved list as they meet our criteria. To avoid any confusion, we propose to amend *§ 32.2 What are the general provisions regarding hunting on*

areas of the National Wildlife Refuge System? to state that you may use only ''approved'' nontoxic shot identified in 50 CFR 20.21(j) while hunting with shotguns or muzzleloaders on WPAs, or on certain other areas of the National Wildlife Refuge System. We also propose to amend affected refuges listed in *Subpart B.—Refuge-Specific Regulations for Hunting and Fishing* to reflect that hunters may possess and use only approved nontoxic shot while in the field.

Establishment of Lead-Free Fishing Areas

On April 13, 1999, we published a notice of intent in the **Federal Register** (64 FR 17992) to establish ''Lead-Free Fishing Areas'' and the prohibition of the use of certain fishing sinkers and jigs made with lead on specific units of the System. We received 12 written and 2 verbal comments on the notice: 6 support our proposal; 4 request coordination in implementing our proposal; 3 would like to review the evidence; and 1 disagreed with our scientific findings. On this basis, we feel we should proceed with this proposed action and will consider and address the substance of the comments prior to adopting any final rule.

We now propose prohibiting the use of these sinkers and jigs made of lead or lead alloys in areas where mortality of common loons has occurred or where concerns exist because habitat use by loons and significant fishing activities overlap. Each refuge selected that meets these criteria will have a two-year phase-in period. This action will not close to sport fishing any of the refuge units, but only prohibit the use of lead fishing sinkers there.

Researchers have well documented that lead is toxic to both humans and wildlife. In areas where recreational angling and loon populations co-occur, lead poisoning from swallowing lead sinkers and jigs accounts for 10–50% of recorded loon mortality (Pokras). This information was referenced in the April 13, 1999, notice.

We propose the establishment of a ''Lead-Free Fishing Area'' in these refuges and WPAs:

- From the outlet of Skilak Lake downstream to the refuge boundary and the Dave Spenser Unit of the Kenai Refuge Wilderness Area, Kenai National Wildlife Refuge, Alaska
- J.N. ''Ding'' Darling National Wildlife Refuge, Florida
- Moosehorn National Wildlife Refuge, Maine
- Carlton Pond Waterfowl Production Area (part of Sunkhaze National Wildlife Refuge), Maine
- Seney National Wildlife Refuge, Michigan
- One Waterfowl Production Area in the Fergus Falls Wetland Management District: Nicholson WPA, Minnesota
- Rice Lake National Wildlife Refuge, Minnesota
- Tamarac National Wildlife Refuge, Minnesota
- Pablo National Wildlife Refuge, Montana
- Red Rock Lakes National Wildlife Refuge, Montana
- Necedah National Wildlife Refuge, Wisconsin
- 5 Waterfowl Production Areas in the St. Croix Wetland Management District: Oakridge and Amschler WPAs (both in St. Croix County), Rose Lee WPA, Flatey WPA, and Bass Lake WPA (in Polk County), Wisconsin
- National Elk Refuge, Wyoming

For the areas in Kenai National Wildlife Refuge listed in Alaska above, we will follow the procedures for establishing permanent restrictions in National Wildlife Refuges in Alaska outlined in *§ 36.42 Public participation and closure procedures* in implementing the two-year phase in. Listed above, we have identified other refuges in the lower 48 States that will have ''Lead-Free Fishing Areas.''

We propose to phase-in ''Lead-Free Fishing Areas.'' During the first year of the phase-in, we will educate anglers about the benefits of nontoxic tackle for wildlife. After the two-year phase-in, we will require anglers to fish with lead-free sinkers and jigs in all designated ''Lead-Free Fishing Areas.''

Request for Comments

If you wish to comment, you may do so by any one of several methods. You may mail comments to: Chief, Division of Refuges, U.S. Fish and Wildlife Service, 1849 C Street, NW., MS 670 ARLSQ, Washington, DC 20240. You may comment via the Internet to: Refuge__Specific__Comments@fws.gov. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include: ''Attn: 1018-AF52'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (703) 358–2029. You may also fax comments to: Chief, Division of Refuges, (703) 358–2248. Finally, you may hand-deliver comments to the address mentioned above.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Department of the Interior policy is, whenever practicable, to afford the public a meaningful opportunity to participate in the rulemaking process. We considered providing a 60-day rather than a 30-day comment period. However, we determined that an additional 30-day delay in processing these refuge-specific hunting and fishing regulations would hinder the effective planning and administration of our hunting and fishing programs. That delay would jeopardize establishment of hunting and fishing programs this year, or shorten their duration. Many of these rules also relieve restrictions and allow the public to participate in recreational activities on a number of refuges. In addition, in order to continue to provide for previously authorized hunting opportunities while at the same time provide for adequate resource protection, we must be timely in providing modifications to certain hunting programs on some refuges. Finally, there already has been a public comment period on our notice of intent on the proposed establishment of ''Lead-Free Fishing Areas.''

When finalized, we will incorporate this regulation into Title 50 Code of Federal Regulations (50 CFR) parts 32 and 36. Part 32 contains general provisions and refuge-specific regulations for hunting and fishing on national wildlife refuges. Part 36 contains provisions specific to Alaska national wildlife refuges.

Clarity of this Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the

format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule? (6) What else could we do to make the rule easier to understand?

Statutory Authority

The National Wildlife Refuge System Administration Act (NWRSAA) of 1966 as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee), and the Refuge Recreation Act (RRA) of 1962 (16 U.S.C. 460k–460k–4), govern the administration and public use of national wildlife refuges.

The National Wildlife Refuge System Improvement Act (NWRSIA) of 1997 is the latest amendment to the NWRSAA. It amends and builds upon the NWRSAA in a manner that provides an improved ''Organic Act'' for the Refuge System similar to those which exist for other public lands. It serves to ensure that we effectively manage the System as a national system of lands, waters and interests for the protection and conservation of our nation's wildlife resources. The NWRSAA states first and foremost that we focus the mission of the System on conservation of fish, wildlife, and plant resources and their habitat. This Act requires the Secretary, before initiating or permitting a new use of a refuge, or before expanding, renewing, or extending an existing use of a refuge, to determine that the use is a compatible use and not inconsistent with public safety.

The RRA authorizes the Secretary to administer areas within the System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purpose(s) for which we established the areas. This Act requires that any recreational use of refuge lands be compatible with the primary purposes for which we established the refuge and not inconsistent with other previously-authorized operations.

The NWRSAA and RRA also authorize the Secretary to issue regulations to carry out the purposes of the Acts and regulate uses.

We develop hunting and sport fishing plans for each existing refuge prior to opening it to hunting or fishing. In many cases, we develop refuge-specific regulations to ensure the compatibility of the programs with the purposes for which we established the refuge. We've ensured initial compliance with the NWRSAA and the RRA for hunting and sport fishing on newly acquired refuges through an interim determination of compatibility made at the time of acquisition. This ensures that we make the determinations required by these acts prior to adding refuges to the lists of areas open to hunting and fishing in 50 CFR part 32. We ensure continued compliance by the development of long-term hunting and sport fishing plans and by annual review of hunting and sport fishing programs and regulations.

In preparation for new openings, we include the following documents in the refuges' ''openings package'' for Regional review and approval from the Washington Office: an interim hunting and fishing management plan; a Section 7 determination pursuant to the Endangered Species Act that these openings will have no effect, or are not likely to have an adverse effect, on listed species or critical habitats; a letter of concurrence from the affected State; interim compatibility determination; and refuge-specific regulations to administer the hunting and/or fishing programs. Upon review of these documents, we have determined that the opening of these national wildlife refuges to hunting and fishing is compatible with the principles of sound fish and wildlife management and administration and otherwise will be in the public interest.

We propose the following wildlife-dependent recreational activities for the first time:

Hunting of migratory game birds on:

- Bayou Teche National Wildlife Refuge, Louisiana.
- Currituck National Wildlife Refuge, North Carolina.
- Julia Butler Hansen Refuge for the Columbian White-Tailed Deer, Oregon.
- Plum Tree Island National Wildlife Refuge, Virginia.

Upland game hunting on:

- Bayou Teche National Wildlife Refuge, Louisiana.

Big game hunting on:

- Bond Swamp National Wildlife Refuge, Georgia.
- Bayou Teche National Wildlife Refuge, Louisiana.

Sport fishing on:

- Bond Swamp National Wildlife Refuge, Georgia.
- J. Clark Salyer National Wildlife Refuge, North Dakota.
- Tewaukon National Wildlife Refuge, North Dakota.
- Stewart Lake National Wildlife Refuge, North Dakota.
- Upper Souris National Wildlife Refuge, North Dakota.
- Julia Butler Hansen Refuge for the Columbian White-Tailed Deer, Oregon.
- Willapa National Wildlife Refuge, Oregon.
- ACE Basin National Wildlife Refuge, South Carolina.

In accordance with NWRSAA and the RRA, we have determined that these openings are compatible and consistent with the primary purposes for which we established the refuge.

Need for This Regulation

We propose to add additional refuges to the list of areas open for hunting and/or sport fishing, along with pertinent refuge-specific regulations for such activities. We propose to amend certain regulations on other refuges that pertain to migratory game bird hunting, upland game hunting, big game hunting and sport fishing for the 1999–2000 season. On many refuges, our policy of adopting regulations identical to State regulations is adequate in meeting National Wildlife Refuge System objectives. On other refuges, it is necessary to supplement State regulations with more restrictive Federal regulations to ensure that we meet our management responsibilities, as outlined under the section entitled ''Statutory Authority'' in the rule. We issue refuge-specific regulations when opening a national wildlife refuge or modifying the various uses of a refuge, and for all hunting or sport fishing. These regulations list the prohibited uses, limited uses, and those activities that are available without restriction. They also list those wildlife species that you may hunt or fish for along with the respective seasons, bag limits, methods of hunting or fishing, descriptions of open areas, and other provisions as appropriate. We propose to promulgate many of the amendments here to provide greater restriction and clarify the existing regulation language, which should result in less violations of refuge regulations.

Why Alternative Approaches Are not Feasible

Refuge officers process violation notices through the Federal District Court's Violation Notice procedures. U.S. Magistrates have required us to print refuge regulations in the Code of Federal Regulations before they will accept refuge violations into their courts. State courts do not prosecute Federal recreation regulations, and voluntary compliance with regulations has not been successful.

Regulatory Planning and Review

This document is not a significant rule subject to Office of Management and Budget review under Executive

Order 12866. See explanation under Regulatory Flexibility Act.

a. This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment or other units of government. A cost-benefit and economic analysis is not required. This proposed rule is administrative, legal, technical, and procedural in nature and makes minor modification to existing refuge public use programs. The rule will allow hunting on five refuges where we had prohibited hunting and allow fishing on eight refuges where we had prohibited that activity. We estimate that these changes will result in 11,900 additional visitor-hunting-days and 165,300 visitor-fishing-days. The appropriate measure for the net benefits of these changes is the additional net economic value experienced by the participants. The 1996 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation measured net economic values by activity and region. Applying these estimates to the number of additional activity-days permitted by this rule yields an estimate of the national benefits from increased hunting of $160,000 and from increased fishing of $2.6 million. These estimates are well below the threshold for a significant rule.

The rule will also establish ''Lead-Free Fishing Areas'' at 13 units. When fully implemented, we will not allow anglers in these areas to use lead sinkers and other lead equipment. According to the FY1997 Refuge Management Information System, fewer than 40,000 fishing days occurred in the refuges proposed for this status. Although lead-free sinkers are less dense than lead ones, the difference in fishing with them is insignificant, and we anticipate no change in net economic values from the prohibition.

The addition of the term ''approved'' to the nontoxic shot regulations is for clarification purposes, and we do not expect it to affect hunters' behavior. It has no economic effects.

b. This rule will not create inconsistencies with other agencies' actions. We coordinate recreational use on national wildlife refuges with State governments as well as other Federal agencies having adjoining or over-lapping jurisdiction before proposing regulations. The proposed regulation is consistent with, and not less restrictive than, other agencies' rules.

c. This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. The provisions of this rule only apply to persons involved in wildlife-dependent public use including regulated hunting and sport fishing on national wildlife refuges, which is a privilege and not a right. User fees will not change as a result of this rule.

d. This rule will not raise novel legal or policy issues. This proposed rule continues the practice of requiring public use of refuges to be compatible with the primary purpose of the refuge.

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities such as businesses, organizations and governmental jurisdictions in the area as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A final Regulatory Flexibility Analysis is not attached, and a Small Entity Compliance Guide is not required.

This rulemaking will not have a significant economic impact on a substantial number of small entities. Congress created the National Wildlife Refuge System to conserve fish, wildlife, and plants and their habitats. They facilitated this conservation mission by providing Americans opportunities to visit and participate in compatible wildlife-dependent recreation, including fishing, hunting, wildlife observation and photography, and environmental education and interpretation as priority public uses on national wildlife refuges and to better appreciate the value of, and need for, fish and wildlife conservation.

For most units within the National Wildlife Refuge System, this rule is administrative, legal, technical, and procedural in nature and provides for minor changes to the methods of hunting and fishing permitted but does not stop the overall use permitted. For most units, this rule will not change the number of visitors using refuges or their spending and, therefore, will have no impact on the local economies in their vicinity.

We propose to open five units to hunting for the first time and eight to fishing. Data from the 1996 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation provides estimates of spending per day for each activity in each of our regions. Multiplying spending per activity day by the number of activity days expected at each unit yields an estimate of the total spending related to the regulation. As much of this spending would have occurred at other sites in the local region absent the regulation, this estimate does not represent *increased* economic activity but economic activity *related to* the new recreational opportunities. We estimate the additional hunting opportunities will result in 11,900 visitor-hunting-days on the newly opened units. This hunting will entail $302,000 in trip-related expenditures by hunters. We estimate the additional fishing opportunities will result in 165,300 visitor-fishing-days and $9.3 million in spending. Upper Souris National Wildlife Refuge and J. Clark Salyer National Wildlife Refuge account for 90,000 of the increased fishing days so we expect $5.4 million of the related spending in the Minot, North Dakota area. As small businesses are a significant portion of the sporting goods industry, much of this economic activity will flow to small entities. However, the rule will not have a significant economic effect on a substantial number of small entities as defined in the Act.

The ''Lead-Free Fishing Areas'' aspect of the rule will affect fewer than 40,000 angler days at 13 units. Lead-free weights are somewhat more expensive than lead weights. The average U.S. angler spends about $11 per year on sinkers, swivels, and related line gear (not including lines, bait, and lures). This is less than three percent of the angler's annual equipment spending. If each fishing day represented a different angler, i.e., no repeat visits to the refuges, and all of the anglers spent twice as much on sinkers as in an average year, the increased spending would amount to approximately $435,000 spread over eight states. Planned trade-in programs at the affected refuges will ameliorate even this small effect. This part of the rule will not have a significant economic effect.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act as discussed in the Regulatory Planning and Review section above. This rule:

a. Does not have an annual effect on the economy of $100 million or more;

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

Since this rule applies to public use of federally-owned and managed

refuges, it does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. This regulation will affect only visitors at national wildlife refuges and limit what they can do while they are on a refuge.

Federalism (Executive Order 12612)

As discussed in the Regulatory Planning and Review and Unfunded Mandates Act sections above, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment under Executive Order 12612.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. The regulation will clarify established regulations, and result in better understanding of the regulations by refuge visitors. They will be enforced through the use of U.S. District Court Violation Notice procedures. A refuge regulation violator can plead guilty and forfeit a set amount of fine established at the time of the violation by the refuge officer. The violator can complete this through the mail without a court appearance. A violator can also plead not guilty on the notice, and the Magistrates Court will set an appearance date and time and notify both the violator and officer to appear in Magistrates Court for a hearing and/or trial, in accordance with U.S. District Court Rules of Procedure.

Paperwork Reduction Act

This regulation does not contain any information collection requirements other than that already approved by the Office of Management and Budget under the Paperwork Reduction Act. See 50 CFR 25.23 for information concerning that approval.

Section 7 Consultation

In preparation for new openings, we include Section 7 consultation documents in the refuge's ''openings package'' for Regional review and approval from the Washington Office. We reviewed the changes in hunting and fishing herein with regard to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) and find the actions are not likely to adversely affect the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species within the System since the rule is primarily administrative, legal, technical or procedural in nature and/or makes minor modifications to existing public use programs. We comply with section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) when developing comprehensive conservation plans, refuge public use management plans, and prior to implementing any new or revised public recreation program on a refuge as identified in 50 CFR 26.32. We also make determinations required by the Endangered Species Act on a case-by-case basis before the addition of a refuge to the lists of areas open to hunting or fishing as contained in 50 CFR 32.7.

National Environmental Policy Act

We analyzed this rule in accordance with the criteria of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)) and 318 DM 2.2(g) and 6.3(D). This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement/assessment is not required.

A categorical exclusion from NEPA documentation covers this amendment of refuge-specific hunting and fishing regulations since it is technical and procedural in nature, and the environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis (516 DM 2, Appendix 1.10).

Prior to the addition of a refuge to the list of areas open to hunting and fishing in 50 CFR part 32, we develop hunting and fishing plans for the affected refuges. We incorporate these proposed refuge hunting and fishing activities in the refuge Comprehensive Conservation Plans and/or step-down management plans, pursuant to our refuge planning guidance in 602 FW 1–3. We prepare these plans in compliance with section 102(2)(C) of NEPA, and the Council on Environmental Quality's regulations for implementing NEPA in 40 CFR parts 1500–1508. We invite the affected public to participate in the review, development, and implementation of these plans.

We have also prepared several related environmental analyses, such as lead shot vs. nontoxic shot as it relates to waterfowl and other wildlife with the latest being an Environmental Assessment (EA) in May, 1998.

Available Information for Specific Refuges

Individual refuge headquarters retain information regarding public use programs and the conditions that apply to their specific programs, and maps of their respective areas. You may also obtain information from the regional offices at the addresses listed below:

Region 1—California, Hawaii, Idaho, Nevada, Oregon, and Washington. Assistant Regional Director— Refuges and Wildlife, U.S. Fish and Wildlife Service, Eastside Federal Complex, Suite 1692, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181; Telephone (503) 231–6214.

Region 2—Arizona, New Mexico, Oklahoma and Texas. Assistant Regional Director—Refuges and Wildlife U.S. Fish and Wildlife Service, Box 1306, Albuquerque, New Mexico 87103; Telephone (505) 766–1829.

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111; Telephone (612) 713–5300.

Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Tennessee, South Carolina, Puerto Rico and the Virgin Islands. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Room 324, Atlanta, Georgia 30345; Telephone (404) 679–7152.

Region 5—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035–9589; Telephone (413) 253–8550.

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 25486, Denver Federal Center, Denver, Colorado 80225; Telephone (303) 236–8145.

Region 7—Alaska. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E.

Tudor Rd., Anchorage, Alaska 99503; Telephone (907) 786–3545.

References

Pokras, MA., and R. Chafel. 1992. Lead toxicosis from ingested fishing sinkers in adult common loons (Gavia immer) in New England. Journal of Zoo and Wildlife Medicine. 23:92–97.

Primary Author

Leslie A. Marler, Management Analyst, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC 20240, is the primary author of this proposed rulemaking document.

List of Subjects

50 CFR Part 32

Fishing, Hunting, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

50 CFR Part 36

Alaska, Recreation and recreational areas, Reporting and recordkeeping requirements, Wildlife refuges.

For the reasons set forth in the preamble, we propose to amend Title 50, Chapter I, subchapter C of the Code of Federal Regulations as follows:

PART 32—[AMENDED]

1. The authority citation for part 32 is revised to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd–668ee, and 715i.

2. We propose to amend § 32.2 by revising the section heading and by revising paragraph (k) to read as follows:

§ 32.2 What are the general provisions regarding hunting on areas of the National Wildlife Refuge System?

* * * * *

(k) You may only use or possess approved nontoxic shot, which we identify in 50 CFR 20.21(j), while hunting with shotguns or muzzleloaders on Waterfowl Production Areas, or on certain other areas of the National Wildlife Refuge System as delineated on maps, leaflets and/or signs, available at each refuge headquarters or posted at each refuge, or as stated in refuge specific regulations. Where we allow turkey and deer hunting, you may use slugs and shot containing lead to hunt these species unless prohibited by refuge-specific regulations.

3. We propose to amend § 32.7 by revising the section heading and by removing the listing of ''Cossatot National Wildlife Refuge'' and by alphabetically adding the listing ''Pond Creek National Wildlife Refuge'' in the State of Arkansas; by alphabetically adding the listing ''Bond Swamp National Wildlife Refuge'' in the State of Georgia; by alphabetically adding the listing of ''Bayou Teche National Wildlife Refuge'' in the State of Louisiana; by alphabetically adding the listing of ''Currituck National Wildlife Refuge'' in the State of North Carolina; by alphabetically adding the listing of ''Stewart Lake National Wildlife Refuge'' in the State of North Dakota; by removing the listing of ''Baskett Slough National Wildlife Refuge'' and by alphabetically adding the listing ''Julia Butler Hansen Refuge for the Columbian White-Tailed Deer'' in the State of Oregon; by alphabetically adding the listing ''Plum Tree Island National Wildlife Refuge'' in the State of Virginia; and by alphabetically adding the listing ''St. Croix Wetland Management District'' in the State of Wisconsin. The revision reads as follows:

§ 32.7 What refuge units are open to hunting and/or fishing?

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4. We propose to amend § 32.20 Alabama by revising Wheeler National Wildlife Refuge to read as follows:

§ 32.20 Alabama.

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Wheeler National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. We allow hunting of quail, squirrel, rabbit, racoon, and opossum on designated areas of the refuge subject to the following condition: We require permits.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following condition: We require permits.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. We do not allow bank fishing around the shoreline of the refuge headquarters.
2. All other refuge waters are open to fishing year-round unless otherwise posted.
3. We prohibit entry and use of airboats and hovercraft on all waters within the refuge boundaries.
4. We prohibit entry and use of inboard waterthrust boats, such as but not limited to personal watercraft, watercycles, and waterbikes on all waters of the refuge except that portion of the Tennessee River and Flint Creek from its mouth to mile-marker three.
5. Boats may not be left on the refuge overnight.

5. We propose to amend § 32.22 Arizona by revising Bill Williams River National Wildlife Refuge and Cibola National Wildlife Refuge; by revising paragraphs A.3. and B.4. of Havasu National Wildlife Refuge; and by revising paragraphs A.3. and B.2. of Imperial National Wildlife Refuge to read as follows:

§ 32.22 Arizona.

* * * * *

Bill Williams River National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of mourning and white-winged doves on designated areas of the refuge subject to the following condition: We allow only shotguns.

B. Upland Game Hunting. We allow hunting of quail and cottontail rabbit on designated areas of the refuge subject to the following conditions:

1. You will possess and use only approved nontoxic shot while in the field.
2. We allow only shotguns.
3. We allow hunting of cottontail rabbits from September 1 to the close of the State quail season.

C. Big Game Hunting. We allow hunting of desert big-horn sheep on designated areas of the refuge.

D. Sport Fishing. We allow sport fishing in designated areas.

* * * * *

Cibola National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, moorhens, common snipe, mourning and white-winged dove on designated areas of the refuge subject to the following conditions:

1. We allow only shotguns.
2. You will possess and use only approved nontoxic shot while in the field.
3. You must pay a hunt fee in portions of the refuge. Consult refuge hunting leaflet for locations.
4. We do not allow pit or permanent blinds.
5. Hunting in Farm Unit 2 closes at 12:00 p.m. each day, and special regulations are in effect. Consult refuge hunting leaflet for regulations and location.
6. We close Farm Unit 2 to all hunting except waterfowl hunting during the Arizona waterfowl season.
7. You must remove all temporary blinds, boats, and decoys from the refuge following each day's hunt.
8. We do not allow hunting within 50 yards (45 m) of any public road.
9. The Hart Mine Marsh area is open to hunting from 10:00 a.m. to 3:00 p.m. daily during goose season.
10. The area known as Pretty Water is open to waterfowl hunting from ½ hour before sunrise to 3:00 p.m. MST during the Arizona and California waterfowl hunting seasons.

B. Upland Game Hunting. We allow hunting of quail and cottontail rabbit on designated areas of the refuge subject to the following conditions:

1. We allow only shotguns and bows and arrows.
2. You will possess and use only approved nontoxic shot while in the field.
3. You may hunt cottontail rabbit from September 1 through the last day of the respective State's quail season.
4. During the Arizona waterfowl season, you may not hunt quail and rabbit in Farm Unit 2.
5. You may not hunt within 50 yards (45 m) of any public road.

C. Big Game Hunting. We allow hunting of mule deer on designated areas of the refuge subject to the following conditions:

1. During the Arizona waterfowl season, you may not hunt mule deer in Farm Unit 2.

2. You may not hunt within 50 yards (45 m) of any public road.

D. Sport Fishing. We allow sport fishing and frogging subject to the following condition:

1. Cibola Lake is open to fishing and frogging from March 15 through Labor Day.

Havasu National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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3. You will possess and use only approved nontoxic shot while in the field..

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B. Upland Game Hunting. * *

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4. You will possess and use only approved nontoxic shot while in the field.

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Imperial National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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3. You will possess and use only approved nontoxic shot while in the field.

B. Upland Game Hunting. * * *

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2. We require approved nontoxic shot for hunting quail and cottontail rabbit.

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§ 32.23 [Amended]

6. We propose to amend § 32.23 Arkansas by revising the name ''Cossatot National Wildlife Refuge'' to read ''Pond Creek National Wildlife Refuge'' and by placing it in alphabetical order.

7. We propose to amend § 32.24 California by revising paragraph A.2. of Clear Lake National Wildlife Refuge; by revising the introductory text of paragraphs A. and B., by revising paragraph A.1., by adding paragraph A.4., by redesignating paragraphs B.2. and B.3. as B.3. and B.4. and designating the undesignated paragraph following paragraph B.1. as B.2., by revising paragraphs B.2., and B.3., and adding paragraph B.5. of Colusa National Wildlife Refuge; by revising Delevan National Wildlife Refuge; by revising paragraph D. of Humboldt Bay National Wildlife Refuge; by revising paragraph B.2. of Kern National Wildlife Refuge; by revising Lower Klamath National Wildlife Refuge; by revising paragraph A. of Merced National Wildlife Refuge; by revising paragraph A.4. and paragraph B. of Modoc National Wildlife Refuge; by revising paragraphs A. and B. of Sacramento National Wildlife Refuge; by revising paragraph A., by revising the introductory text of paragraph B. and paragraph B.1., by revising paragraph D. of San Luis National Wildlife Refuge; by revising paragraphs A. and B. of Sutter National Wildlife Refuge; and by revising paragraphs A. and B. of Tule Lake National Wildlife Refuge to read as follows:

§ 32.24 California.

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Clear Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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2. Snipe hunters will possess and use only approved nontoxic shot while in the field.

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Colusa National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, moorhens, and snipe on designated areas of the refuges subject to the following conditions:

1. You will possess and use only approved nontoxic shot while in the field.

* * * * *

4. No person will build or maintain fires, except in portable gas stoves.

B. Upland Game Hunting. We allow hunting of pheasant on designated areas of the refuge subject to the following conditions:

* * * * *

2. We do not allow bicycles and other conveyances.

3. You will possess and use only approved nontoxic shot while in the field.

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5. No person will build or maintain fires, except in portable gas stoves.

* * * * *

Delevan National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, moorhens, and snipe on designated areas of the refuge subject to the following conditions:

1. You must unload firearms while transporting them between parking areas and spaced blind areas.

2. We do not allow snipe hunting in the spaced blind areas.

3. We restrict hunters assigned to the spaced blind area to within 100 feet (30 m) of their assigned hunt site except for retrieving downed birds, placing decoys, or traveling to and from the area.

4. Access to the hunt area is by foot traffic only. We do not allow bicycles and other conveyances.

5. You may not possess more than 25 shells while in the field.

6. You will possess and use only approved nontoxic shot while in the field.

7. No person will build or maintain fires, except in portable gas stoves.

B. Upland Game Hunting. We allow hunting of pheasant only in the free roam areas on the refuge subject to the following conditions:

1. We do not allow pheasant hunting in the spaced blind area except during a special one-day only pheasant hunt on the first Monday after the opening of the State pheasant hunting season.

2. You will possess and use only approved nontoxic shot while in the field.

3. Access to the hunt area is by foot traffic only. We do not allow bicycles and other conveyances.

4. You may not possess more than 25 shells while in the field.

5. No person will build or maintain fires, except in portable gas stoves.

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow fishing during daylight hours only from February 15 through October 1.

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Humboldt Bay National Wildlife Refuge

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D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. We allow fishing from the designated shoreline train along Hookton Slough during daylight hours only.

2. We allow fishermen to only use pole and line or rod and reel from the Hookton Slough Shoreline trail fishing area.

3. We do not allow either motorized boats or motors on the refuge dock on Humboldt Bay. We close the dock on Humboldt Bay to launching of all boats from November 1 through January 15.

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Kern National Wildlife Refuge

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B. Upland Game Hunting. * * *

2. You will possess and use only approved nontoxic shot while in the field.

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Lower Klamath National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, moorhens and snipe on designated areas of the refuge subject to the following conditions:

1. In the controlled waterfowl hunting area, we require entry permits for the first 2 days of the waterfowl season for all hunters 16 years of age or older. An adult with a permit must accompany hunters under the age of 16 hunting in the controlled area. We require advance reservations for the first 2 days of the hunt.

2. Shooting hours end at l:00 p.m. daily on the California portion of the refuge except that the refuge manager may designate up to six one-day special youth or disabled hunter hunts per season and up to three days per week of general waterfowl hunting starting December 1 after 1:00 p.m.

3. You may carry only unloaded firearms on hunter access routes open to motor vehicles or when taking them through posted retrieving zones when traveling to and from the hunting areas.

4. You may not set decoys in retrieving zones.

5. We do not allow air-thrust and inboard waterthrust boats.

6. Snipe hunters will possess and use, while in the field, only approved nontoxic shot.

7. You may only use non-motorized boats and boats with electric motors on units 4b and 4c from the start of the hunting season through November 30. You may use motorized boats on units 4b and 4c from December 1 through the end of hunting season.

B. Upland Game Hunting. We allow hunting of pheasant on designated areas of the refuge subject to the following conditions:

1. You will possess and use only approved nontoxic shot while in the field.

2. You may carry only unloaded firearms on hunter access routes open to motor vehicles or when taking them through posted retrieving zones when traveling to and from the hunting areas.

C. Big Game Hunting. [Reserved]

D. Sport Fishing. [Reserved]

Merced National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, and moorhens on designated areas of the refuge subject to the following conditions and as we may otherwise post in the refuge regulations:

1. You must unload firearms while transporting them between parking areas and blind sites.

2. You may not possess or use more than 25 approved nontoxic shotgun shells when leaving their assigned parking lot.

3. We restrict hunters assigned to the spaced blind unit to their assigned blind except for retrieving downed birds, placing decoys, or traveling to and from the parking area.

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Modoc National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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4. Snipe hunters will possess and use only approved nontoxic shot while in the field.

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B. Upland Game Hunting. We allow hunting of pheasant on designated areas of the refuge subject to the following conditions:

1. We limit hunting to junior hunters possessing a valid Junior Hunting License and refuge permit.

2. You will possess and use only approved nontoxic shot while in the field.

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Sacramento National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, moorhens, and snipe on designated areas of the refuge subject to the following conditions:

1. You must unload firearms while transporting them between parking areas and spaced blind areas.

2. We do not allow snipe hunting in the spaced blind area.

3. We restrict hunters assigned to the spaced blind unit to within 100 feet (30 m) of their assigned hunt site except for retrieving downed birds, placing decoys, or traveling to and from the parking area.

4. You will possess and use only approved nontoxic shot while in the field.

5. You may not possess more than 25 shells while in the field.

6. Access to the hunt area is by foot traffic only. We do not allow bicycles and other conveyances.

7. No person will build or maintain fires, except in portable gas stoves.

B. Upland Game Hunting. We allow hunting of pheasant on designated areas of the refuge subject to the following conditions:

1. We do not allow pheasant hunting in the spaced blind area except during a special one-day only pheasant hunt on the first Monday after the opening of the State pheasant hunting season.

2. You will possess and use only approved nontoxic shot while in the field.

3. Access to the hunt area is by foot traffic only. We do not allow bicycles and other conveyances.

4. You may not possess more than 25 shells while in the field.

5. No person will build or maintain fires, except in portable gas stoves.

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San Luis National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, moorhens, and snipe on designated areas of the refuge subject to the following conditions and as we may otherwise post in the refuge regulations:

1. In the free-roam hunting areas, you may use only portable blinds, temporary blinds constructed of natural materials, and on the San Luis Unit, existing concrete barrel blinds. We prohibit the cutting of woody vegetation.

2. You must remove all portable blinds, decoys, and other personal equipment from the refuge following each day's hunt.

3. You may snipe hunt only within the free-roam portion of the San Luis unit's waterfowl hunting areas. Snipe hunters may only possess and use approved nontoxic shot.

4. You may possess not more than 25 approved nontoxic shotgun shells after leaving their assigned parking lot or boat launch.

5. Vehicles may stop only at designated, assigned parking areas. We prohibit dropping of passengers or equipment or stopping between designated parking areas. You must return your permits to the check stations immediately upon completion of your hunt, and prior to using any tour routes or leaving the refuge vicinity.

6. You may not transport loaded firearms while walking or bicycling between parking areas in spaced blind units, or while traveling in a boat under power.

7. We restrict hunters in the spaced blind area, to their assigned blind except when they are placing decoys, traveling to and from the parking area, retrieving downed birds, or when shooting to retrieve cripples.

8. Access to the Frietas Unit free-roam hunting area is by boat only with a maximum of 5 mph. Prohibited boats include air-thrust and/or inboard water-thrust types.

9. We prohibit the use of motorized boats in the free roam units with the exception of the Frietas Unit.

B. Upland Game Hunting. We allow hunting of pheasants on designated areas of the refuge subject to the following conditions or as we otherwise may post in refuge regulations available at visitor information centers and refuge headquarters:

1. You will possess and use only approved nontoxic shot while in the field.

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D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions and as we may otherwise post in the refuge regulations:

1. We allow fishing from sunrise to sunset only, except on that portion of the San Joaquin River's south (left descending) bank within the West Bear Creek Unit designated as open for fishing 24 hours per day, or as otherwise posted in refuge regulations.

2. We allow the use of 1 pole and line or 1 rod and reel per person. Fishermen must attend at all times any pole and line or rod and reel they are using for fishing.

3. We prohibit the use of any boat, float tube, or other floating aid/device.

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Sutter National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, moorhens and snipe on designated areas of the refuge subject to the following conditions:

1. You will possess and use only approved nontoxic shot while in the field.

2. You may not possess more than 25 shells while in the field.

3. Access to the hunt area is by foot traffic only. We do not allow bicycles and other conveyances.

4. No person will build or maintain fires, except in portable gas stoves.

B. Upland Game Hunting. We allow hunting of pheasant on designated areas of the refuge subject to the following conditions:

1. You will possess and use only approved nontoxic shot while in the field.

2. Access is by foot traffic only. We do not allow bicycles and other conveyances.

3. You may not possess more than 25 shells while in the field.

4. No person will build or maintain fires, except in portable gas stoves.

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Tule Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, moorhens, and snipe on designated areas of the refuge subject to the following conditions:

1. We require entry permits in the controlled waterfowl hunting area for the first 2 days of the waterfowl season for all hunters 16 years of age or older. An adult with a permit must accompany hunters under the age of 16 hunting in the controlled area. We require advance reservation for the first 2 days of the hunt.

2. Shooting hours end at 1:00 p.m. daily on the California portion of the refuge except

that the refuge manager may designate up to six one-day special youth or disabled hunter hunts per season and up to three days per week of general waterfowl hunting starting December 1 after 1:00 p.m.

3. We do not allow possession of any loaded firearms more than 200 feet (60 m) from the established blind states. You select blind sites by lottery at the beginning of each hunt day. You may shoot only from within their assigned blind sites.

4. You may carry only unloaded firearms on hunter access routes open to motor vehicles or when taking them through posted retrieving zones when traveling to and from the hunting areas.

5. We do not allow you to set decoys in retrieving zones.

6. We do not allow air-thrust and inboard waterthrust boats.

7. Snipe hunters will possess and use, while in the field, only approved nontoxic shot.

B. Upland Game Hunting. We allow hunting of pheasant on designated areas of the refuge subject to the following conditions:

1. You will possess and use only approved nontoxic shot while in the field.

2. You may carry only unloaded firearms on hunter access routes open to motor vehicles or when taking them through posted retrieving zones when traveling to and from the hunting areas.

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8. We propose to amend § 32.25 Colorado by revising paragraph B. of Arapaho National Wildlife Refuge to read as follows:

§ 32.25 Colorado.

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Arapaho National Wildlife Refuge

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B. Upland Game Hunting. We allow upland game hunting on designated areas of the refuge pursuant to State law and subject to the following condition: You will possess and use only approved nontoxic shot while in the field.

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9. We propose to amend § 32.27 Delaware by revising paragraph B. of Bombay Hook National Wildlife Refuge; and by revising paragraph B.4. of Prime Hook National Wildlife Refuge to read as follows:

§ 32.27 Delaware.

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Bombay Hook National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of upland game on designated areas of the refuge subject to the following conditions:

1. We allow hunting only on the South Upland Hunting Area.

2. We allow hunting from ½ hour before sunrise to ½ hour after sunset.

3. We do not allow hunting from March 1 through August 31.

4. Shotgun hunters will possess and use only approved nontoxic shot while in the field.

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Prime Hook National Wildlife Refuge

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B. Upland Game Hunting. * * *

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4. Shotgun hunters will possess and use only approved nontoxic shot while in the field.

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10. We propose to amend § 32.28 Florida by revising Chassahowitzka National Wildlife Refuge; by adding paragraph D.8. of J. N. ''Ding'' Darling National Wildlife Refuge; by revising paragraphs C. and D. of Lake Woodruff National Wildlife Refuge; by revising paragraphs A., B., C., and D.9. and adding paragraph D.10. of St. Marks National Wildlife Refuge; and by revising paragraphs B., C., and D. of St. Vincent National Wildlife Refuge to read as follows:

§ 32.28 Florida.

* * * * *

Chassahowitzka National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of ducks and coots on designated areas of the refuge subject to the following condition: We require permits.

B. Upland Game Hunting. We allow hunting of quail, squirrel, rabbit and armadillo on designated areas of the refuge subject to the following condition: We require permits.

C. Big Game Hunting. We allow hunting of white-tailed deer and feral hogs on designated areas of the refuge subject to the following condition: We require permits.

D. Sport Fishing. We allow sport fishing on the refuge year round. Creel limits/seasons are in accordance with State regulations.

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J. N. "Ding" Darling National Wildlife Refuge

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D. Sport Fishing. * * *

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8. Effective with the 2001–2002 season, we will require anglers to use lead-free sinkers and jigs on all fresh water open to fishing.

Lake Woodruff National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer and feral hogs on designated areas of the refuge subject to the following condition: We require permits.

D. Sport Fishing. Sport fishing will be in accordance with State regulations and is subject to the following conditions:

1. We allow fishing only from sunrise to sunset.

2. We do not allow use of airboats in the refuge.

3. We do not allow commercial fishing or the taking of frogs or turtles.

4. We do not allow the use of snatch hooks in the refuge impoundments.

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St. Marks National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of ducks and coots in designated areas of the refuge subject to the following condition: We require permits.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, and racoon on designated areas of the refuge subject to the following condition: We require permits.

C. Big Game Hunting. We allow hunting of white-tailed deer, turkeys, and feral hogs on designated areas of the refuge subject to the following condition: We require permits.

D. Sport Fishing. * * *

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9. We prohibit crabbing in refuge pools and impoundments along Lighthouse Road.

10. We do not allow launching of airboats or inboard waterthrust boats (personal watercraft) from refuge saltwater boat ramps at Wakulla Beach or the Lighthouse Road area.

St. Vincent National Wildlife Refuge

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B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed deer, sambar deer, and feral hogs on designated areas of the refuge subject to the following condition: We require permits.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. We allow fishing only from sunrise to sunset.

2. We allow only non-motorized boats and boats with electric motors.

3. We do not allow the use of live minnows as bait.

4. We allow fishing in Lakes 1, 2, and Oyster Pond from April 1 through September 30.

5. We allow fishing in Lakes 3, 4, and 5 from May 15 through September 30.

* * * * *

11. We propose to amend § 32.29 Georgia by alphabetically adding Bond Swamp National Wildlife Refuge; by revising paragraphs C. and D. of Okefenokee National Wildlife Refuge; by revising paragraphs B. and C., revising the introductory text of paragraph D. and revising paragraph D.3. of Savannah National Wildlife Refuge to read as follows:

§ 32.29 Georgia.

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Bond Swamp National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed deer and feral hogs on designated areas of the refuge subject to the following condition: We require permits.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. We allow fishing from March 15 to October 15 except on the Ocmulgee River which is open to fishing year-around.

2. We allow fishing only from sunrise to sunset.

3. We allow fishing only with pole and line or rod and reel.

4. We prohibit the taking of sturgeon, frogs, turtles, and mollusks.

5. We allow only non-motorized boats or boats with electric motors on refuge waters except the Ocmulgee River.

6. Fishermen may not leave boats or other personal equipment on the refuge overnight.

7. The minimum size limit for largemouth bass is 14'' (35 cm)

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Okefenokee National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer and feral hogs on designated areas of the refuge subject to the following condition: we require permits except for Cowhouse Island. We open Cowhouse Island to white-tailed deer and feral hog hunting per Dixon Memorial State Forest Regulations.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. We do not allow the use of boats with motors larger than 10 horsepower.

2. We do not allow the use of live minnows as bait.

3. We only allow the use of pole and line or rod and reel.

4. The daily creel limit is 5 largemouth bass, 5 channel catfish, and 25 of any one, or combination, of bream or sunfish. We do not allow the possession of more than the daily creel limit.

5. We do not allow the taking of largemouth bass smaller than 14 inches (35 cm).

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Savannah National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of squirrels and feral hogs on designated areas of the refuge subject to the following condition: We require permits.

C. Big Game Hunting. We allow hunting of white-tailed deer, turkey, and feral hogs on designated areas of the refuge subject to the following condition: We require permits.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

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3. We allow fishing from sunrise to sunset.

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12. We propose to amend § 32.30 Hawaii by revising by revising paragraph C.1. of Hakalau Forest National Wildlife Refuge to read as follows:

§ 32.30 Hawaii.

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Hakalau Forest National Wildlife Refuge

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C. Big Game Hunting. * * *

1. You must have reservations or permits to access the refuge.

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13. We propose to amend § 32.31 Idaho by revising paragraph A.2. of Bear Lake National Wildlife Refuge; by revising paragraphs A. and B. of Camas National Wildlife Refuge; by revising paragraphs A.3. and B.4. of Deer Flat National Wildlife Refuge; and by revising paragraph B.2. of Minidoka National Wildlife Refuge to read as follows:

§ 32.31 Idaho.

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Bear Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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2. Snipe hunters will possess and use only approved nontoxic shot while in the field.

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Camas National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, and snipe on designated areas of the refuge subject to the following condition: Snipe hunters will possess and use only approved nontoxic shot while in the field.

B. Upland Game Hunting. We allow hunting of pheasant and grouse on designated areas of the refuge subject to the following condition: Pheasant hunters will possess and use only approved nontoxic shot while in the field.

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Deer Flat National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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3. Snipe hunters will possess and use only approved nontoxic shot while in the field.

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B. Upland Game Hunting. * * *

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4. Pheasant, quail and partridge hunters will possess and use only approved nontoxic shot while in the field.

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Minidoka National Wildlife Refuge

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B. Upland Game Hunting. * * *

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2. Pheasant hunters will possess and use only approved nontoxic shot while in the field.

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14. We propose to amend § 32.32 Illinois by revising paragraphs A.3., A.4., B.3., C.2., C.3., C.4., D.1., and D.7. and removing paragraph D.8. of Crab Orchard National Wildlife Refuge; by revising paragraph B. and the introductory text of paragraph C. of Cypress Creek National Wildlife Refuge; by revising paragraph B.1. of Mark Twain National Wildlife Refuge; by revising A., revising the introductory text of paragraph B., revising paragraphs B.3., and B.4. adding paragraph B.5., revising the introductory text of paragraph C., revising paragraphs C.3., C.4., and C.5. and revising paragraph D. of Upper Mississippi National Wildlife and Fish Refuge to read as follows:

§ 32.32 Illinois.

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Crab Orchard National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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3. Goose hunters outside the controlled goose hunting area on Crab Orchard Lake must hunt from a blind that is on shore or anchored a minimum of 200 yards (180m) away from any shoreline. Waterfowl hunters may also hunt on the east shoreline in Grassy Bay.

4. You may possess and use only approved nontoxic shot while hunting migratory game bird species.

B. Upland Game Hunting. * * *

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3. You may possess and use only approved nontoxic shot while hunting all permitted species except wild turkey. You may possess and use lead shot for hunting wild turkey.

C. Big Game Hunting. * * *

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2. We require hunters using the closed area to check in at the refuge visitor contact station prior to hunting and to comply with the special rules provided to them.

3. You may not hunt deer with a firearm in the controlled goose hunting areas. You may hunt deer in the controlled goose hunting areas with archery equipment in accordance with State seasons and regulations.

4. You must remove hunting stands at the end of each day's hunt.

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D. Sport Fishing. * * *

1. Crab Orchard Lake—west of Wolf Creek Road—Anglers may fish from boats all year. Anglers must remove trot-lines/jugs from sunrise until sunset from Memorial Day through Labor Day; east of Wolf Creek Road, anglers may fish from boats March 15 through September 30. Anglers may fish all year at the Wolf Creek and Route 148 causeway areas. Anglers must check and remove fish from all jugs and trot lines daily. It is illegal to use stakes to anchor any trot-lines; anglers must tag them with their name and address. Anglers may use all noncommercial fishing methods except they may not use any underwater breathing apparatus. Anglers may not use jugs or trot-lines with any floatation device that has previously contained any petroleum-based materials or toxic substances. Anglers must attach a buoyed device that is visible on the water's surface to all trot-lines.

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7. We restrict motorboats to slow speeds leaving no wakes in Cambria Neck, and within 150 feet (45m) of any shoreline, swimming area, marina entrance, boat ramp, or causeway tunnel on Crab Orchard, Little Grassy, or Devils Kitchen Lakes.

Cypress Creek National Wildlife Refuge

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B. Upland Game Hunting. You may hunt bob-white quail, rabbit, squirrel, raccoon, opossum, coyote, red fox, grey fox, and turkey (spring) on designated areas of the refuge in accordance with posted regulations and subject to the following conditions:

1. If we provide hunter check-in/check-out post, you must present daily harvests.

2. We do not allow hunting after sunset.

3. You may only use or possess approved nontoxic shot while hunting for any permitted birds except wild turkey. You may use lead shot while hunting wild turkey.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with posted regulations and subject to the following conditions:

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Mark Twain National Wildlife Refuge

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B. Upland Game Hunting. * * *

1. You must possess and use only approved nontoxic shot while hunting all permitted birds, except wild turkeys. You may possess and use lead shot for hunting wild turkey.

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Upper Mississippi National Wildlife and Fish Refuge

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds on designated areas of the refuge subject to the following conditions:

1. You may not hunt migratory birds on refuge-closed areas posted ''Area Closed,'' on the Goose Island ''No Hunting'' zone in Pool 8, on the Upper Halfway Creek March ''No Hunting'' zone in Pool 7, or on the Frog Pond area ''No Hunting'' zone in Pool 13.

2. We require permits for Potters Marsh in Pool 13 except during the early teal season.

You may only use and possess approved nontoxic shot when hunting for any permitted migratory bird.

4. On Pools 4 through 11 you must remove all decoys from the refuge at the end of each day's hunt.

B. Upland Game Hunting. We allow hunting of upland game on designated areas of the refuge subject to the following conditions:

* * * * *

3. You may not hunt at any time on the Goose Island ''No Hunting'' zone in Pool 8, on the Upper Halfway Creek Marsh ''No Hunting'' zone in Pool 7, or on the Frog Pond ''No Hunting'' zone in Pool 13.

4. Shotgun hunters may only use or possess approved nontoxic shot when hunting for any permitted birds or other small game, except wild turkey. We still allow possession of lead shot for wild turkey hunting.

5. You may use lights and dogs to hunt raccoons, and other specifically authorized small mammals, in accordance with State regulations. We allow such use of lights on the refuge at the point of kill only. We prohibit all other uses of lights for hunting on the refuge.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

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3. You may not hunt at any time on the Goose Island ''No Hunting'' zone in Pool 8, on the Upper Halfway Creek ''No Hunting'' zone in Pool 7, or on the Frog Pond ''No Hunting'' zone in Pool 13.

4. We do not allow construction or use of permanent blinds, platforms, or ladders.

5. You must remove all stands from the refuge at the end of each day's hunt.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. We do not allow fishing on the Spring Lake Closed Area, Carroll County, Illinois from October 1 through the last day of the Illinois waterfowl season.

2. We allow only hand-powered boats or boats with electric motors on Mertes' Slough in Buffalo County, Wisconsin.

15. We propose to amend § 32.34 Iowa by revising paragraph B. of Union Slough National Wildlife Refuge to read as follows:

§ 32.34 Iowa.

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Union Slough National Wildlife Refuge

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B. Upland Game Hunting. You may hunt upland game in designated areas of the refuge subject to the following condition: You may only use or possess approved nontoxic shot while hunting upland game, except wild turkey. You may possess and use lead shot for wild turkey hunting.

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16. We propose to amend § 32.35 Kansas by revising paragraph B.2. of Flint Hills National Wildlife Refuge; by revising paragraph A. of Kirwin National Wildlife Refuge; and by revising paragraph A. of Quivira National Wildlife Refuge to read as follows:

§ 32.35 Kansas.

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Flint Hills National Wildlife Refuge

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B. Upland Game Hunting. * * *

2. You will possess and use only approved nontoxic shot or rimfire firearms while in the field.

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Kirwin National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, mourning doves and snipe on designated areas of the refuge subject to the following condition: Waterfowl and coot hunters will possess and use, while in the field, only approved nontoxic shot.

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Quivira National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, rails (Virginia and Sora only), mourning doves, and common snipe on designated areas of the refuge subject to the following condition: We require approved nontoxic shot when hunting any game on the refuge. We prohibit the possession of lead shot in the field.

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17. We propose to amend § 32.36 Kentucky by revising paragraph B.4. of Ohio River Islands National Wildlife Refuge to read as follows:

§ 32.36 Kentucky.

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Ohio River Islands National Wildlife Refuge

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B. Upland Game Hunting. * * *

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4. You will possess and use, while in the field, only approved nontoxic shot.

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18. We propose to amend § 32.37 Louisiana by alphabetically adding Bayou Teche National Wildlife Refuge; by revising paragraphs B. and C., the introductory text of paragraph D., and revising paragraphs D.1. and D.2. of Catahoula National Wildlife Refuge; by revising D'Arbonne National Wildlife Refuge; by revising paragraph D.2. and removing paragraphs D.3. and D.4. of Grand Cote National Wildlife Refuge; by revising Lake Ophelia National Wildlife Refuge; by revising the introductory text of paragraph A., by revising paragraph A.1., and by revising paragraph D. of Sabine National Wildlife Refuge; and by revising Upper Ouachita National Wildlife Refuge to read as follows:

§ 32.37 Louisiana.

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Bayou Teche National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of migratory birds on designated areas of the refuge subject to the following conditions:

1. We require permits.

2. Any person entering, using, or occupying the refuge for hunting must abide by all terms and conditions in the refuge hunting brochure.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, raccoon, and opossum on designated areas of the refuge subject to the following conditions:

1. We require permits.

2. Any person entering, using, or occupying the refuge for hunting must abide by all terms and conditions in the refuge hunting brochure.

C. Big Game Hunting. We allow hunting of white-tailed deer and feral hogs on designated areas of the refuge subject to the following conditions:

1. We require permits.

2. Any person entering, using, or occupying the refuge for hunting must bide by all terms and conditions in the refuge hunting brochure.

D. Sport Fishing. [Reserved]

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Catahoula National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of raccoon, squirrel, rabbit, and feral hogs on designated areas of the refuge subject to the following condition: We require permits.

C. Big Game Hunting. We allow hunting of white-tailed deer and feral hogs on designated areas of the refuge subject to the following condition: We require permits.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. We allow fishing from one hour before sunrise until one-half hour after sunset. We allow only pole and line or rod and reel fishing. We prohibit snagging.

2. We allow boat launching on all refuge waters as designated in the refuge brochure. We allow only non-motorized boats or boats with motors of 10 horsepower or less. Boats may not be left on the refuge overnight.

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D'Arbonne National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of ducks, geese, coots, and woodcock on designated areas of the refuge subject to the following condition: We require permits.

B. Upland Game Hunting. We allow hunting of quail, squirrel, rabbit, raccoon and opossum on designated areas of the refuge subject to the following condition: We require permits.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following condition: We require permits.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. The ends of trotlines must consist of a length of cotton line that extends from the points of attachment into the water.

2. We only allow cotton limb lines.

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Grand Cote National Wildlife Refuge

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D. Sport Fishing. * * *

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2. Any person entering, using, or occupying the refuge for fishing or crawfishing must abide by all terms and conditions in the refuge fishing brochure.

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Lake Ophelia National Wildlife Refuge

A. Hunting of Migratory Game Birds. You may hunt duck, coots, woodcock, and snipe on designated areas of the refuge subject to the following conditions:

1. We require permits.

2. Any person entering, using, or occupying the refuge for hunting must abide by all terms and conditions in the refuge hunting brochure.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, and raccoon on designated areas of the refuge subject to the following conditions:

1. We require permits.

2. Any person entering, using, or occupying the refuge for hunting must abide by all terms and conditions in the refuge hunting brochure.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

1. We require permits.

2. Any person entering, using, or occupying the refuge for hunting must abide by all terms and conditions in the refuge hunting brochure.

D. Sport Fishing. We allow fishing in designated areas of the refuge subject to the following conditions:

1. We require permits.

2. Any person entering, using, or occupying the refuge for fishing must abide by all terms and conditions in the refuge fishing brochure.

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Sabine National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, and coots on designated areas of the refuge subject to the following conditions:

1. We require refuge hunting permits.

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D. Sport Fishing. We allow fishing, crabbing, and shrimp cast netting on designated areas of the refuge subject to the following conditions: Any person entering, using or occupying the refuge must abide by all terms and conditions set forth in the refuge fishing brochure.

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Upper Ouachita National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of ducks, geese, coots, and woodcock on designated areas of the refuge subject to the following condition: We require permits.

B. Upland Game Hunting. We allow hunting of quail, squirrel, rabbit, raccoon, opossum, beaver, and coyotes on designated areas of the refuge subject to the following condition: We require permits.

C. Big Game Hunting. We allow hunting of white-tailed deer and feral hogs on designated areas of the refuge subject to the following condition: We require permits.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. The ends of trotlines must consist of a length of cotton line that extends from the points of attachment into the water.

2. We only allow cotton limb lines.

19. We propose to amend § 32.38 Maine by adding paragraph D.3. of Moosehorn National Wildlife Refuge; by revising paragraph B.3. and by adding paragraph C.5. of Rachel Carson National Wildlife Refuge; and by revising paragraph B. and adding paragraph D.1. of Sunkhaze Meadows National Wildlife Refuge to read as follows:

§ 32.38 Maine.

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Moosehorn National Wildlife Refuge

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D. Sport Fishing. * * *

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3. Effective with the 2001–2002 season, we will require anglers to use lead-free sinkers and jigs on ''Lead-Free Fishing Areas'' on the entire refuge.

Rachel Carson National Wildlife Refuge

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B. Upland Game Hunting. * * *

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3. You will possess and use only approved nontoxic shot while in the field.

C. Big Game Hunting. * * *

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5. We allow only archery and shotgun hunting with appropriate buckshot or slug loads.

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Sunkhaze Meadows National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of upland game on designated areas of the refuge subject to the following condition: Shotgun hunters will possess and use only approved nontoxic shot while in the field.

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D. Sport Fishing. * * *

1. Effective with the 2001–2002 season, we will require anglers to use lead-free sinkers and jigs on ''Lead-Free Fishing Areas'' for the Carlton Pond Waterfowl Production Area.

20. We propose to amend § 32.39 Maryland by revising paragraph D. of Eastern Neck National Wildlife Refuge; and by revising paragraph B.6. of Patuxent Research Refuge to read as follows:

§ 32.39 Maryland.

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Eastern Neck National Wildlife Refuge

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D. Sport Fishing. We allow fishing and crabbing in designated areas of the refuge in accordance with State regulations and subject to the following conditions:

1. We allow fishing and crabbing from Eastern Neck Island bridge.

2. We allow fishing and crabbing from April 1–September 30 during daylight hours only at the Ingleside Recreation Area.

3. We allow fishing from the Boxes Point and Duck Inn Trails during daylight hours only.

Patuxent Research Refuge

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B. Upland Game Hunting. * * *

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6. Shotgun hunters will possess and use only approved nontoxic shot while in the field.

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21. We propose to amend § 32.40 Massachusetts by revising paragraph

B.3. of Oxbow National Wildlife Refuge to read as follows:

§ 32.40 Massachusetts.

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Oxbow National Wildlife Refuge

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B. Upland Game Hunting. * * *

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3. You will possess and use only approved nontoxic shot while in the field.

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22. We propose to amend § 32.41 Michigan by adding paragraph D.3. of Seney National Wildlife Refuge to read as follows:

§ 32.41 Michigan.

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Seney National Wildlife Refuge

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D. Sport Fishing. * * *

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3. Effective with the 2001–2002 season, we will require anglers to use lead-free sinkers and jigs on ''Lead-Free Fishing Areas'' on the entire refuge. Current State regulations for lead-free fishing areas remain in effect.

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23. We propose to amend § 32.42 Minnesota by revising paragraph B.1. of Big Stone National Wildlife Refuge; by adding paragraph D.1. of Fergus Falls Wetland Management District; by revising paragraph B.2. of Minnesota Valley National Wildlife Refuge; by revising paragraphs A.1. and B.1. and adding paragraph D.4. of Rice Lake National Wildlife Refuge; by revising paragraphs A.5. and B.1. of Sherburne National Wildlife Refuge; and by revising paragraph B.3., revising the introductory text of paragraph D., and adding paragraph D.5. of Tamarac National Wildlife Refuge to read as follows:

§ 32.42 Minnesota.

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Big Stone National Wildlife Refuge

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B. Upland Game Hunting. * * *

1. You may use or possess only approved nontoxic shot while hunting for partridge or ring-necked pheasant.

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Fergus Falls Wetland Management District

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D. Sport Fishing. * * *

1. Effective with the 2001–2002 season, we will require anglers to use lead-free sinkers and jigs on ''Lead-Free Fishing Areas'' for Nicholson Waterfowl Production Area.

Minnesota Valley National Wildlife Refuge

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B. Upland Game Hunting. * * *

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2. In the field, you may only use or possess approved nontoxic shot.

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Rice Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

1. Shotgun hunters may only use or possess approved nontoxic shot while hunting migratory game birds.

B. Upland Game Hunting. * * *

1. Shotgun hunters may only use or possess approved nontoxic shot while hunting upland game species.

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D. Sport Fishing. * * *

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4. Effective with the 2001–2002 season, we will require anglers to use lead-free sinkers and jigs on ''Lead-Free Fishing Areas'' on Mandy Lake and Twin Lakes.

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Sherburne National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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5. Shotgun hunters may use or possess only approved nontoxic shot while hunting for migratory game birds.

B. Upland Game Hunting. * * *

1. Shotgun hunters may use or possess only approved nontoxic shot while hunting for all upland game species.

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Tamarac National Wildlife Refuge

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B. Upland Game Hunting. * * *

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3. Shotgun hunters may only use and possess approved nontoxic shot while hunting for all upland game species.

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D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

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5. Effective with the 2001–2002 season, we will require anglers to use lead-free sinkers and jigs on ''Lead-Free Fishing Areas'' covering the entire refuge, including bank fishing on the Ottertail River. We will coordinate implementation with the White Earth Tribe.

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24. We propose to amend § 32.43 Mississippi by revising Dahomey National Wildlife Refuge, St. Catherine Creek National Wildlife Refuge and Tallahatchie National Wildlife Refuge to read as follows:

§ 32.43 Mississippi.

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Dahomey National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of mourning doves, migratory waterfowl, coots, snipe, and woodcock on designated areas of the refuge subject to the following condition: We require permits.

B. Upland Game Hunting. We allow hunting of quail, squirrel, rabbit, beaver, raccoon, coyotes, and opossum on designated areas of the refuge subject to the following condition: We require permits.

C. Big Game Hunting. We allow hunting of deer, turkey, and feral hogs on designated areas of the refuge subject to the following condition: We require permits.

D. Sport Fishing. We allow sport fishing on designated areas of the refuge subject to the following condition: We require permits.

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St. Catherine Creek National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of ducks, geese, and coots on designated areas of the refuge subject to the following condition: We require permits.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, beaver, nutria, muskrat, feral hogs, raccoon, coyotes, and opossum on designated areas of the refuge subject to the following conditions: We require permits.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following condition: We require permits.

D. Sport Fishing. We allow sport fishing on designated areas of the refuge subject to the following conditions: We require permits.

Tallahatchie National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of mourning doves, migratory waterfowl, coots, snipe, and woodcock on designated areas of the refuge subject to the following condition: We require permits.

B. Upland Game Hunting. We allow hunting of quail, squirrel, rabbit, beaver, raccoon, coyotes, and opossum on designated areas of the refuge subject to the following condition: We require permits.

C. Big Game Hunting. We allow hunting of deer, turkey, and feral hogs on designated areas of the refuge subject to the following condition: We require permits.

D. Sport Fishing. We allow sport fishing on designated areas of the refuge subject to the following condition: We require permits.

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25. We propose to amend § 32.44 Missouri by revising paragraph A.2. of Swan Lake National Wildlife Refuge to read as follows:

§ 32.44 Missouri.

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Swan Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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2. You will possess and use only approved nontoxic shot while in the field.

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26. We propose to amend § 32.45 Montana by revising paragraph B. of Black Coulee National Wildlife Refuge; by revising paragraph B.3. of Bowdoin National Wildlife Refuge; by revising paragraph B.1. of Hailstone National Wildlife Refuge; by revising paragraph B. of Lake Mason National Wildlife Refuge; by revising paragraph D. of Pablo National Wildlife Refuge; by revising paragraphs A. and D. of Red Rock Lakes National Wildlife Refuge; by

revising paragraph A. of Swan River National Wildlife Refuge; and by revising paragraph B. of War Horse National Wildlife Refuge to read as follows:

§ 32.45 Montana.

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Black Coulee National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of upland game on designated areas of the refuge subject to the following condition: You will possess and use only approved nontoxic shot while in the field.

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Bowdoin National Wildlife Refuge

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B. Upland Game Hunting. * * *

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3. You will possess and use only approved nontoxic shot while in the field.

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Hailstone National Wildlife Refuge

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B. Upland Game Hunting. * * *

1. You will possess and use only approved nontoxic shot while in the field.

* * * * *

Lake Mason National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of upland game on designated areas of the refuge subject to the following condition: You will possess and use only approved nontoxic shot while in the field.

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Pablo National Wildlife Refuge

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D. Sport Fishing. We allow fishing on designated areas of the refuge pursuant to State and Tribal law.

1. Effective with the 2001–2002 season, we will require anglers to use lead-free sinkers and jigs on ''Lead-Free Fishing Areas'' covering the entire refuge. We will coordinate implementation with the Tribe.

Red Rock Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, and coots on designated areas of the refuge subject to the following condition: Waterfowl and coot hunters will possess and use only approved nontoxic shot while in the field.

* * * * *

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. We allow fishing from the third week of June through the end of the general State season.

2. Effective with the 2001–2002 season, we will require anglers to use lead-free sinkers and jigs on ''Lead-Free Fishing Areas'' covering the entire refuge. Current State regulations for lead-free fishing areas remains in effect.

Swan River National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, and coots on designated areas of the refuge subject to the following condition: Waterfowl and coot hunters will possess and use only approved nontoxic shot while in the field.

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War Horse National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of upland game birds on designated areas of the refuge subject to the following condition: You will possess and use only approved nontoxic shot while in the field.

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27. We propose to amend § 32.47 Nevada by revising paragraphs A. and D. of Ruby Lake National Wildlife Refuge; by revising paragraphs A.1., B., C., and D. of Sheldon National Wildlife Refuge to read as follows:

§ 32.47 Nevada.

* * * * *

Ruby Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, moorhens, and snipe on designated areas of the refuge in accordance with State law and subject to the following conditions:

1. We do not allow off-road vehicles on the refuge.

2. We do not allow permanent and pit blinds. You must remove all blind materials and decoys at the end of each hunting day.

* * * * *

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to State law and the following conditions:

1. We allow fishing from one hour before sunrise until two hours after sunset.

2. We only allow fishing on the dikes in the areas north of the Brown Dike and the east of the Collection Ditch with the exception that you may fish by wading and from personal flotation devices (float tubes) on Unit 21.

3. We prohibit fishing from the bank on the South Marsh except at Brown Dike, the Main Boat Landing, and Narciss Boat Landing.

4. Fishermen may use only artificial lures in the Collection Ditch and spring ponds adjoining the ditch.

5. We do not allow boats on the refuge from January 1 through June 14.

6. During the boating season, we only allow boats on the South Marsh. Beginning June 15 through July 31, we allow only motorless boats or boats with battery-powered electric motors. Beginning August 1 through December 31, we allow only motorless boats and boats propelled with motors with a total of 10 hp or less.

7. Launch boats only from designated landings.

8. Do not store boats of any kind on the refuge from January 1 through May 31.

9. We do not allow off-road vehicles on the refuge.

Sheldon National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

1. Waterfowl and coot hunters will possess and use only approved nontoxic shot while in the field.

* * * * *

B. Upland Game Hunting. We allow hunting of quail, grouse, and partridge on designated areas of the refuge.

C. Big Game Hunting. We allow hunting of deer, antelope, and bighorn sheep on designated areas of the refuge.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. Anglers may only bank fish, fish by wading, use boats with electric motors, float tubes and similar floatation devices in Big Springs Reservoir, Duferrena Ponds, and Catnip Reservoir. Anglers may not fish from other types of motorized boats.

2. We allow only individuals 12 years of age or under, or 65 years of age or older, or disabled individuals to fish in McGee Pond.

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28. We propose to revise § 32.48 New Hampshire to read as follows:

§ 32.48 New Hampshire.

Great Bay National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds on designated areas of the refuge subject to the following conditions:

1. Waterfowl hunting will not require a permit. We will allow hunting only from the immediate shoreline of the Bay.

2. We allow only portable blinds. You must remove all decoys, blinds, and boats after each day's hunt.

3. Waterfowl hunters will access shorelines by boat only.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge subject to the following conditions:

1. We require refuge permits for the deer hunt.

2. We require big game hunters to wear in a conspicuous manner on the head, chest and back, a minimum of 400 square inches (3 m^2) of solid-colored blaze orange clothing or material.

3. We allow only shotguns and bows.

D. Sport Fishing. [Reserved]

29. We propose to amend § 32.49 New Jersey by revising paragraph A.4. of Cape May National Wildlife Refuge; by revising paragraph A.7. of Edwin B. Forsythe National Wildlife Refuge; by revising the introductory text of paragraph C. and by removing paragraph C.2. of Great Swamp National Wildlife Refuge; by revising paragraph A.5. of Supawna Meadows National Wildlife Refuge; and by revising paragraph A.3. of Wallkill River National Wildlife Refuge to read as follows:

§ 32.49 New Jersey.

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Cape May National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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4. You will possess and use only approved nontoxic shot while in the field.

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Edwin B. Forsythe National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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7. Shotgun hunters will possess and use only approved nontoxic shot while in the field.

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Great Swamp National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge subject to the following conditions:

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Supawna Meadows National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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5. You will possess and use only approved nontoxic shot while in the field.

* * * * *

Wallkill River National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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3. Shotgun hunters may use or possess only approved nontoxic shot while hunting migratory game birds.

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30. We propose to amend § 32.50 New Mexico by revising paragraphs A.2. and B.1. of Bitter Lake National Wildlife Refuge; by revising paragraphs A. and B.2. of Bosque Del Apache National Wildlife Refuge; and by revising paragraph A.2. of Las Vegas National Wildlife Refuge to read as follows:

§ 32.50 New Mexico.

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Bitter Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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2. You will possess and use only approved nontoxic shot while in the field.only approved nontoxic shot.

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B. Upland Game Hunting. * * *

1. You will possess and use only approved nontoxic shot while in the field.

* * * * *

Bosque Del Apache National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of mourning and white-winged doves on designated areas of the refuge subject to the following condition: You will possess and use only approved nontoxic shot while in the field.

B. Upland Game Hunting. * * *

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2. You will possess and use only approved nontoxic shot while in the field.

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Las Vegas National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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2. You will possess and use only approved nontoxic shot while in the field.

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31. We propose to amend § 32.51 New York by revising paragraphs A.4. and B.4. of Iroquois National Wildlife Refuge to read as follows:

§ 32.51 New York.

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Iroquois National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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4. Waterfowl hunters may not use or possess more than 20 shells per day.

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B. Hunting of Upland Game. * * *

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4. Shotgun hunters will possess and use only approved nontoxic shot while in the field.

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32. We propose to amend § 32.52 North Carolina by revising paragraph A.1. of Cedar Island National Wildlife Refuge; by alphabetically adding Currituck National Wildlife Refuge; by revising paragraph A., adding paragraph C.2. and revising paragraph D. of Mattamuskeet National Wildlife Refuge; by revising paragraphs A., B., and C., of Pocosin Lakes National Wildlife Refuge; by revising paragraph A.2. of Roanoke River National Wildlife Refuge; and by revising paragraph A.1. of Swanquarter National Wildlife Refuge to read as follows:

§ 32.52 North Carolina.

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Cedar Island National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

1. You will possess and use only approved nontoxic shot while in the field.

* * * * *

Currituck National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of swans, geese, ducks, and coots on designated areas of the refuge subject to the following conditions:

1. We require permits.
2. Hunting must be from assigned blind location.
3. We allow hunting on Wednesdays and Saturdays during the North Carolina waterfowl season.
4. We allow hunting from ½ hour before sunrise to 1:00 p.m.
5. We allow access 1½ hours before legal shooting time and all parties must be off the refuge by 3:00 p.m.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. [Reserved]

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Mattamuskeet National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of swans, geese, ducks, and coots on designated areas of the refuge subject to the following conditions:

1. We require permits.
2. We allow taking of Canada geese only during the special September season for resident Canada geese.
3. Any person entering, using, or occupying the refuge for hunting must abide by all the terms and conditions in the refuge hunting brochure.

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C. Big Game Hunting. * * *

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2. Any person entering, using, or occupying the refuge for hunting must abide by all the terms and conditions in the refuge hunting brochure.

D. Sport Fishing. We allow fishing and crabbing on designated areas of the refuge subject to the following conditions:

1. We allow fishing and crabbing from March 1 through November 1 from ½ hour before sunrise to ½ hour after sunset or as posted.
2. We allow bank fishing and crabbing year-round along Highway 94 Causeway and in the immediate vicinity of the Lake Landing water control structure, the Rose Bay water control structure, and the Outfall Canal water control structure. Other areas open to this activity are the Central Canal and East and West Main Canal as signed. We allow bank fishing and crabbing from ½ hour before sunrise to ½ hour after sunset except that the Highway 94 Causeway is open to fishing and crabbing 24 hours per day.
3. Fishermen may not dip herring (alewife).
4. Fishermen must attend all fish lines and crabbing equipment. We restrict crabbing equipment to 5 handlines and/or hand-activated traps per person. The catch/possession limit is 12 blue crabs per day per person.
5. We do not permit airboats, sailboats, wind surfers, and personal watercraft.
6. We prohibit bank fishing along the entrance road from Highway 94 to the Refuge Headquarters.

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Pocosin Lakes National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of ducks, snow geese, swans, doves, woodcock, rails and snipe on designated areas of the refuge subject to the following conditions:

1. We allow access 1½ hours before and after legal shooting time.
2. You must unload and encase firearms while transporting them by vehicle or boat under power.
3. We allow only portable blinds and temporary blinds constructed of natural materials. We require removal of portable blinds following each day's hunt.

4. We allow hunting during the State season.

B. Upland Game Hunting. We allow hunting of quail, squirrel, raccoon, opossum, rabbit, and fox on designated areas of the refuge subject to the following conditions:

1. We require permits for any night hunting.

2. We allow access 1½ hours before and after legal shooting time.

3. You must unload and encase firearms while transporting them by a vehicle or boat under power.

4. We allow hunting during State season except we will close opossum and raccoon hunting during the State bear season including five days before and after that season.

5. You must wear 500 square inches (3.7 m^2) of fluorescent orange material above the waist, visible from all directions.

6. We prohibit possession of buckshot or slugs while hunting with dogs.

7. You will use only shotguns and/or 22 caliber rim-fire rifles for upland game hunts.

8. You will possess and use only approved nontoxic shot while in the field on designated areas of the refuge.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

1. You must wear 500 square inches (3.7 m^2) of fluorescent orange material above the waist visible from all directions during the muzzle loading and gun seasons.

2. We allow only shotguns, muzzle-loaders, and bow and arrow for big game hunts.

3. You must unload and encase firearms while transporting them by a vehicle or boat under power.

4. We allow access 1½ hours before and after legal shooting time.

5. We allow hunting during the State season.

6. We do not allow dogs.

7. You must remove all stands from the refuge following each day's hunt. We prohibit the construction or use of permanent stands, blinds, platforms, or ladders.

8. We allow archery hunting on the Pungo Unit during the regular State archery season and from November 1 through 30. State bag limits apply.

9. We allow shotgun and muzzle-loaders on the Pungo Unit subject to the following conditions: We require permits and allow access one hour before and after legal shooting time.

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Roanoke River National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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2. You will possess and use only approved nontoxic shot while in the field.

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Swanquarter National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

1. You will possess and use only approved nontoxic shot while in the field.

* * * * *

33. We propose to amend § 32.53 North Dakota by revising paragraph B.2. of Arrowwood National Wildlife Refuge; by revising paragraphs B., C., and D. of Audubon National Wildlife Refuge; by revising paragraph B.1., by redesignating paragraphs B.2. and B.3. as paragraphs B.3. and B.4. and by adding a new paragraph B.2. of Des Lacs National Wildlife Refuge; by revising J. Clark Salyer National Wildlife Refuge; by revising paragraphs A.2. and B. of Lake Alice National Wildlife Refuge; by revising paragraph D. of Lake Ilo National Wildlife Refuge; by revising paragraph C. of Lake Nettie National Wildlife Refuge; by revising paragraph B.1. of Lake Zahl National Wildlife Refuge; by revising paragraph B.1. of Long Lake National Wildlife Refuge; by revising paragraph B.3. of Lostwood National Wildlife Refuge; by alphabetically adding Stewart Lake National Wildlife Refuge; by revising paragraphs B., C., and D. of Tewaukon National Wildlife Refuge; and by revising paragraphs B., C., and D. of Upper Souris National Wildlife Refuge to read as follows:

§ 32.53 North Dakota.

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Arrowwood National Wildlife Refuge

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B. Upland Game Hunting. * * *

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2. You will possess and use only approved nontoxic shot while in the field.

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Audubon National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of ring-necked pheasant, gray partridge and sharp-tailed grouse on designated areas of the refuge subject to State regulations with refuge restrictions as posted.

C. Big Game Hunting. We allow hunting of white-tailed and mule deer on designated areas of the refuge subject to State regulations with refuge restrictions as posted.

D. Sport Fishing. We allow ice fishing on designated areas of the refuge subject to State regulations with refuge restrictions as posted.

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Des Lacs National Wildlife Refuge

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B. Upland Game Hunting. * * *

1. You will possess and use only approved nontoxic shot while in the field.

2. You may use falconry for upland game hunting.

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J. Clark Salyer National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, and coots on designated areas of the refuge.

B. Upland Game Hunting. We allow hunting of pheasant, partridge, grouse, turkey and fox on designated areas of the refuge subject to the following conditions:

1. Fox hunting opens annually on the day following the close of the regular firearm deer season and closes on March 31.

2. We close fox hunting from ½ hour after sunset until ½ hour before sunrise.

3. You will possess and use only approved nontoxic shot while in the field.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following condition: We require permits.

D. Sport Fishing. We allow sport fishing on designated areas of the refuge as per State law with certain restrictions as posted.

Lake Alice National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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2. Waterfowl and coot hunters will possess and use only approved nontoxic shot while in the field.

B. Upland Game Hunting. We allow hunting of upland game and fox on designated areas of the refuge subject to the following condition: You will possess and use only approved nontoxic shot while in the field.

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Lake Ilo National Wildlife Refuge

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D. Sport Fishing. We allow sport fishing on designated areas of the refuge subject to State regulations with refuge restrictions as posted.

Lake Nettie National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed and mule deer on designated areas of the refuge subject to State regulations with refuge restrictions as posted.

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Lake Zahl National Wildlife Refuge

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B. Upland Game Hunting. * * *

1. You may possess and use only approved nontoxic shot while in the field.

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Long Lake National Wildlife Refuge

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B. Upland Game Hunting. * * *

1. You may only possess and use only approved nontoxic shot while in the field.

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Lostwood National Wildlife Refuge

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B. Upland Game Hunting. * * *

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3. You will possess and use only approved nontoxic shot while in the field.

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Stewart Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow fishing on the designated area subject to all State regulations.

Tewaukon National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of ring-necked pheasants on designated areas of the refuge as per State law with certain restrictions as posted.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge as per State law with certain restrictions as posted.

D. Sport Fishing. We allow sport fishing on designated areas of the refuge as per State law with certain restrictions as posted.

Upper Souris National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of upland game birds with approved nontoxic shot on designated areas of the refuge as per State law with certain restrictions as posted.

C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge as per State law with certain restrictions as posted.

D. Sport Fishing. We allow fishing on designated areas of the refuge as per State law with certain restrictions as posted.

34. We propose to amend § 32.54 Ohio by revising Ottawa National Wildlife Refuge to read as follows:

§ 32.54 Ohio.

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Ottawa National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese and ducks on designated areas of the refuge subject to the following conditions:

1. We require permits.

2. You will possess and use only approved nontoxic shot while in the field.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

1. We require permits.

2. You must check in and out of the refuge each day that they hunt.

3. You may not shoot from refuge roads.

D. Sport Fishing. We allow sport fishing on designated areas of the refuge subject to the following conditions:

1. We allow fishing during daylight hours only and during designated dates.

2. We do not allow boats or flotation devices.

35. We propose to amend § 32.55 Oklahoma by revising paragraph B.3. of Deep Fork National Wildlife Refuge; by revising paragraph B.4. of Little River National Wildlife Refuge; by revising paragraphs A.1. and B.1. of Salt Plains National Wildlife Refuge; by revising paragraphs A.2. and B.2. of Sequoyah National Wildlife Refuge; by revising paragraph A.3. of Tishomingo National Wildlife Refuge; and by revising paragraphs A., B.1., D.1. and D.3. of Washita National Wildlife Refuge to read as follows:

§ 32.55 Oklahoma.

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Deep Fork National Wildlife Refuge

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B. Upland Game Hunting. * * *

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3. You may use only shotguns with #4 or smaller, approved nontoxic shot.

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Little River National Wildlife Refuge

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B. Upland Game Hunting. * * *

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4. You will possess and use only approved nontoxic shot while in the field.

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Salt Plains National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

1. You will possess and use only approved nontoxic shot while in the field.

* * * * *

B. Upland Game Hunting. * * *

1. You will possess and use only approved nontoxic shot while in the field.

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Sequoyah National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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2. You will possess and use only approved nontoxic shot while in the field.

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B. Upland Game Hunting. * * *

* * * * *

2. You will possess and use only approved nontoxic shot while in the field.

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Tishomingo National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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3. You will possess and use only approved nontoxic shot while in the field.

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Washita National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese and sandhill cranes on designated areas of the refuge subject to the following conditions: We require permits and payment of a fee.

B. Upland Game Hunting. * * *

1. We only allow shotguns.

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D. Sport Fishing. * * *

1. Anglers may fish from March 15 through October 14 in the Washita River and Foss Reservoir. Anglers may bank fish year round in the Washita River and Foss Reservoir from open areas.

* * * * *

3. We do not allow boats and other flotation devices on refuge waters from October 15 through March 14.

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36. We propose to amend § 32.56 Oregon by revising paragraph A. of Bandon Marsh National Wildlife Refuge; by removing Baskett Slough National Wildlife Refuge; by revising paragraphs A.6. and B.3. of Cold Springs National Wildlife Refuge; by revising paragraphs A.2. and B.2. of Deer Flat National Wildlife Refuge; by alphabetically adding Julia Butler Hansen Refuge for the Columbian White-Tailed Deer; by revising paragraph A.2. of Klamath Forest National Wildlife Refuge; by revising paragraphs A. and D. of Lewis and Clark National Wildlife Refuge; by revising paragraphs A.4. and B.2. of Lower Klamath National Wildlife Refuge; by revising paragraphs A.2. and B.3. of Malheur National Wildlife Refuge; by revising paragraphs A.7. and B.3. of McKay Creek National Wildlife Refuge; by revising Umatilla National Wildlife Refuge; and by revising paragraph A.2. of Upper Klamath National Wildlife Refuge to read as follows:

§ 32.56 Oregon.

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Bandon Marsh National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, snipe, doves and pigeons on designated areas of the refuge subject to the following condition: Snipe hunters must possess and use only approved nontoxic shot while in the field.

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Cold Springs National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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6. Snipe hunters will possess and use only approved nontoxic shot while in the field.

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B. Upland Game Hunting. * * *

* * * * *

3. You will possess and use only approved nontoxic shot while in the field.

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Deer Flat National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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2. Snipe hunters will possess and use only approved nontoxic shot while in the field.

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B. Upland Game Hunting. * * *

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2. Pheasant, quail, and partridge hunters will possess and use only approved nontoxic shot while in the field.

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Julia Butler Hansen Refuge for the Columbian White-Tailed Deer

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, and common snipe on the Wallace Island Unit subject to the following condition:

1. You will possess and use only approved nontoxic shot while in the field.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow sport fishing along the shoreline of the Wallace Island Unit in accordance with State regulations.

Klamath Forest National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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2. Snipe hunters will possess and use only approved nontoxic shot while in the field.

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Lewis and Clark National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, and common snipe on designated areas of the refuge subject to the following conditions:

1. You will possess and use only approved nontoxic shot while in the field.

2. We do not allow hunting on all exposed lands on Miller Sands Island and its partially enclosed lagoon, as posted. We do not allow hunting inside the diked portion of Karlson Island, as posted.

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D. Sport Fishing. We allow sport fishing along the shoreline of the refuge islands in accordance with State regulations.

Lower Klamath National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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4. Snipe hunters will possess and use only approved nontoxic shot while in the field.

B. Upland Game Hunting. * * *

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2. You will possess and use only approved nontoxic shot while in the field.

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Malheur National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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2. You will possess and use only approved nontoxic shot while in the field.

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B. Upland Game Hunting. * * *

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3. You will possess and use only approved nontoxic shot while in the field when hunting on designated areas east of Highway 205.

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McKay Creek National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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7. Snipe hunters will possess and use only approved nontoxic shot while in the field.

B. Upland Game Hunting. * * *

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3. You will possess and use only approved nontoxic shot while in the field.

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Umatilla National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, and common snipe on designated areas of the refuge subject to the following conditions:

1. The refuge is open from 4:00 a.m. to 1½ hours after sunset except for the Hunter Check Station parking lot at the McCormack Unit which is open each morning 2 hours prior to State shooting hours for waterfowl. We do not allow decoys, boats and other personal property on the refuge following each day's hunt.

2. In the McCormack Unit, we allow hunting only on Wednesdays, Saturdays, Sundays, Thanksgiving Day, and New Year's Day.

3. We require waterfowl hunting parties in the Boardman Unit to space themselves a minimum of 200 yards (180m) apart.

4. You may not possess more than 25 shells while in the field.

5. We require permits for hunting on the McCormack Unit.

6. Snipe hunters will possess and use only approved nontoxic shot while in the field.

B. Upland Game Hunting. We allow hunting of pheasant, chukar, Hungarian partridge, and quail on designated areas of the refuge subject to the following conditions:

1. We do not allow hunting of upland game birds until noon of each hunt day.

2. In the McCormack Unit, we allow hunting only on Wednesdays, Saturdays, Sundays, Thanksgiving Day, and New Years Day.

3. You will possess and use only approved nontoxic shot while in the field.

4. You may not possess more than 25 shells while in the field.

5. We require permits for hunting on the McCormack Unit.

C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge subject to the following conditions:

1. Hunting is by permit only.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. The refuge is open from 5 a.m. to 1½ hours after sunset.

2. We allow fishing on refuge impoundments and ponds from February 1 through September 30. We open other refuge waters (Columbia River and its backwaters) in accordance with State regulations.

3. We allow only non-motorized boats and boats with electric motors on refuge impoundments and ponds.

4. We only allow fishing with hook and line.

Upper Klamath National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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2. Snipe hunters will possess and use only approved nontoxic shot while in the field.

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37. We propose to amend § 32.57 Pennsylvania by revising paragraph B.4. of Ohio River Islands National Wildlife Refuge to read as follows:

§ 32.57 Pennsylvania.

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Ohio River Islands National Wildlife Refuge

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B. Upland Game Hunting. * * *

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4. You will possess and use only approved nontoxic shot while in the field.

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38. We propose to amend § 32.60 South Carolina by revising paragraphs C. and D. of ACE Basin National Wildlife Refuge to read as follows:

§ 32.60 South Carolina.

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ACE Basin National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following condition: We require permits.

D. Sport Fishing. Anglers may fish on the refuge in accordance with State law and as specifically designated in refuge publications.

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39. We propose to amend § 32.61 South Dakota by revising paragraph B. of Pocasse National Wildlife Refuge to read as follows:

§ 32.61 South Dakota.

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Pocasse National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of pheasant on designated areas of the refuge subject to the following condition: You will possess and use only approved nontoxic shot while in the field.

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40. We propose to amend § 32.62 Tennessee by revising paragraphs B., C., and D. of Cross Creeks National Wildlife Refuge; by revising paragraph A.4. of Hatchie National Wildlife Refuge; and by revising Tennessee National Wildlife Refuge to read as follows:

§ 32.62 Tennessee.

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Cross Creeks National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of squirrels on designated areas of the refuge subject to the following conditions: We require permits.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following conditions: We require permits.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. We allow fishing on refuge pools and reservoirs from March 15 through October 31 from sunrise to sunset.

2. We do not allow bow and arrows, trotlines, limblines, jugs, and slat baskets in refuge pools and reservoirs.

3. We do not allow taking of frogs.

4. The length limit for largemouth bass taken from Elk and South Cross Creeks reservoirs is less than 12 inches (30 cm) and more than 15 inches (37.5 cm). Anglers must immediately release unharmed largemouth bass from 12 inches (30 cm) to 15 inches (37.5 cm). We prohibit possession of largemouth bass between 12 inches (30 cm) and 15 inches (37.5 cm).

Hatchie National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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4. You will possess and use only approved nontoxic shot while in the field.

* * * * *

Tennessee National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. We allow hunting of squirrels and raccoon on designated areas of the refuge subject to the following conditions:

1. We require permits.
2. You must unload and encase or dismantle firearms transported in motor vehicles.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following conditions:

1. We require permits.
2. You must unload and encase or dismantle firearms transported in motor vehicles.

D. Sport Fishing. We allow fishing on designated portions of the refuge subject to the following conditions:

1. We close impounded waters to fishing from November 1 through March 14.
2. We close Swamp Creek, Britton Ford and Bennett's Creek embayments to fishing and boating from November 1 through March 14.
3. Anglers must launch boats from designated access points only. We restrict boats to ''slow speed/minimum wake'' on all refuge impoundments open to fishing.
4. Anglers may not leave boats on the refuge overnight.

41. We propose to amend § 32.63 Texas by revising paragraph B.3. of Buffalo Lake National Wildlife Refuge; and by revising Hagerman National Wildlife Refuge to read as follows:

§ 32.63 Texas.

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Buffalo Lake National Wildlife Refuge

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B. Upland Game Hunting. * * *

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3. You will possess and use only approved nontoxic shot while in the field.

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Hagerman National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of mourning doves in the month of September on designated areas of the refuge, subject to the following conditions:

1. We require you to check in and out of the hunt area.
2. We allow only shotguns.
3. You may possess no shot larger than No. 4 on the hunting area.

B. Upland Game Hunting. We allow hunting of quail in the month of February and squirrel and rabbit in the months of February and September on designated areas of the refuge subject to the following conditions:

1. We require you to check in and out of the hunt area.
2. We allow only shotguns.
3. You may possess no shot larger than No. 4 on the hunting area.
4. You must plug shotguns to hold no more than three shells during the September dove season.

C. Big Game Hunting. We allow hunting of white-tailed deer and feral hogs on designated areas of the refuge subject to the following conditions:

1. You may archery hunt as listed in the refuge hunt information sheet. You must obtain a refuge permit and pay a hunt fee.
2. We allow firearms hunting utilizing shotguns, 20 gauge or larger, loaded with rifled slug during a special youth hunt as listed in the refuge hunt information sheet. We require permits.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. Lake Texoma and connected streams are open to fishing year round.
2. We allow fishing in ponds and stock tanks from April 1 through September 30.
3. Fishermen may string trotlines between anchored floats only. We do not allow lines attached to rubber bands, sticks, poles, trees or other fixed objects in refuge ponds or impoundments.
4. We do not allow fishing from bridges or roadways.
5. We do not allow boats and other flotation devices on the waters of Lake Texoma from October 1 through March 31, nor at any time on refuge ponds and impoundments.

* * * * *

42. We propose to amend § 32.64 Utah by revising paragraphs A.2. and B.1. of Bear River Migratory Bird Refuge; and paragraph B. of Ouray National Wildlife Refuge to read as follows:

§ 32.64 Utah.

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Bear River Migratory Bird Refuge

A. Hunting of Migratory Game Birds. * * *

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2. You will possess and use only approved nontoxic shot while in the field.

* * * * *

B. Upland Game Hunting. * * *

1. You will possess and use only approved nontoxic shot while in the field.

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Ouray National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of pheasant on designated areas of the refuge subject to the following condition: You will possess and use only approved nontoxic shot while in the field.

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43. We propose to amend § 32.65 Vermont by revising paragraph B.4. of Missisquoi National Wildlife Refuge to read as follows:

§ 32.65 Vermont.

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Missisquoi National Wildlife Refuge

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B. Upland Game Hunting. * * *

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4. Shotgun hunters will possess and use only approved nontoxic shot while in the field.

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44. We propose to amend § 32.66 Virginia by revising Chincoteague National Wildlife Refuge; and by alphabetically adding Plum Tree Island National Wildlife Refuge to read as follows:

§ 32.66 Virginia.

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Chincoteague National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of waterfowl and rails on designated areas of the refuge subject to the following conditions:

1. You must possess written permission to hunt in the non-guided public hunting areas.
2. On Wildcat Marsh we reserve compartments 1–4 for guided hunting only with refuge-designated commercial guides.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed and sika deer in designated areas of the refuge subject to the following condition: We require a refuge permit.

D. Sport Fishing. We allow fishing, crabbing, and clamming on designated areas of the refuge subject to the following conditions:

1. We allow sport fishing, crabbing, and clamming in salt water areas and in that portion of Swan Cove adjacent to Beach Road. We close all other refuge ponds, impoundments and channels to these activities.
2. Fishermen must attend traps and crab pots.
3. Fishermen must obtain a permit to remain on the refuge after normal closing hours.

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Plum Tree Island National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of waterfowl on designated areas of the refuge subject to the following conditions:

1. We require permits.
2. Waterfowl hunters will possess and use only approved nontoxic shot while in the field.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. [Reserved]

* * * * *

45. We propose to amend § 32.67 Washington by revising Columbia National Wildlife Refuge, Julia Butler Hansen Refuge for the Columbian White-Tailed Deer, and Willapa National Wildlife Refuge; by revising paragraph A. of Conboy Lake National

Wildlife Refuge; by removing paragraphs A.6. and B.6., by revising the introductory text of paragraph B., and by revising paragraphs A.3. and B.3. of McNary National Wildlife Refuge; by revising paragraphs A.5. and B.2. of Toppenish National Wildlife Refuge; and by revising paragraphs A.6. and B.4. of Umatilla National Wildlife Refuge to read as follows:

§ 32.67 Washington.

* * * * *

Columbia National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, and common snipe on designated areas of the refuge subject to the following conditions:

1. In Marsh Unit 1, we allow hunting only on Wednesdays, Saturdays, and Sundays.
2. Snipe hunters will possess and use only approved nontoxic shot while in the field.
3. In Marsh Unit 1, concurrent with the State's designated Youth Day prior to the opening of the waterfowl hunt, only youth aged 10–17 and an accompanying adult aged 18 or over may hunt.

B. Upland Game Hunting. We allow hunting of pheasant, quail, and partridge on designated areas of the refuge subject to the following conditions:

1. We allow hunting of upland game birds only during State seasons that run concurrently with the State waterfowl season.
2. We allow only shotguns and bows and arrows.
3. Upland game bird hunters will possess and use only approved nontoxic shot while in the field.
4. In Marsh Unit 1, concurrent with the State's designated Youth Day prior to the opening of the waterfowl hunt, only youth aged 10–17 and an accompanying adult aged 18 or over may hunt.

C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge subject to the following condition: We allow only shotgun and archery hunting.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. We allow non-motorized boats and boats with electric motors on Upper and Lower Hampton, Hutchinson, Royal and Shiner Lakes.
2. We allow motorized boats and non-motorized boats on all other refuge waters open to fishing.
3. We prohibit the taking of bullfrogs.

Conboy Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of doves, geese, ducks, coots, and common snipe on designated areas of the refuge subject to the following condition: snipe hunters will possess and use only approved nontoxic shot while in the field.

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Julia Butler Hansen Refuge for the Columbian White-Tailed Deer

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, and common snipe on the Hunting Island Unit subject to the following condition:

1. You will possess and use only approved nontoxic shot while in the field.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow bank fishing from the Mainland Unit shoreline adjoining the Elochoman and Columbia Rivers as well as Steamboat and Brooks Sloughs, in accordance with State fishing regulations. We also allow bank fishing in the pond adjacent to the diking district pumping station by Brooks Slough. We close all other interior water of the Mainland Unit to fishing.

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McNary National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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3. Snipe hunters will possess and use only approved nontoxic shot while in the field.

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B. Upland Game Hunting. We allow hunting of pheasant, quail, chukar, and Hungarian partridge on designated areas of the refuge subject to the following conditions:

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3. You will possess and use only approved nontoxic shot while in the field.

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Toppenish National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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5. Snipe hunters will possess and use only approved nontoxic shot while in the field.

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B. Upland Game Hunting. * * *

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2. You will possess and use only approved nontoxic shot while in the field.

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Umatilla National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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6. Snipe hunters will possess and use only approved nontoxic shot while in the field.

B. Upland Game Hunting. * * *

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4. Upland game bird hunters will possess and use only approved nontoxic shot while in the field.

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Willapa National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, and coots on designated areas of Riekkola and Lewis Units, in accordance with State hunting regulations and subject to the following conditions:

1. At Riekkola Unit, prior to entering the hunt area, we require you to obtain a permit, pay a recreation user fee, and obtain a blind assignment.
2. At Riekkola Unit you may take ducks and coots only coincidental to hunting geese. We do not allow exclusive hunting of ducks in Riekkola Unit.
3. We allow hunting in the Riekkola Unit only from established blinds on Wednesdays and Saturdays.
4. At the Riekkola Unit you will possess and use no more than 24 shells per day while in the field.
5. You will possess and use only approved nontoxic shotgun shells.

B. Upland Game Hunting. We allow hunting of blue and ruffed grouse on Long Island, subject to the following conditions:

1. We require you to obtain and carry a refuge permit and report game taken, as specified with the permit.
2. We allow only archery hunting.
3. We do not allow firearms on Long Island at any time.
4. We do not allow dogs on Long Island.

C. Big Game Hunting. We allow hunting for deer, elk, and bear on Long Island, subject to the following conditions:

1. We require you to obtain and carry a refuge permit and report game taken, as specified with the permit.
2. We allow only archery hunting.
3. We do not allow firearms on Long Island at any time.
4. We do not allow dogs on Long Island.

D. Sport Fishing. We allow fishing along the shoreline of the refuge in accordance with State regulations.

46. We propose to amend § 32.68 West Virginia by revising paragraph B.2. of Canaan Valley National Wildlife Refuge and paragraph B.4. of Ohio River Islands National Wildlife Refuge to read as follows:

§ 32.68 West Virginia.

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Canaan Valley National Wildlife Refuge

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B. Upland Game Hunting. * * *

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2. Shotgun hunters may use or possess only approved nontoxic shot while hunting on the refuge.

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Ohio River Islands National Wildlife Refuge

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B. Upland Game Hunting. * * *

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4. You will possess and use only approved nontoxic shot while in the field.

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47. We propose to amend § 32.69 Wisconsin by revising paragraph C. of Fox River National Wildlife Refuge; by revising Horicon National Wildlife Refuge and Necedah National Wildlife Refuge; and by alphabetically adding St. Croix Wetland Management District to read as follows:

§ 32.69 Wisconsin.

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Fox River National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

1. We require permits.
2. We do not allow the construction or use of blinds, platforms, or ladders.
3. We allow hunting only during the State firearms season and during a designated time period of the archery season.

* * * * *

Horicon National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of ducks and coots on designated areas of the refuge subject to the following conditions:
1. We require permits.
2. We allow only participants in the Young Wildfowlers and Special Programs to hunt.

B. Upland Game Hunting. We allow hunting of ring-necked pheasant, gray partridge, squirrel, and cottontail rabbit on designated areas of the refuge from the opening of the respective State seasons through the State deer firearms season, and subject to the following conditions:
1. Shotgun hunters may use or possess only approved nontoxic shot while hunting upland game species.
2. Hunting in the youth/novice pheasant hunt area (Area F) is for youth who are 12 through 15 years of age, and by permit.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:
1. We allow hunting only during the early archery and State firearms season.
2. We do not allow the construction and use of permanent blinds, platforms or ladders.
3. You must remove all stands from the refuge following each day's hunt.
4. Hunting in the area surrounding the office/visitor center (Area E) is by permit only.
5. Hunting in the auto tour/hiking trail complex (Area D) is open only during the State firearms deer season.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:
1. We allow fishing from April 15 through September 15.
2. We allow only bank fishing.

* * * * *

Necedah National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds only on designated areas of the refuge.

B. Upland Game Hunting. We allow hunting of wild turkey, ruffed grouse, gray squirrel, fox squirrel, cottontail rabbit, snowshoe hare, and racoon only on designated areas of the refuge subject to the following conditions:
1. You may only possess unloaded guns in the retrieval zone of Refuge Area 7 during the State waterfowl hunting season, except while hunting deer during the gun deer season.
2. During the spring turkey hunting season only, persons possessing a valid State spring turkey permit may enter and hunt wild turkeys in all open refuge areas.
3. Refuge Area 3 is open to hunting after the State deer gun season through the end of the respective State seasons or until February 28, whichever occurs first.
4. You may use dogs only when hunting small game and waterfowl.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:
1. We prohibit the possession of a loaded rifle or shotgun with 50 feet (15m) of the centerline of all paved or graveled roads and designated trails, or discharging these weapons from, across, down, or alongside these roads and trails within the refuge.
2. We do not allow the construction of permanent blinds, platforms or ladders.
3. You may use portable elevated devices but must lower them to ground level at the close of shooting hours each day. You must remove all blinds, stands, platforms and ladders from the refuge at the end of the hunting season.
4. Refuge Areas 1, 2, 4, 5, 6, and 7 are open to deer hunting.
5. Refuge Area 3 is open to deer hunting during the State gun, muzzleloader, and late archery seasons. Unarmed deer hunters may enter Area 3 to scout beginning the Saturday prior to the gun deer season.
6. We do not allow target or practice shooting.
7. We prohibit the use of flagging, paint, blazes, tacks, or other types of markers.

D. Sport Fishing. We allow fishing in designated waters of the refuge at designated times subject to the following conditions:
1. We allow use of non-motorized boats in Sprague-Goose Pools only when these pools are open to fishing. We allow motorized boats in Suk Cerney Pool.
2. Effective with the 2001–2002 season, we will require anglers to use lead-free sinkers and jigs on ''Lead-Free Fishing Areas'' on the entire refuge.

St. Croix Wetland Management District

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds throughout the district except that you may not hunt on designated portions of the St. Croix Prairie Waterfowl Production Area in St. Croix County or on the Oakridge Waterfowl Production Area in St. Croix County.

B. Upland Game Hunting. We allow hunting of upland game throughout the district except that you may not hunt on designated portions of the St. Croix Prairie Waterfowl Production Area in St. Croix County or on the Oakridge Waterfowl Production Area in St. Croix County.

C. Big Game Hunting. We allow hunting of big game throughout the district except that you may not hunt on designated portions of the St. Croix Prairie Waterfowl Production Area in St. Croix County.

D. Sport Fishing. Effective with the 2001–2002 season, we will require anglers to use lead-free sinkers and jigs on ''Lead-Free Fishing Areas'' covering the following five Waterfowl Production Areas: Oakridge WPA and Amschler WAP (both in St. Croix County), Rose Lee WPA, Flatey WPA, and Bass Lake WPA (in Polk County).

* * * * *

48. We propose to amend § 32.70 Wyoming by adding paragraph D.1. of National Elk Refuge; by revising paragraph B. of Pathfinder National Wildlife Refuge and by revising paragraph B. of Seedskadee National Wildlife Refuge to read as follows:

§ 32.70 Wyoming.

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National Elk Refuge

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D. Sport Fishing. * * *

1. Effective with the 2001–2002 season, we will require anglers to use lead-free sinkers and jigs on ''Lead-Free Fishing Areas'' covering the entire refuge. Current State regulations for lead-free fishing areas remain in effect.

Pathfinder National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of sage grouse and cottontail rabbit on designated areas of the refuge subject to the following condition: You will possess and use only approved nontoxic shot while in the field.

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Seedskadee National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of sage grouse and cottontail rabbit on designated areas of the refuge subject to the following condition: You will possess and use only approved nontoxic shot while in the field.

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PART 36—[AMENDED]

49. The authority citation for part 36 is revised to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460(k) *et seq.*, 668dd–668ee, 742(a) *et seq.*, 3101 *et seq.*; and 44 U.S.C. 3501 *et seq.*

50. We propose to revise § 36.39(i)(6) to read as follows:

§ 36.39 Public use.

* * * * *

(i) * * *

(6) What are the restrictions concerning fishing on Kenai National Wildlife Refuge?

(i) We prohibit fishing June 1 to August 15 on the south bank of the Kenai River from the Kenai-Russian River Ferry dock to a point 100 feet (30 m) downstream.

(ii) Effective with the 2001–2002 season, we will require anglers to use lead-free sinkers and jigs on ''Lead-Free Fishing Areas'' on the section of the Kenai River from the outlet of Skilak Lake downstream to the refuge boundary and the Dave Spenser Unit of the Kenai Refuge Wilderness Area.

* * * * *

Dated: July 29, 1999.

Stephen C. Saunders,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 99–20192 Filed 8–10–99; 8:45 am]

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federal register

Wednesday
August 11, 1999

Part IV

Department of Defense

Office of the Secretary

32 CFR Parts 230, 231, and 231a

Financial Institutions on DoD Installations; Proposed Rule

Procedures Governing Banks, Credit Unions and Other Financial Institutions on DoD Installations; Proposed Rule

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 230 and 231a

[0790–AG73]

Financial Institutions on DoD Installations

AGENCY: Department of Defense.

ACTION: Proposed rule.

SUMMARY: This rule proposes to remove 32 CFR part 231a, ''Procedures governing Banking Offices on DoD Installations'' and to revise part 230 on ''Financial Institutions on DoD Installations.'' This rule is being promulgated to provide administrative guidelines for the operation of banks and credit unions on domestic and overseas installations of the Department of Defense and address areas such as the solicitation for such services, the types of services and the logistics support provided.

DATES: Comments must be received by October 12, 1999.

ADDRESSES: Forward comments to OUSD(C), 1745 Jefferson Davis Highway, Suite 201, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: T. Summers, 703–602–0299.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, Regulatory Planning and Review

It has been determined that 32 CFR part 230 is not a significant regulatory action. The rule does not:

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

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

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

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

Public Law 96–354, Regulatory Flexibility Act (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule is being promulgated to provide administrative guidelines for the operation of banks and credit unions on domestic and overseas installations of the Department of Defense and address areas such as the solicitation for such services, the types of services and the logistics support provided.

Public Law 96–511, Paperwork Reduction Act (44 U.S.C. Chapter 35)

It has been certified that this part does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 32 CFR Part 230 and 231a

Armed forces, Banks, banking, Credit unions, Federal buildings and facilities.

Accordingly, 32 CFR part 230 is proposed to be revised to read as follows:

PART 230—FINANCIAL INSTITUTIONS ON DOD INSTALLATIONS

Sec.
230.1 Purpose.
230.2 Applicability.
230.3 Definitions.
230.4 Policy.
230.5 Responsibilities.

Authority: 10 U.S.C. 136

§ 230.1 Purpose.

This part:

(a) Updates policies and responsibilities for financial institutions that serve Department of Defense (DoD) personnel on DoD installations worldwide. Associated procedures are contained in DoD 7000.14–R[1].

(b) Ensures that arrangements for the provision of services by financial institutions are consistent among the DoD Components, and that financial institutions operating on DoD installations provide, and are provided, support consistent with the policies stated in this part.

§ 230.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to as the ''DoD Components.''

[1] Copies may be obtained at *http://web 7.whs.osd.mil/corres.htm*

§ 230.3 Definitions.

Terms used in this part are set forth in 32 CFR part 231.

§ 230.4 Policy.

(a) The following pertains to financial institutions on domestic DoD installations:

(1) Except where they already may exist as of July 1, 1999, no more than one banking institution and one credit union shall be permitted to operate on a DoD installation.

(2) Upon the request of an installation commander and with the approval of the Secretary of the Military Department concerned (or designee), duly chartered financial institutions may be authorized to provide financial services on DoD installations to enhance the morale and welfare of DoD personnel and facilitate the administration of public and quasi-public monies. Arrangement for the provision of such services shall be in accordance with this part and related issuances.

(3) Financial institutions or branches thereof, shall be established on DoD installations only after approval by the Secretary of the Military Department concerned (or designee) and the appropriate regulatory agency.

(i) Only banking institutions insured by the Federal Deposit Insurance Corporation (FDIC) and credit unions insured by the National Credit Union Share Insurance Fund (NCUSIF) shall operate on DoD installations. These financial institutions may be either state or federally chartered. Foreign banking institutions operating on overseas DoD installations and chartered to provide financial services in that country are excepted from this requirement.

(ii) Military banking facilities (MBFs) shall be established on DoD installations only when a demonstrated and justified need cannot be met through other means. Normally, MBFs shall be authorized only at overseas locations. They may be considered for use at domestic DoD installations only when DoD Components have been unable to obtain, through normal means, financial services from a state or federally chartered financial institution authorized to operate in that state. In times of mobilization, it may become necessary to designate additional MBFs as an emergency measure. The Director, Defense Finance and Accounting Service (DFAS) may recommend the designation of banking facilities to the Department of the Treasury under provisions of 12 U.S.C. 265.

(iii) Retail banking operations shall not be performed by any DoD Component. Solicitations for such services shall be issued, or proposals

accepted, only in accordance with the policies identified in this part. DoD Components shall rely on commercially available sources in accordance with DoD Directive 4100.15[2].

(iv) Retail fees and services for products (to include related minimum balance requirements for noninterest checking, Negotiable Order of Withdrawal (NOW) and savings accounts) offered by financial institutions operating on domestic installations and domestic credit unions operating on DoD installations overseas shall not exceed 110 percent of the industry-wide averages for banks in the ''Annual Report to Congress on Retail Fees and Services of Depository Institutions,'' published by the Board of Governors of the Federal Reserve System.

(4) Installation commanders shall not seek the provision of financial services from any entity other than the on-base banking office or credit union. The Director, DFAS, with the concurrence of the Under Secretary of Defense Comptroller), (USD(C)), may approve exceptions to this policy. Such requests for exception shall be proposed through the Secretary of the Military Department concerned (or designee).

(5) Financial institutions authorized to locate on DoD installations shall be provided logistic support as set forth in Volume 5 of the DoD Financial Management Regulation (DoD 7000.14–R).

(6) Military disbursing offices, nonappropriated fund instrumentalities including MWR activities, the Military Exchange Services and other DoD Component activities requiring financial services shall use on-base financial institutions to the maximum extent feasible and consistent with sound management practice.

(7) The Department encourages the delivery of retail financial services on DoD installations via nationally networked automated teller machines (ATMs). ATMs are considered electronic banking services and, as such, shall be provided only by duly chartered financial institutions.

(i) Notwithstanding the provisions contained in paragraph (a) (3) (iv) of this section, on-base ATM service offered by financial institutions operating on domestic installations and domestic credit unions operating on DoD installations overseas shall be provided without surcharge.

(ii) Proposals by the installation commander to install ATMs from other than on-base financial institutions shall comply with the provisions of paragraph (a) (4) of this section, and will be considered only when ATM service is unavailable or existing service is inadequate and the on-base financial institution(s) either declines to provide the service, fails to improve existing service so that it is adequate or does not formally respond to the request within 30 days of the date of the request.

(8) Expansion of financial services (to include in-store banking) provided by on base financial institutions must be approved by the installation commander. Such requests for expansion of services should be coordinated with the installation bank/credit union liaison officer prior to the commander's consideration. Approved expansion of services will be documented as an amendment to the existing operating agreement between the installation commander and the on-base financial institution. The amendment to the operating agreement and any required lease (to include a change to an existing lease) shall be in place prior to the initiation of new financial services or offices.

(9) The installation commander shall ensure, to the maximum extent feasible, that all financial institutions operating on his or her installation are given the opportunity to participate in pilot programs to demonstrate new financial-related technology (e.g., smart cards) or establish new business lines (e.g., in-store banking) where a determination has been made by the installation commander that the offering of such services is warranted.

(10) Requests for termination of financial services must be approved by the installation commander, substantiated by sufficient evidence and forwarded to the Secretary of the Military Department concerned (or designee). The Secretary of the Military Department (or designee) shall coordinate such requests with the Under Secretary of Defense (Comptroller), through the Director, DFAS, before notification to the appropriate regulatory agency.

(b) The following pertains to financial institutions on overseas DoD installations:

(1) The extension of services by MBFs and credit unions overseas shall be consistent with the policies stated in this part and with the pertinent status of forces agreement, other intergovernmental agreement, or host-country law.

(2) The policies governing the operation of financial institutions on domestic DoD installations identified in paragraph (a) of this section shall apply to financial institutions operating overseas.

(3) Financial services at overseas DoD installations may be provided by:

(i) Domestic on-base credit unions operating overseas under a geographic franchise and, where applicable, as authorized by the pertinent status of forces agreement, other intergovernmental agreement, or host-country law.

(ii) MBFs operated under and authorized by the pertinent status of forces agreement, other intergovernmental agreement, or host-country law.

(iii) Domestic and foreign banks located on overseas DoD installations that are:

(A) Chartered to provide financial services in that country, and

(B) A party to a formal operating agreement with the installation commander to provide such services, and

(C) Identified, where applicable, in the status of forces agreements, other intergovernmental agreements, or host-country law.

(4) Financial institutions authorized to locate on DoD installations shall be provided logistical support as set forth in the Volume 5 of the DoD Financial Management Regulation (DoD 7000.14–R).

(5) In countries served by MBFs operated under contract, nonappropriated fund instrumentalities and on-base credit unions that desire and are authorized to provide accommodation exchange services shall acquire foreign currency from the MBF at the MBF accommodation rate; and shall sell such foreign currency at a rate of exchange that is no more favorable to the customer than that available from the MBF.

(6) Additional guidance pertaining to financial services overseas is set forth in Volume 5 of DoD 7000.14–R.

§ 230.5 Responsibilities.

(a) The Under Secretary of Defense (Comptroller) (USD(C)) shall develop and monitor policies governing establishment, operation, and termination of financial institutions on DoD installations and take final action on requests for exceptions to this part.

(b) The Under Secretary of Defense (Acquisition and Technology) (USD(A&T)) shall develop and monitor policies and procedures governing logistical support furnished to financial institutions on DoD installations, including the use of DoD real property and equipment.

(c) The Under Secretary of Defense (Personnel and Readiness) (USD(P&R)) shall advise the USD(C) on all aspects of on-base financial institution services

[2] See footnote 1 to § 230.1(a).

that affect the morale and welfare of DoD personnel.

(d) DoD Component responsibilities pertaining to this part are set forth in Volume 5 of the DoD Financial Management Regulation (DoD 7000.14–R).

PART 231a—[Removed]

By the authority of 10 U.S.C. 301, 32 CFR part 231a is proposed to be removed.

Dated: August 5, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–20508 Filed 8–10–99; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 231

RIN 0790–AG74

Procedures Governing Banks, Credit Unions and Other Financial Institutions on DoD Installations

AGENCY: Department of Defense.

ACTION: Proposed rule.

SUMMARY: This proposed rule reflects the transition of operational responsibilities for banks and credit unions from the Office of the Under Secretary of Defense (Comptroller) to the Defense Finance and Accounting Service; to address changes in financial-related technology and the vehicles through which financial services are delivered (i.e., in-store banking, electronic banking (ATMs)); and incorporates the procedural guidance contained in other DoD documents.

DATES: Comments must be received by October 12, 1999.

ADDRESSES: Forward comments to: OUSD(C), 1745 Jefferson Davis Highway, Suite 201, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: T. Summers, 703–602–0299.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, Regulatory Planning and Review

It has been determined that 32 CFR part 231 is not a significant regulatory action. The rule does not:

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

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

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

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

Public Law 96–354, Regulatory Flexibility Act (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule is being promulgated to provide administrative guidelines for the operation of banks and credit unions on domestic and overseas installations of the Department of Defense and address areas such as the solicitation for such services, the types of services and the logistics support provided.

Public Law 96–511, Paperwork Reduction Act (44 U.S.C. Chapter 35)

It has been certified that this part does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 32 CFR Part 231

Armed forces, Banks, banking, Credit unions, Federal buildings and facilities.

Accordingly, 32 CFR part 231 is proposed to be revised to read as follows:

PART 231—PROCEDURES GOVERNING BANKS, CREDIT UNIONS AND OTHER FINANCIAL INSTITUTIONS ON DOD INSTALLATIONS

Subpart A—Guidelines

231.1 Overview.
231.2 Policy.
231.3 Responsibilities.
231.4 General policy provisions.
231.5 Procedures-domestic banks.
231.6 Procedures-overseas banks.
231.7 Procedures-domestic credit unions.
231.8 Procedures-overseas credit unions.
231.9 Definitions.

Subpart B–DoD Directive 1000.11

231.10 Financial institutions on DoD installations.

Subpart C—Guidelines for Application of the Privacy Act to Financial Institution Operations

231.11 Guidelines
Appendix A to Part 231—Sample Operating Agreement
Appendix B to Part 231—In-Store Banking
Appendix C to Part 231—Sample Certificate of Compliance for Credit Unions
Appendix D to Part 231—Foreign Geographic Field of Membership (Franchise) Assignment Listing

Authority: 10 U.S.C. 136.

Subpart A—Guidelines

§ 231.1 Overview.

(a) *Purpose.* This part implements DoD Directive 1000.1,[1] ''Financial Institutions on DoD Installations,'' and prescribes guidance and procedures governing the establishment, support, operation, and termination of banks and credit unions operating on DoD installations worldwide, to include military banking facilities (MBFs). In addition, this part provides guidance intended to ensure that arrangements for the provision of services by financial institutions are consistent among DoD Components, and that financial institutions operating on DoD installations provide, and are provided support consistent with the guidance and procedures stated in this part.

(b) *Applicability.* This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff (JCS), the Combatant Commands, the Inspector General of the Department of Defense (IG, DoD), the Defense Agencies, the DoD Field Activities, and all nonappropriated fund instrumentalities including the Military Exchange Services and morale, welfare and recreation (MWR) activities.

§ 231.2 Policy.

The policy pertaining to financial institutions operating on DoD installations is contained in DoD Directive 1000.11, ''Financial Institutions on DoD Installations'' (32 CFR part 230) and in § 231.4.

§ 231.3 Responsibilities.

(a) The Under Secretary of Defense (Comptroller) (USD(C)) shall develop and monitor policies governing establishment, operation, and termination of financial institutions on DoD installations and take final action on requests for exceptions to DoD Directive 1000.11.

(b) The Under Secretary of Defense (Acquisition and Technology) (USD(A&T)) shall develop and monitor policies and procedures governing logistical support furnished to financial institutions on DoD installations, including the use of DoD real property and equipment.

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[1] Copies may be obtained at http://web7.whs.osd.mil/corres.htm.

(c) The Under Secretary of Defense (Personnel and Readiness) (USD(P&R)) shall advise the USD(C) on all aspects of on-base financial institution services that affect the morale and welfare of DoD personnel.

(d) The Director, Defense Finance and Accounting Service (DFAS) shall:

(1) Develop procedures governing banks and credit unions on DoD installations for promulgation in this part.

(2) For domestic DoD installations, coordinate with the Secretaries of the Military Departments (or designees) on requests from subordinate installation commanders to establish or terminate banking offices or on-base credit unions. For overseas DoD installations, coordinate with the Secretary of the Military Department concerned (or designee) on requests from subordinate installation commanders to establish or discontinue the provision of financial services from the on-base financial institution under contract with the Department of Defense or to establish or terminate banking offices or credit unions located on DoD installations.

(3) In coordination with affected DoD Components, authorize the specific types of banking services that will be provided by overseas military banking facilities (MBFs) and specify the charges or fees, or the basis for these, to be levied on users of these services.

(4) Coordinate with the Fiscal Assistant Secretary of the Treasury on the designation of domestic and overseas MBFs as depositaries and financial agents of the U.S. Government.

(5) Designate a technical representative to provide policy direction for the procuring and administrative contracting officer(s) responsible under the Federal Acquisition Regulation (FAR) for acquiring banking services required at overseas DoD installations.

(6) Serve as principal liaison with banking institutions having offices on overseas DoD installations. In this capacity, monitor MBF managerial and operational policies, procedures, and operating results and take action as appropriate.

(7) As necessary, assist in the formation of government-to-government agreements for the provision of banking services on overseas DoD installations, in accordance with DoD Directive 5530.3. [2]

(8) Provide procedural guidance to DoD Components, as required.

(9) Maintain liaison with financial institution trade associations, leagues, and councils in order to interpret DoD policies toward respective memberships and aid in resolving mutual concerns affecting the provision of financial services.

(10) Coordinate with the USD(P&R), through the USD(C), on all aspects of morale and welfare and with the USD(A&T), through the USD(C), on all aspects of logistic support for on-base financial institutions.

(11) Monitor industry trends, conduct studies and surveys, and facilitate appropriate dialogues on banking and credit union arrangements and cost-benefit relationships, coordinate as necessary with DoD Components, financial institutions, and trade associations as appropriate.

(12) Maintain liaison, as appropriate, with financial institution regulatory agencies at federal and state levels.

(13) Ensure that recommendations of the Combatant Commands are considered before processing requests for overseas banking and credit union service or related actions.

(e) Secretaries of the Military Departments (or designees) shall:

(1) For domestic DoD installations, take action on requests from subordinate installation commanders to establish or terminate financial institution operations. For overseas DoD installations, take action in accordance with guidance contained herein on requests from subordinate installation commanders to establish or discontinue the provision of financial services from the DoD contracted bank, or to establish or terminate other financial institutions located on DoD installations.

(2) Provide for liaison to those financial institutions that operate banking offices on respective domestic DoD installations.

(3) Oversee the use of banking offices and credit unions on respective DoD installations within the guidance contained herein and in DoD Directive 1000.11.

(4) Evaluate the services provided by respective on-base banking offices and credit unions to ensure that they fulfill the requirements upon which the establishment and retention of those services were justified.

(5) Monitor practices and procedures of respective banking offices and credit unions to ensure that the welfare and interests of DoD personnel as consumers are protected.

(6) Assist on-base banking offices and credit unions to develop and expand necessary services for DoD personnel consistent with this part.

(7) Encourage the conversion of existing domestic MBFs on respective installations to independent or branch bank status where feasible.

(8) Provide logistical support to overseas MBFs under terms and conditions identified in this part as well as with the applicable terms of DoD contracts with financial institutions responsible for the operations of overseas MBFs.

(9). Refer matters requiring policy decisions or proposed changes to this part or DoD Directive 100011 to the USD(C) through the Director, DFAS.

(10) Supervise and encourage the use of financial institutions on DoD installations to:

(i) Facilitate convenient, effective management of the appropriated, nonappropriated, and private funds of on-base activities.

(ii) Assist DoD personnel in managing their personal finances through participation in programs such as direct deposit and regular savings plans. The use of on-base financial institutions shall be on a voluntary basis and should not be urged in preference to, or to the exclusion of, other financial institutions.

(11) Encourage and assist duly chartered financial institutions on domestic DoD installations to provide complete financial services to include financial counseling at no charge.

(12) Establish liaison, as appropriate, with federal and state regulatory agencies and financial institution trade associations, leagues, and councils.

(13) Provide debt processing assistance to on-base financial institutions in accordance with the Privacy Act guidelines in subpart B of this part.

(14) Recognize the right of DoD personnel to organize and join duly chartered credit unions.

(15) Permit DoD personnel to serve on credit union boards and committees on a voluntary basis, without compensation, when neither a conflict of duty nor a conflict of interest is involved, as stated in DoD Directive 5500.7. [3]

(16) Allow personnel to attend credit union conferences and meetings in accordance with DoD Directive 1327.5 [4], Subchapter 630 of the ''DoD Civilian Personnel Manual,'' DoD 1400.25–M [5], and Comptroller General Decision B–212457.

(f) The Commanders of the Combatant Commands (or designees) shall:

(1) Ensure the appropriate coordination of requests to:

(i) Establish financial institutions in countries not presently served. Such requests will include a statement that

[2] See footnote 1 to § 231.1(a).

[3] See Footnote 1 to § 231.1(a).

[4] See Footnote 1 to § 231.1(a).

[5] See Footnote 1 to § 231.1(a).

the requirement has been coordinated with the U.S. Chief of Diplomatic Mission or U.S. Embassy and that the host country will permit the operation.

(ii) Eliminate any or all financial institutions on DoD installations within a foreign country. Such requests will include a statement that the U.S. Chief of Diplomatic Mission has been informed and appropriate arrangements to coordinate local termination announcements and procedures have been made with the U.S. Embassy.

(2) Monitor and coordinate military banking operations within the command area. Personnel assigned to security assistance positions will not perform this function without the prior approval of the Director, Defense Security Cooperation Agency (DSCA).

(g) The Commanders of Major Commands and subordinate installation commanders shall:

(1) Monitor the banking and credit union program within their commands.

(2) Coordinate requests to establish or construct bank and credit union offices or terminate logistical support to banks and credit unions within their commands. Personnel assigned to overseas security assistance positions will not monitor, coordinate, or assist in military banking operations without the prior approval of the DSCA.

(3) Assign, as appropriate, responsibility for paragraphs (g)(1) and (g)(2) of this section, to Comptroller or resource management personnel.

(4) Cooperate with financial institution associations, leagues, and councils.

(5) Recognize the right of all DoD personnel to organize and join credit unions and promote the credit union movement in DoD worldwide.

(6) Permit DoD personnel to serve on credit union boards and committees on a voluntary basis, without compensation, when neither conflict of duty nor conflict of interest is involved, as stated in DoD Directive 5500.7.

(7) Allow personnel to attend credit union conferences and meetings in accordance with DoD Directive 1327.5, Subchapter 630 of the DoD Civilian Personnel Manual (DoD 1400.25–M), and Comptroller General Decision B–212457.

(8) Seek the provision of financial services only from existing on-base financial institutions, proposing alternatives only where on-base financial institutions fail to respond favorably to legitimate requirements.

(9) Coordinate appropriate actions with the cognizant Combatant Command.

§ 231.4 General policy provisions.

(a) *Security.* The installation commander (or designee) and the on base financial institutions shall work with the installation security police to establish an understanding as to each entity's responsibilities. A written agreement shall be established outlining the security procedures that the financial institution will follow and the role that the security police will play with regard to alarms, movement of cash, and procedures to be followed should a robbery occur. The on-base financial institutions are encouraged to establish an ongoing relationship with the security police on all matters of asset protection.

(1) Cash and other assets in on-base banking offices and credit unions are the property of the financial institutions. Maintenance of alarms, escorting of cash or use of armored cars, and the guarding of cash is the sole responsibility of the on-base financial institution.

(2) Military guards, civilian guards (for use within the installation), military police or other protective service will be provided without charge in the following cases:

(i) For needed periods for paydays to guard shipments of money that primarily are for disbursing officer use.

(ii) At times of unusual risk to the financial institution, such as cash needed to stock remote automated teller machines.

(iii) To avoid undue insurance costs.

(b) *Central locator services.* Military locator services shall be provided per the guidelines in subpart B to this part.

(1) When appropriate, installations will process financial institution requests for central locator service to obtain military addresses of active duty personnel. This service will be used to locate persons for settling accounts, and recovering funds on checks that did not clear or loans that are delinquent or in default (see DoD Directive 1344.9 [6]). If delinquent loans or dishonored checks are not recouped within 48 hours, financial institutions operating on DoD installations may bring this information to the attention of the local commander, bank liaison officer, or other designee for assistance in effecting restitution of the amount due, if not otherwise prohibited by law.

(2) The Department will assist financial institutions to locate DoD personnel whose whereabouts cannot be locally determined. The request should be on the financial institution's letterhead, include the Service member's name and social security number (SSN), and cite the cognizant Military Department regulation that authorizes the use of locator services. If a financial institution needs immediate service, the institution should contact the bank or credit union liaison officer.

(i) For addresses of Department of the Army active, retired, separated and civilian personnel, financial institutions may telephone (703) 325–3732 or write to: Department of the Army WW Locator, U.S. Army Enlisted Record and Evaluation Center, 8899 E. 56th Street, Indianapolis, IN 46249–5301.

(ii) For addresses of Department of the Navy active, retired, separated and civilian personnel, financial institutions may telephone (901) 874–3388 or write to: Department of the Navy, Navy Personnel Command, PERS–312F, 5720 Integrity Drive, Millington, TN 38055.

(iii) For addresses of Department of the Air Force active, retired, separated and civilian personnel, financial institutions may telephone (210) 565–2660 or write to: Department of the Air Force Personnel Command, MSIMDL Suite 50, 550 C Street West, Randolph AFB, TX 78150.

(iv) For addresses of United States Marine Corps active, retired, separated and civilian personnel, financial institutions may telephone (703) 784–3942 or write to:

Active:

U.S. Marine Corps–CMC, HQ MC MMS B 10, 2008 Elliot Road, Room 201, Quantico, VA 22134–5030

Retired-Separated:

Q U.S. MMRS–6, 280 Russell Road, Quantico, VA 22134–5105

Civilian:

Commanding General, 15303 Andrew Road, Kansas City, MO, 64147–1207

(c) *Advertising.* (1) On-base financial institutions may use the unofficial section of that installation's daily bulletin, provided space is available, to inform DoD personnel of financial services and announce seminars, consumer information programs, and other matters of broad general interest. Announcements of free financial counseling services are encouraged. Such media may not be used for competitive or comparative advertising of, for example, specific interest rates on savings or loans.

(2) On-base financial institutions may use installation bulletin boards, newsletters or web pages to post general information that complements the installation's financial counseling programs and promotes financial responsibility and thrift. Message center services may distribute a reasonable number of announcements to units for use on bulletin boards so long as this

[6] See footnote 1 to § 231.1(a).

does not impose an unreasonable workload.

(3) On-base financial institutions may include a one page insert into the newcomer's package. This insert would benefit the installation's newcomers by letting them know what financial services are available on the installation.

(4) DoD Directive 5120.20[7] prevents use of the Armed Forces Radio and Television Service to promote a specific financial institution.

(5) Off-base financial institutions will not be permitted to distribute competitive literature or forms on the installation. However, they may use commercial advertising, mailings or telecommunications to reach their customers.

(6) Advertising in government-funded (official) installation papers is not permitted with the exception of insert advertising in the *Stars and Stripes* overseas. Installation newspapers funded by local advertisers are not official publications and, thus, may include paid bank advertising.

(7) Installation activities, including Military Exchange and concessionaire outlets, shall not permit the distribution of literature from off-base financial institutions if there is an on-base financial institution. This does not prevent Military Exchange Services from distributing literature on affinity credit cards centrally acquired through competitive solicitation.

(d) On-base financial institutions are encouraged to install ATMs at those installation(s) on which they are located.

(1) Financial institutions that propose to install an ATM on DoD installations shall bear the cost of ATM installation, maintenance, and operation.

(2) ATM approval authority is as shown.

(i) The installation commander has approval authority when an on-base financial institution wishes to place an ATM on the installation. This approval should be reflected as an amendment to the operating agreement.

(ii) Where there is no on-base financial institution, follow the solicitation procedures to obtain financial services set forth in §§ 231.5(b) and 231.7(b).

(3) The availability of ATM service will not preclude the later establishment of a banking office should conditions change on an installation.

(4) Proposals by the installation commander to install ATMs from other than on-base financial institutions on domestic installations shall be considered only when ATM service is unavailable or existing service is inadequate and the on-base financial institution(s) either declines to provide the service, fails to improve existing service so that it is adequate, or does not formally respond to the request for such service within 30 days of the date of the request. Additional ATM service from other than on-base financial institutions is considered an exception to policy and, therefore, must be submitted by the installation commander for approval to the USD(C) through the Secretary of the Military Department concerned (or designee) and the DFAS. The procedures to establish an on-base financial institution set forth in §§ 231.5(b) and 231.7(b) shall be followed when soliciting for the additional services. Proposals offering shared-access ATMs shall receive preference.

(5) ATM service from foreign banking institutions may be authorized on overseas installations with or without MBFs operated under contract where the installation or community commander determines that a bonafide need exists to support local national hires. In such instances, ATM connectivity shall be limited to host country networks and the ATMs shall dispense only local currency (no U.S. dollars). The operating agreement covering ATM service shall be negotiated by the installation or community commander and coordinated with the Secretary of the Military Department concerned (or designee) and the appropriate Combatant Command (or designee) prior to its execution. A copy of the operating agreement will be forwarded through DoD Component channels to the DFAS.

(6) *Domestic and International Treasury General Accounts.* In cases where authorization will be required for the banking office or on-base credit union to act as a Treasury General Account (TGA) domestic depositary (on overseas installations—International Treasury General Account (ITGA) overseas depository), the financial institution must satisfy the risk management standard established by the Department of the Treasury. Local operating funds may be used if the on-base financial institution requests reimbursement for costs incurred. On-base financial institutions shall accept deposits for credit to the TGA (or ITGA) when so authorized.

(7) *Staffing.* (i) On-base financial institutions are expected to be staffed adequately commensurate with industry standards for similar numbers of accountholders and financial services rendered. Staffing at overseas MBFs operated under contract shall be maintained within negotiated ceilings.

(ii) All staffing will comply fully with the spirit and intent of the DoD equal employment opportunity policies and programs in accordance with DoD Directive 1440.1.[8]

(iii) DoD personnel may not serve as directors of domestic or foreign banking institutions operating banking offices on those DoD installations where they are currently assigned. However, a member of a Reserve Component who has been serving as a director of a domestic or foreign banking institution operating a banking office on a DoD installation need not resign his or her directorship when called to active duty.

(iv) DoD personnel may not be detailed to duty with an on-base financial institution located on a DoD installation. However, off-duty personnel may be employed by an on-base financial institution subject to installation commander approval. Such employment must not interfere with the performance of the individual's official duties and responsibilities.

(e) *Departure clearance.* The installation commander establishes the clearance policy for all DoD personnel leaving the installation. The on-base financial institutions shall be included as places requiring clearance. The purpose of a clearance is to report change of address, reaffirm allotments or outstanding debts, and receive financial counseling, if desired or appropriate. Clearance may not be denied in order to collect debts or resolve disputes with financial institution management.

(f) *Financial education.* (1) Officials of on-base financial institutions shall be invited to take part in seminars to educate personnel on personal financial management and services of financial institutions. Financial institutions will be encouraged to provide financial education and counseling services as an integral part of their financial program. Officials of on-base financial institutions shall submit advance-briefing texts for approval by the installation commander to ensure that the program is not used to promote services of a specific financial institution.

(2) DoD personnel who tender uncollectable checks, overdraw their accounts or fail to meet their financial obligations in a proper and timely manner damage their credit reputation and adversely affect the public image of all government personnel. For uniformed personnel, military financial counselors and legal advisors shall

[7] See footnote 1 to § 231.1(a).

[8] See footnote 1 to § 231.1(a).

recommend workable repayment plans that avoid further endangering credit rating and counsel affected personnel to protect their credit standing and career. Counselors shall ensure that such personnel are aware of the stigma associated with bankruptcy and shall recommend its use only when no other alternative will alleviate the situation.

(g) *Operating agreements.* Before operations of an on base banking office or credit union begin, a written operating agreement (Appendix A to this part) shall be negotiated directly between the installation commander and officials of the designated financial institution. The operating agreement shall define the basic relationship between the on-base financial institution and the installation commander and identify mutual support activities such as hours of operation, service fees and security provided. The agreement shall not prescribe internal operations of the financial institution. One copy of the agreement shall be sent through command channels to the Secretary of the Military Department concerned (or designee). A copy of the agreement shall be maintained by the installation commander and the banking office or on-base credit union. At a minimum, the agreement shall include the following provisions:

(1) Identification of services to be rendered and the conditions for service. Full financial services shall be provided where feasible. Agreements, however, may not restrict either entity's right to renegotiate services and fees.

(2) Agreement that retail fees and services for products (to include related minimum balance requirements for noninterest checking, NOW and savings accounts) offered by financial institutions operating on domestic installations and domestic credit unions operating on DoD installations overseas shall not exceed 110 percent of the industry-wide averages for banks as identified in the ''Annual Report to Congress on Retail Fees and Services of Depository Institutions,'' published by the Board of Governors of the Federal Reserve System. This report is submitted to the Congress pursuant to section 1002 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended by section 108 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 and is accessible through the Internet at http://www.bog.frb.fed.us/boarddocs/RptCongress.

(3) Agreement that, notwithstanding the provisions contained in paragraph (g)(2) of this section, on-base ATM service offered by financial institutions operating on domestic installations and domestic credit unions operating on DoD installations overseas shall be provided without surcharge.

(4) Agreement by both parties that they will comply with this part.

(5) Agreement by the on base financial institution that it will furnish copies of its monthly financial reports and other local publications to the installation commander (or designee).

(6) Agreement that the on-base financial institution will indemnify and hold harmless the U.S. Government from (and against) any loss, expense, claim, or demand to which the U.S. Government may be subjected as a result of death, loss, destruction, or damage in conjunction with the use and occupancy of the premises caused in whole or in part by agents or employees of the on-base financial institution.

(7) Agreement that neither the Department of Defense nor its representatives shall be responsible or liable for the financial operation of the on-base financial institution or for any loss (including criminal losses), expense, or claim for damages arising from operations.

(8) Agreement by the on-base financial institution (or any successor) that it will provide no less than 180 days advance written notice before ceasing operations.

(9) Specification of the security services to be provided for guarding cash shipments for paydays, at times of unusual risk to the financial institution, and to avoid excessive insurance costs charged to that institution.

(10) Statement that the physical security for cash and negotiable items will be in a manner consistent with the requirements of the on-base financial institution's insurer. A copy of those requirements will be provided to the installation commander on request.

(11) Statement that the financial institution, whenever possible, will accommodate local command requests for lectures and printed materials for consumer credit education programs. Officials invited to participate in such programs shall not use the occasion to promote the exclusive services of a particular financial institution.

(12) Agreement of the installation commander to provide support as identified in this part.

(13) Statement that on-base financial institution operations shall be terminated in accordance with the provisions outlined in this part.

(h) *Installation financial services.* (1) Financial services provided on DoD installations will be as uniform as possible for all personnel.

(2) As separately negotiated, or based on a fee schedule, custodians of nonappropriated funds shall compensate on-base financial institutions for services received. Compensation may be made with compensating balances or paying fees based on the services provided or a combination of these payment mechanisms. Fees shall not exceed the charge customary for the financial institution less an offsetting credit on balances maintained. Banking offices shall classify nonappropriated fund accounts as commercial accounts.

(3) At a minimum, banking offices shall provide the same services to individuals and nonappropriated fund instrumentalities as are available locally.

(4) On-base financial institutions may conduct operations during normal duty hours provided they do not disrupt the performance of official duties. Operating hours shall be set, in consultation with the bank/credit union liaison officer, to meet the needs of all concerned. ATMs may be used to expand financial services and operating hours.

(5) DoD personnel may use their allotment of pay privileges to establish sound credit and savings practices through on-base financial institutions.

(i) On-base financial institution shall credit customer accounts not later than the value date of the allotment check or electronic funds transfer.

(ii) The initiation of an allotment is voluntary (see Volume 7A, section 4202, of DoD 7000.14–R). Thus, generally, a Service member cannot be required to initiate an allotment for the repayment of a loan. Allotments voluntarily established by a Service member for the purpose of repaying a loan or otherwise providing funds to an on-base financial institution shall continue in effect at the option of the allotter.

(6) In accordance with sound lending practice, policies on loans to individuals are expected to be as liberal as feasible while remaining consistent with the overall interests of the on-base financial institution. On-base financial institutions shall conform to the Standards of Fairness principles before executing loan or credit agreements. (See DoD Directive 1344.9).

(7) On-base financial institutions shall make financial education and counseling services available without charge to individuals seeking financial counseling. Such services shall include helping customers to budget and solve financial problems. Personnel in junior enlisted grades, or newly married couples who apply for loans, shall be given special attention and counseling.

(8) On-base financial institutions must strive to provide the best service to all customers. On-base financial institutions that evidence a policy of discrimination in their services are in violation of this part. In resolving complaints of discrimination, use the procedures specified in § 231.5(g)(7).

(9) All correspondence regarding on-base financial institutions, and questions concerning their operation that cannot be resolved locally shall be referred through command channels to the Secretary of the Military Department concerned (or designee) for consideration.

§ 231.5 Procedures—domestic banks.

(a) *Establishment.* (1) The following information shall be included in the installation commander's request to the Secretary of the Military Department concerned (or designee) for establishment of banking offices:

(i) The approximate number of DoD personnel at the installation, and other persons who may be authorized to use the banking office.

(ii) The distance between the installation and the financial institutions in the vicinity, and the names and addresses of those institutions.

(iii) Available transportation between the installation and the financial institutions listed in paragraph (a)(1)(ii) of this section.

(iv) The number of DoD personnel in duty assignments that confine them to the installation or who cannot obtain transportation (such as hospital patients).

(v) The approximate loss of duty time due to DoD personnel leaving the installation for banking services.

(vi) Sources from which the disbursing officer obtains operating and payroll cash, the frequency of these acquisitions, and the amount obtained monthly.

(vii) The name and location of the depositary used to make official deposits for credit to the Treasury General Account (TGA).

(viii) The estimated savings to the disbursing officer if a banking office is established on the installation.

(ix) A list of organizational and nonappropriated fund accounts, the name and location of the financial institutions where deposited, and the average daily activity and balance of each account.

(x) A written description and photographs of the space proposed for banking office use.

(xi) A statement listing the requirements of the proposed banking office for safes and a vault; alarm systems; and surveillance equipment, when necessary.

(xii) Reasons for use of space controlled by the General Services Administration (GSA). All the GSA-assigned space, whether leased space or federal office building space, is reimbursable to the GSA at a standard level user charge. As such, space occupied by a banking office to serve military needs will be assigned and charged by the GSA.

(xiii) Any other information pertinent to the establishment of a banking office.

(2) The Secretary of the Military Departments (or designee) shall:

(i) Review each request for the establishment of banking offices.

(ii) Conduct a solicitation for the services when warranted.

(iii) Approve proposals for banking offices.

(iv) Notify the selected financial institution either directly or through the installation commander. The selected banking institution will, in turn, obtain operating authority from their regulating agencies.

(v) Forward proposals to establish TGAs to the DFAS for subsequent forwarding to the Fiscal Assistant Secretary of the Treasury in accordance with this part.

(b) *Solicitations.* The Secretary of the Military Department concerned (or designee), or the installation commander with advice from the cognizant Secretary of the Military Department (or designee), shall conduct solicitations to include pre-proposal conferences for on-base banking. Subject to the criteria for selection outlined in paragraph (d) of this section, the preferred sources of on-base financial services at domestic installations are federally-insured state or federally-chartered banking institutions operating in the local area. No commitment may be made to any banking institution regarding its proposal until a designation is made by the appropriate regulatory agency.

(1) Solicitations for banking services shall be accomplished in the following order:

(i) Solicitation letters will be sent to local banking institutions and a solicitation announcement will be published in the local newspaper(s) and forwarded to financial institution associations.

(ii) If the Secretary of the Military Department concerned (or designee) or, where delegated, the installation commander, determines that the geographic scope of the solicitation needs to be expanded, a prospectus will be forwarded to financial institutions in a larger geographic area, as well as financial institution associations and regulatory authorities in the state where the installation is located.

(iii) If the Secretary of the Military Department concerned (or designee) or, where delegated, the installation commander, determines that the geographic scope of the solicitation needs to be expanded further, the prospectus will be published in the Commerce Business Daily and financial institution trade journals.

(2) For solicitations conducted at the installation level, the installation commander shall review proposals to establish banking offices, select the banking institution making the best offer and forward a recommendation to the Secretary of the Military Department concerned (or designee) for final approval.

(3) Banking institutions will not be coerced when banking arrangements are under consideration or after banking offices are established. If otherwise proper, this prohibition does not preclude:

(i) Discussions with banking institutions prior to submitting a proposal for a new banking office.

(ii) Helping banking offices extend their operations in support of an installation requirement.

(iii) Discussions with banking institutions to improve services or to create savings for the bank or DoD personnel.

(iv) Seeking proposals for banking service as directed by the Secretary of the Military Department concerned (or designee).

(v) Negotiations preparatory to signing a banking agreement.

(4) When soliciting for banking services, proposals shall be evaluated on specific factors identified in the solicitation. These factors, at a minimum, will be predicated on the services to be provided as outlined in paragraph 3 of Appendix A to this part, service fees and charges, and the extent of logistical support required. Prior to issuance of the solicitation, the preparing office will identify (for internal use during the subsequent evaluation period) the weights to be applied to the factors reflected in the solicitation. Proposals will be evaluated and ultimate selection made based upon the factors and weights developed for the solicitation.

(5) The Secretary of the Military Department concerned (or designee), or the installation commander with advice from the cognizant Secretary of the Military Department (or designee), shall make the selection of the banking institution based on the provisions outlined in this section.

(c) *Terminations.* (1) Requests for termination of financial services shall be approved by the installation commander, substantiated by sufficient evidence and forwarded to the Secretary of the Military Department concerned (or designee). The installation commander only under one of the following conditions shall initiate the termination of banking office operations:

(i) The mission of the installation has changed, or is scheduled to be changed, thereby eliminating or substantially reducing the requirement for financial services.

(ii) Active military operations prevent continuation of on-base financial services.

(iii) Performance of the banking office in providing services is not satisfactory according to standards ordinarily associated with the financial services industry or is inconsistent with the operating agreements or the procedures prescribed in this section.

(iv) Merger, acquisition, change of control or other action results in violation of the terms and conditions of the existing operating agreement.

(2) The installation commander shall forward requests for terminations to the Secretary of the Military Department concerned (or designee). The Secretary of the Military Department (or designee) shall coordinate such requests with the USD(C), through the Director, DFAS, before notification to the appropriate regulatory agency. Subsequent to this coordination process:

(i) The Secretary of the Military Department (or designee) shall inform the regulatory agency of the action.

(ii) The installation commander shall revoke the authority of the financial institution to operate. The lease will be terminated.

(3) Any banking office that intends to terminate its operations should notify the installation commander at least 180 days before the closing date. This notification should precede any public announcement of the planned closure. When appropriate, the commander shall attempt to negotiate an agreement permitting the banking office to continue operations until the installation has made other arrangements. Immediately upon notification of a closing, the commander shall advise the DoD Component headquarters concerned. If it is determined that continuation of banking services is justified, action to establish another banking office shall be taken in accordance with the guidance prescribed in this section.

(d) *Leases or permits for existing government structures.* (1) *Lease terms.*

(i) The charge for lease of an existing structure shall be determined by appraisal of fair market rental value.

(ii) The term shall be for 5 years subject to renewal by mutual agreement and with the understanding that the cognizant Assistant Secretary of the Military Department (Installations and Logistics) has the authority to terminate the lease per the cancellation provisions addressed in paragraphs (e)(3)(i) and (e)(3)(iii) of this section. Terms in excess of 5 years must be approved by the Secretary of the Military Department (or designee) following a determination that the longer term will aid the national defense or be in the public interest. If space occupied is assigned by GSA, charges to financial institutions for space and services shall be at the standard level user rate of GSA.

(iii) When banking institutions use their own funds to improve existing government space, leases, for a period not to exceed 5 years, may be negotiated for a period commensurate with the appraised value of the leasehold improvements divided by the annual lease fee. Terms in excess of 5 years must be approved by the Secretary of the Military Department (or designee) following a determination that the longer term will aid the national defense or be in the public interest.

(iv) Banking institutions shall perform all maintenance, repair, improvements, alterations, and construction on the banking premises.

(v) Banking institutions shall pay for all utilities and custodial, janitorial, and other services furnished by the government at rates set forth in the lease or by written agreement between the installation and the banking institution.

(vi) The banking office shall be housed in a building accessible to most DoD personnel on the installation and in a location permitting reasonable security.

(2) Leases executed before [effective date of the final rule] may not be altered solely as a result of the provisions of this part unless a lessee specifically requests a renegotiation under these provisions. Leases may not be negotiated or renegotiated, nor may any rights be waived or surrendered without compensation to the government. Compensation to the government may consist of added property value, added banking services, or both.

(e) *Land leases.* (1) A lease for construction of a building to house a bank shall be at the appraised fair market rental value. Charges shall apply for the term of the lease not to exceed 5 years. Terms in excess of 5 years shall be approved by the Secretary of the Military Department (or designee) following a determination that the longer term will aid the national defense or be in the public interest.

(2) Banking institutions that participate in the construction of a shopping mall complex will be given a lease at fair market rental value for a term not to exceed 5 years. Terms in excess of 5 years shall be approved by the Secretary of the Military Department (or designee) following a determination that the longer term will aid the national defense or be in the public interest. The lease shall cover only land where the banking office physically is located.

(3) Leases shall include the following provisions:

(i) The government has the right to terminate the lease due to national emergency; installation inactivation, closing, or other disposal action; or default by the lessee.

(ii) The lessee shall provide written notice 180 days prior to voluntarily terminating the lease.

(iii) Upon a lease termination, the government has the option to cause the title of all structures and other improvements to be conveyed to the United States without reimbursement, or require the lessee to remove the improvements and restore the land to its original condition.

(4) If determined to be in the government's interest, an existing lease of land may be extended prior to expiration of its term. Passage of title to facilities shall be deferred until all extensions have expired. Such extensions shall be for periods not to exceed 5 years with lease payments set at the appraised fair market rental of the land only as determined on the date of each such extension. Banking institution lessees shall continue to maintain the premises and pay for utilities and services furnished.

(5) When under the terms of a lease, title to improvements passes to the government, arrangements normally will be made as follows:

(i) When the square footage involved exceeds that authorized in DoD 4270.1–M,[9] the banking institution shall be given first choice to continue occupying the excess space under a lease that provides for fair market rental for the land underlying that excess space.

(ii) The charge for continued occupancy of improved space by a banking office shall be at fair market rental value only for the associated land. The lessee shall continue to maintain the premises and pay the cost of utilities and services furnished.

(6) Without exception, those leases executed before [effective date of the

[9] See footnote 1 to § 231.1(a).

final rule] shall not be altered solely as a result of the provisions of this part unless a lessee specifically requests a renegotiation under these provisions. Lease contracts may not be negotiated or renegotiated, nor may any rights thereunder be waived or surrendered, without compensation to the government.

(f) *Construction.* Banking institutions may construct buildings subject to the following provisions:

(1) The building shall be solely for the use of the banking institution and may not provide for other commercial enterprises or government instrumentalities.

(2) Construction projects must meet the criteria in DoD 4270.1–M.

(3) Construction projects approval authority.

(i) Projects costing $25,000 or more shall be approved by the Major Command (or Claimant) with an information copy sent to the Secretary of the Military Department concerned (or designee). The Secretary of the Military Department (or designee) will have 30 days to provide comments to the Major Command (or Claimant) before final approval can be granted. Major Commands (or Claimants) may accept telephonic concurrence from the Secretary of the Military Department (or designee).

(ii) Projects costing less than $25,000, to include interior alterations and room or office additions to existing banking offices, shall be approved by installation commanders. Copies of approvals, including the identification of project cost, shall be furnished to the Secretary of the Military Department concerned (or designee).

(4) In accordance with applicable Military Department regulations, the Congress must be notified of all construction projects using other than appropriated funds and costing over $500,000.

(5) Proposals for construction of structures on installations at banking institution expense shall be reviewed and reported in accordance with cognizant Military Department regulations. The following information shall be listed to support each proposal:

(i) Number of DoD personnel at the installation plus others who may use the banking office.

(ii) Square footage of the proposed building.

(iii) Land area to be leased to the banking institution.

(iv) Term of the lease.

(v) Estimated cost of construction.

(vi) Estimated fair market value of the land to be leased.

(vii) A statement that the banking institution will be responsible for utility connections and other utility and maintenance costs.

(viii) A statement that the building will be used only for financial services.

(ix) A statement that management understands its potential loss of the building in the event of installation closure or other delimiting condition.

(x) Justification for a waiver of space criteria if the building exceeds that specified in DoD 4270.1–M.

(6) Banking institutions shall pay for interior alterations and maintenance as well as utilities, custodial, and other furnished services.

(7) Banking institutions shall pay all construction costs.

(g) *Bank liaison officer (BLO).* Each installation commander having a banking office shall appoint a BLO. The BLO's photograph, name and duty telephone number shall be displayed prominently at each banking office on the installation. As appropriate, the BLO's responsibility shall be assigned to comptroller or resource management personnel. Employees, officials or directors of a financial institution may not serve as BLOs. The duties of a BLO are to:

(1) Ensure that the banking institution operating the banking office has the latest version of this part.

(2) Ensure that traveler's checks and money orders are not being sold by other on-base organizations when banking offices are open for business. However, postal units and credit unions are exempt from this restriction.

(3) Attend financial workshops, conferences, and seminars as appropriate. Such gatherings offer excellent opportunities for personnel of financial institutions and the Department to improve the military banking program. Free discussion among the attendees gives an excellent forum for planning, developing, and reviewing programs that improve Military banking and financial services.

(4) Assist, when requested by the banking office manager or the installation commander, in locating and collecting from individuals tendering uncollectable checks, overdrawing accounts, or defaulting on loans (within the guidelines of subpart B of this part) if not otherwise prohibited by law.

(5) Maintain regular contact with the banking office manager to confer and discuss quantitative and qualitative improvements in the services provided. In executing this authority, the BLO shall not become involved in the internal operations of the banking institution.

(6) Review the schedule of fees annually, and ensure that the operating agreement is updated at least every 5 years. Renegotiate services and fees as necessary.

(7) Assist in resolving customer complaints about banking services.

(8) Assist in resolving complaints of discrimination with financial services by the banking institution. If a complaint cannot be resolved, a written request for investigation shall be forwarded to the appropriate regulatory agency. Any such request must document the problem and command efforts taken toward its resolution. Information copies of all related correspondence shall be sent through channels to the Secretary of the Military Department concerned (or designee) for transmittal to DFAS.

(9) Assist the installation commander to report to the appropriate regulatory agency any evidence suggesting malpractice by banking office personnel.

(h) *In-store banking.* Under the direction and approval of the installation commander, an on-base financial institution may provide in-store banking within the premises of the commissary, the Military Exchange Service or other on-base retail facility.

(1) Provision of the requested services and the associated stipulations arising from the provision of the requested services shall be documented as an amendment to the existing operating agreement between the installation commander and the on-base financial institution that will provide in-store services.

(2) The amendment to the operating agreement shall be drafted through close coordination between the requesting DoD Component representative, the on-base financial institution representative, and the installation commander. All three parties shall sign the amendment: the installation commander, the DoD Component that hosts the in-store banking operations, and the on-base financial institution.

(3) The installation commander shall extend the opportunity to provide the requested in-store banking services to all financial institutions located on the installation. The selection process is outlined in Appendix B of this part.

(4) Space shall be granted through a lease to the banking institution that will provide in-store service.

(i) *Domestic military banking facilities (MBFs)* (1) *Domestic MBF establishment.* Requests to establish MBFs should be made only when a need for services cannot be met by other means. During mobilization, however, MBFs may be designated as an emergency measure.

(ii) Installation commanders shall send requests for an MBF with justification for its establishment through the Secretary of the Military Department concerned (or designee) to the Director, DFAS, for coordination with the Department of the Treasury. The Department of the Treasury may approve the designation of an MBF under provisions of 12 U.S.C. 265.

(iii) MBF operations may begin only after approval for MBF status is granted by the Department of the Treasury.

(5) *MBF conversion.* (i) Where MBFs exist, installation commanders shall encourage their conversion to independent or branch banks.

(ii) Proposals from the on-base banking institution to convert an existing MBF to an independent or branch bank shall be sent through command channels to the Secretary of the Military Department concerned (or designee) for approval. The Secretary of the Military Department (or designee), shall forward the request to the Director, DFAS, for coordination with the Department of the Treasury.

(iii) Unsolicited proposals from banking institutions to establish independent or branch banks where an MBF exists shall be forwarded through command channels to the Secretary of the Military Department concerned (or designee). Each proposal shall be evaluated on its own merits.

(A) The installation commander shall inform the banking institution operating the MBF that an unsolicited proposal for a banking office has been received and shall offer that incumbent institution the opportunity to submit its own proposal.

(B) Preference to operate an independent or branch bank shall be given to the banking institution that has operated the MBF provided that prior banking service has been satisfactory and that the institution's proposal is adequate.

(6) *MBF termination.* The Director, DFAS, shall coordinate the termination of a financial institution's authority to operate an MBF with the Department of the Treasury.

§ 231.6 Procedures—overseas banks.

(a) *General provisions of banking services overseas.* The Department acquires banking services overseas for use by authorized persons and organizations by:

(1) MBFs operated under contract and authorized by the pertinent status of forces agreement, other intergovernmental agreements, or host-country law.

(2) Domestic and foreign banking institutions located on overseas DoD installations. Each such institution shall be:

(i) Chartered to provide financial services in that country,

(ii) A party to a formal operating agreement with the installation commander to provide such services, and

(iii) Identified, where applicable, in the status of forces agreements, other intergovernmental agreements, or host-country law.

(b) *Establishment.* (1) *Overseas MBFs operated under contract.* Installation or community commanders requiring banking services will send a request through command channels to the Secretary of the Military Department concerned (or designee) for concurrence and subsequent transmittal to the Director, DFAS, for approval.

(i) Requests to establish MBFs will include, but are not limited to, the following information:

(A) The approximate number of DoD personnel at the installation and in the community and any other persons who may be authorized to use the MBF.

(B) The distance between the installation and the nearest MBF and credit union office, the names; addresses, and telephone numbers of the operators of those institutions; and the installations and communities where they are located.

(C) The availability of official and public transportation between the installation or community and the nearest MBF and credit union office.

(D) The approximate loss of duty time due to DoD personnel leaving the installation or community to obtain banking services.

(E) Sources from which the disbursing officer obtains operating and payroll cash, the frequency of these acquisitions, and the amount obtained monthly.

(F) The name and location of the depository used to make official deposits for credit to the TGA.

(G) The estimated savings to the disbursing officer if the MBF is established on the installation.

(H) A list of organizational and nonappropriated fund accounts, the name and location of the financial institutions where deposited, and the average daily activity and balance of each account.

(I) A written description and photographs or drawings of the space proposed for MBF use. The extent and approximate cost of required alterations, including the construction of counters and teller cages.

(J) A statement that recognizes the logistical support, including equipment, to be provided by the local command as detailed in paragraph (c) of this section. The statement will include the costs of such equipment and the manner in which it will be acquired.

(K) In countries where no MBFs currently are operated under contract, a statement from the appropriate Combatant Command that the requirement has been coordinated with the U.S. Chief of Diplomatic Mission or U.S. Embassy and that the host country will permit the operation in accordance with § 231.3(f)(1)(i).

(L) Any other pertinent information to justify MBF establishment.

(ii) As a general rule, MBFs may be established only when the installation or community population meets the following criteria:

(A) *Full-time MBF.* Except in unusual circumstances, a total of at least 1,000 permanent military personnel and DoD civilian employees is necessary to qualify for a full-time MBF.

(B) *Part-time MBF.* Except in unusual circumstances, a total of at least 250 permanent military personnel and DoD civilian employees is necessary to qualify for a part time MBF.

(iii) If the population at a certain remote area is not sufficient to qualify under the criteria for full-or part-time MBFs, the installation or community commander will explore all other alternatives for acquiring limited banking services before requesting establishment of an MBF as an exception to these provisions. Alternatives to limited banking services include installation of ATMs and check cashing and accommodation exchange service by disbursing officers and their agents.

(iv) Establishment of an overseas MBF is predicated on and requires:

(A) Designation of the MBF contractor as a depositary and financial agent of the U.S. Government by the Department of the Treasury.

(B) The availability of banking contractors interested in bidding for the operation of the facility and the viability of such proposals.

(C) The availability of appropriated funds to underwrite such banking services.

(D) Establishment of a U.S. Dollar Currency Custody Account to support banking operations.

(2) *Other overseas banking offices.* Where a need for financial services has been identified; either the banking and currency control laws of certain host countries do not permit MBFs to operate on DoD installations or MBFs, where permitted, have not been established; and there is a desire to establish banking services the following applies:

(i) Installation or community commanders will send requests for banking services or unsolicited proposals from foreign banking institutions to their Major Commands (or Claimants) with supporting data as required in § 231.5 (a).

(ii) Major Commands (or Claimants) will forward installation or community commander requests to the Secretary of the Military Department concerned (or designee) for approval. The Secretary of the Military Department concerned (or designee) will coordinate with DFAS to seek the designation of the parent foreign banking institution designated as a depositary and financial agent of the U.S. Government by the Department of the Treasury.

(iii) Banking offices in this category will become operational only after the foreign parent banking institution has been designated a depositary and financial agent of the U.S. Government. The institution also must indicate a willingness and ability to provide collateral backing for any official and nonappropriated fund U.S. dollar deposits. Any collateral pledged must be in a form acceptable to DFAS and the Department of the Treasury.

(c) *Logistical support.* (1) *Overseas MBFs operated under contract.* (i) Installation or community commanders will provide logistical support to MBFs. Such support normally includes:

(A) Adequate office space, including steel bars; grillwork; security doors; a vault, safes, or both; security alarm systems and camera surveillance equipment (where deemed necessary) that meet documented requirements of the contractor's insurance carrier; construction of counters, teller cages, and customer and work areas; necessary modifications and alterations to existing buildings; and construction of new MBF premises, if necessary.

(*1*) The size and arrangement of space should permit efficient operations. Space assigned may not exceed that prescribed in DoD 4270.1–M.

(*2*) All maintenance, repair, rehabilitation, alterations, or construction for banking offices shall comply with guidelines established by the installation commander.

(B) Office space in a building that is accessible to the most users and permits the maximum security.

(C) Office space for MBF area and district administrations and storage space for retention of records, files, and storage of supplies.

(D) DoD housing on a rental basis to key MBF personnel who are unable to find suitable, reasonably priced housing in the vicinity of the DoD installation, subject to the assignment procedures and other requirements of DoD 4165.63–M [10]

(E) Air-conditioning, which is considered a normal utility for banking offices located at installations that qualify for air-conditioning under applicable regulations. Banking space is classified as administrative space at Military installations.

(F) Utilities (i.e., electricity, gas, water and sewage), heating, intrastation telephone service, and custodial and janitorial services to include garbage disposal and outdoor maintenance (such as grass cutting and snow removal).

(G) Defense Switching Network (DSN) voice and data communication to include Internet access.

(H) Military guards, civilian guards (for use within the installation), military police, or other protective services to accompany shipments of money. This level of protective service also shall be provided at other times as required to include alarm system failures and to avoid undue risks or insurance costs on the part of the MBF.

(I) U.S. Military Postal Service access under DoD Directive 4525.6 [11]. Use of free intra-theater delivery system (IDS) is authorized for all routine mail sent and received between Army Post Offices (APOs) and Fleet Post Offices (FPOs) within a theater.

(J) Office equipment and furniture on memorandum receipt if available from local stock. If office equipment or furniture is unavailable, statements of nonavailability will be issued.

(K) Vehicle registration and fuel sales from government-owned facilities for bank-operated vehicles if not in conflict with host government agreements. Vehicle registration will be subject to normal fees.

(L) The local commander for official may issue issuance of invitational travel orders that authorize travel at no expense to the U.S. Government on site visits by U.S. based banking institution officials.

(ii) Suggestions for changes to the contract under which logistical support is granted may be forwarded through command channels to the Director, DFAS, for consideration.

(2) *Other overseas banking offices.* (i) Logistical support provided to such offices will be negotiated with the parent foreign banking institution and incorporated into the written operating agreement.

(ii) Logistical support will not exceed that provided to contract MBFs as specified paragraph (c)(1) of this section.

[10] See footnote 1 to § 231.1(a).

[11] See footnote 1 to § 231.1(a).

(d) *Operations.* (1) *General conditions of MBF operation.* (i) Before initiating MBF operations, a written agreement shall be directly negotiated and signed by the installation or community commander and management of the banking contractor or other financial institution concerned. One copy of the agreement with U.S. banking contractors and two copies of the agreement with institutions other than U.S. banking contractors will be forwarded through command channels to the Secretary of the Military Department concerned (or designee). The Secretary of the Military Department (or designee) shall forward one copy of the agreement with institutions other than U.S. banking contractors through command channels to the Director, DFAS. A copy of the agreement also shall be maintained at all times by the installation or community commander and the banking institution manager.

(ii) For MBFs operated by U.S. banking contractors, the agreement shall state operating details not set forth in the contract. Though the contract limits the number of operating hours per week, local commanders and MBF managers should set days and hours of operation to best meet local needs. Operating times may include Saturdays and evening hours when necessary to complement other retail services for DoD personnel, provided the contractor can implement that service at no additional cost to the government. When added cost is involved, the commander will send a request including reasons for expanded or modified times of operation, through command channels, to the Secretary of the Military Department concerned (or designee) for action. If approved, the request, with recommendations, will be forwarded to the Director, DFAS.

(2) *Overseas MBFs operated under contract.* (i) *General.* Overseas MBFs shall operate under terms and conditions established at the time of annual contract negotiations and confirmed in respective contracts or contracting officer determinations.

(ii) *Authorized customers.* DoD banking contracts specify the personnel authorized to receive service. Additionally, overseas major commanders may approve banking services for other individuals that qualify for individual logistic support under the regulations of the DoD Component concerned, provided that the use of banking services is not prevented by status of forces agreements, other intergovernmental agreements, or host-country law.

(iii) *Services rendered.* DoD banking contracts specify the services to be

rendered and related charges. Suggestions for expansion or modification of authorized services, fees or charges may be forwarded through DoD Component channels to DFAS. Proposals for any new service must be coordinated with the appropriate Combatant Command and U.S. Chief of Diplomatic Mission or U.S. Embassy to make certain that the proposal does not conflict with the status of forces agreements, other intergovernmental agreements, or host-country law.

(iv) *Regulation to be provided.* The DFAS shall advise each U.S. banking contractor operating an overseas MBF of this part and furnish a copy to the contractor.

(v) *Conditions of operation.* (A) Part-time and payday service MBFs will provide limited services that mirror, to the extent feasible, those provided by full-time MBFs. Since part-time MBFs operate out of nearby MBFs, installation or community commanders shall provide and fund transportation and guards for their operation.

(B) Any deficiency of banking services under DoD banking contracts shall be reported to the manager of the MBF within 7 calendar days of noting the deficiency. If the problem has not been corrected within 30 calendar days after being noted, the commander shall report the problem through DoD Component channels to DFAS.

(C) The MBF contractor and military disbursing officers shall establish cash management practices that minimize the cash required to conduct business.

(D) Commanders shall assist MBF contractors to develop and update contingency plans for banking services in the event of hostilities or other emergencies.

(E) MBF provision of foreign currency shall be in accordance with Volume 5, Chapter 13 of DoD 7000.14–R.

(3) *Other overseas banking offices.* (i) *Authorized customers.* The list of authorized customers shall be negotiated between the installation commander and the bank and shall be reflected in the bank operating agreement. Those customers identified as authorized in the operating agreement shall be in accordance with applicable status of forces agreements, other intergovernmental agreements, or host-country law.

(ii) *Services rendered.* Services and charges shall parallel, whenever practical, the services and charges of MBFs operated under contract. Specific services shall be negotiated and included in the agreement with the foreign banking institution. A copy of the agreement shall be sent through DoD Component channels to the DFAS.

(iii) *Operating agreements.* Before agreements are executed, they will be coordinated with and approved by the appropriate Combatant Command (or designee).

(iv) *Conditions of operation.* A banking institution shall provide equipment (except that furnished by the installation or community), supplies, and trained bank personnel.

(4) *Relocation of MBF.* (i) When an MBF is moved from one location to another at the same installation or community, the commander shall notify the cognizant Military Department, through command channels. The Military Department shall forward the information to the DFAS.

(ii) For all other relocations, prior approval from the DFAS must be obtained through DoD Component channels.

(5) *Comments.* Installation or community commanders shall send their banking comments through DoD Component channels to the DFAS for any of the following:

(i) Major changes in installation population that would affect use of the MBF.

(ii) Opinion that the space assigned is not adequate for the efficient operation of the MBF. Include a statement concerning corrective action.

(iii) Suggestions that might improve the MBF operation, increase efficiency, or decrease costs.

(iv) Pending developments that may have a material impact on the MBF operation.

(6) *Bank liaison officer.* The duties of the BLO are outlined in § 231.5 (g).

(e) *Termination.* Requests to eliminate any or all MBFs in a foreign country must include documentation that the U.S. Chief of Diplomatic Mission has been informed and arrangements for local termination announcements and procedures have been made with the U.S. Embassy.

(1) *Overseas MBFs operated under contract.* In cases where an installation or community no longer can justify overseas MBF operations, the commander shall notify the Secretary of the Military Department concerned (or designee) through command channels.

(i) The report shall state whether a part-time MBF should be established and specify the days each week that the MBF would be needed.

(ii) The Secretary of the Military Department (or designee) shall send this report with recommendations to the DFAS.

(2) *Other overseas banking offices.* Termination actions, when required, shall be taken in accordance with the applicable clauses in the operating agreement. Notice of intent to terminate, including the closing date, shall be sent through DoD Component channels to DFAS, which shall notify the Department of the Treasury so that the foreign banking institution's authority as a depositary and as a financial agent of the U.S. Government at that location may be revoked.

§ 231.7 Procedures–domestic credit unions.

(a) *General policy.* Given their role in promoting morale and welfare, on base credit unions shall be recognized and assisted by DoD Components at all levels. These credit unions shall provide services to DoD personnel of all ranks and grades within their respective fields of membership.

(b) *Establishment.* A demonstrated need for credit union services may be addressed by establishing a new full-service credit union or by opening a branch office or facility of an existing credit union under the common bond principle.

(1) DoD personnel seeking to establish a new full-service credit union shall submit a proposal to the installation commander for review. In addition to the information identified in § 231.5(a)(1), the proposal shall include a request for the establishment of a field of membership that includes all personnel at the installation. Upon installation commander concurrence, the proposal shall be forwarded through DoD Component channels to the Secretary of the Military Department (or designee).

(2) The Secretary of the Military Department concerned (or designee) shall:

(i) Obtain a list of credit unions that are eligible to serve the installation's military members and civilian employees from the National Credit Union Administration (NCUA) Regional Office that has geographic jurisdiction and the appropriate state regulatory agency.

(ii) Prepare and send formal solicitation letters to eligible credit unions informing them of an opportunity to establish a branch office at the installation.

(iii) In coordination with the installation commander, establish the criteria for selection of a specific credit union in accordance with § 231.5(b)(4). Proposals shall be evaluated, and a selection made, based upon the factors and weights developed for the solicitation.

(3) Upon approval by the Secretary of the Military Department (or designee), the NCUA or appropriate state regulatory agency shall be notified and

asked to establish or amend the selected credit union's charter to include the new location. For Federal credit unions, no specific NCUA approval is required to open a branch.

(4) No commitment may be made to a credit union regarding its proposal until the appropriate regulatory agency has announced a selection.

(c) *Terminations.* (1) *Voluntary credit union terminations.* (i) When a credit union plans to end operations on a DoD installation, it shall be required to notify the installation commander 180 days before the closing date. Such notification shall be required to precede public announcement of the planned closure. When appropriate, the commander shall attempt to negotiate an agreement permitting the credit union to continue operations until the installation has made other arrangements.

(ii) The installation commander shall inform the Secretary of the Military Department concerned (or designee) immediately upon receiving notification of a closing. The report shall include a recommendation about continued credit union service on the installation. Paragraph (b) of this section applies if continued service is needed.

(2) *Termination for cause.* If, after discussion with credit union officials, an installation commander determines that the operating policies of a credit union are inconsistent with this part, a recommendation for termination of logistical support and space arrangements may be made through the Secretary of the Military Department concerned (or designee). A credit union shall be removed from the installation only with approval of the Secretary of the Military Department (or designee) after coordination with DFAS and the appropriate regulatory agency.

(3) *Termination in the interest of national defense.* At the option of the government, leases may be terminated in the event of national emergency or as a result of installation deactivation, closing, or other disposal action.

(d) U*se of space, logistical support, and military real property for domestic credit unions.* (1) *Criteria for use of space on Government-owned real property.* (i) Criteria governing the assignment of space and construction of new space for credit unions are in DoD 4270.1–M.

(ii) A credit union may be furnished space on a DoD installation at one or more locations for periods not to exceed 5 years. Terms in excess of 5 years must be approved by the Secretary of the Military Department concerned (or designee) following a determination that the longer term will aid the national defense or be in the public interest. The cumulative total of space furnished shall be subject to the limitations of DoD 4270.1–M.

(A) The furnishing of office space (including ATM placement) to on-base credit unions is governed by the Federal Credit Union Act (12 U.S.C. 1751). The provision of no-cost office space is limited to credit unions having a membership at least 95 percent of which is composed of individuals who are, or who were at the time of admission into the credit union, military personnel or federal employees, or members of their families. This percentage criterion applies only to members who use the on-base office, not to the total credit union membership. A written statement, prepared on the credit union's letterhead and signed by either the president of its board of directors or its general manager to the effect that the credit union meets the 95 percent criterion, shall be required to justify and document the allotment of free government space. A certification also shall be required whenever there is a merger, takeover, or significant change in a field of membership. This certification shall be required to serve as justification and documentation for the continued allocation of free government space including space renovated with credit union funds. The statement shall be updated on renewal of lease. (See Appendix A to this part for a sample format of the statement.)

(B) Credit unions that fail to meet the 95 percent criterion shall be charged fair market rental for space provided. Except where more than one credit union exists on an installation prior to July 1, 1999, credit unions giving less than full service or not serving all assigned DoD personnel are not authorized free space.

(C) When a credit union that meets the 95 percent criterion uses its own funds to expand, modify, or renovate government-owned space, it may be provided a no-cost permit or license for a period not to exceed 5 years. Duration of the permit or license shall be commensurate with the extent of the improvements as determined by the DoD Component concerned. Terms in excess of 5 years must be approved by the Secretary of the Military Department concerned (or designee) following a determination that the longer term will aid the national defense or be in the public interest. The permit or license shall be effective until the agreed date of expiration or until the credit union ceases to satisfy the 95 percent criterion. In this latter case, the no-cost permit shall be cancelled in favor of a lease immediately negotiated at fair market value under the provisions of paragraph (d) of this section. If the credit union desires, this lease at fair market value may extend through the period identified in the original license not to exceed 5 years. When the term proposed exceeds 5 years, the Secretary of the Military Department concerned (or designee) must approve the longer term following a determination that the longer term will aid the national defense or be in the public interest.

(D) Similarly, a credit union not meeting the 95 percent criterion that uses its own funds to expand, modify, or renovate government-owned space, may be provided a lease at fair market value for a period not to exceed 5 years. Duration of this lease shall be commensurate with the extent of the improvements as determined by the DoD Component concerned.

(2) *Logistical support.* When available, custodial and janitorial services, heating and air conditioning, utilities (i.e., electricity, gas, water, and sewage), fixtures, and maintenance shall be furnished at no cost to credit unions occupying free space in government buildings. However, credit unions shall be required to pay for all communication services to include telephone lines, long distance data services and Internet connections. Credit unions also shall pay for space alterations. Should a credit union fail to meet the 95 percent membership criterion, any logistical support furnished shall be on a reimbursable basis.

(e) Credit unions offering ATM service shall do so in accordance with § 231.4(d) except that the installation commander may provide ATMs to on-base credit unions under certain circumstances such as when it is advantageous to the government to have one or more ATMs but the acquisition cost to the credit union is prohibitive. In all such cases, installation costs and all logistics support must be borne by the credit union.

(f) *Staffing.* (1) On-base credit unions shall provide full service. To do so, credit union offices shall be staffed by:

(i) A loan officer authorized to act for the credit committee.

(ii) An individual authorized to sign checks.

(iii) A qualified financial counselor available to serve members during operating hours.

(2) Exceptions to paragraph (f)(1)(i) of this section may be approved by the installation commander with advice from the Secretary of the Military Department concerned (or designee) in the case of newly organized credit unions.

(3) When an on-base credit union can support only minimum staffing, one of the positions required in paragraph (f)(1)(i) or (f)(1)(ii) of this section also may be subsumed under the counselor duties.

(4) Credit union remote service locations at the same installation may be staffed with one person alone, provided that a direct courier or an electronic or automated message service links each remote location to the credit union's main office.

(5) All credit union staffing shall comply fully with the spirit and intent of the DoD equal employment opportunity policies and programs, in accordance with DoD Directive 1440.1.

(g) *Credit union liaison officer (CULO)* When a credit union office is located on an installation, the commander shall appoint a CULO. As appropriate, the CULO responsibility should be assigned to comptroller or resource management personnel. The CULO's photograph, name and duty telephone number shall be displayed conspicuously at each credit union office on the installation. Anyone who serves as a credit union board member or in any other official credit union capacity may not serve as a CULO. The duties of a CULO are the same as the duties listed for a BLO (see § 231.5(g)).

(h) *In-store banking.* In-store banking services may be provided in accordance with § 231.5(h) except that:

(1) Credit unions interested in submitting proposals to provide requested in-store banking services shall provide a statement from the National Credit Union Administration (NCUA) certifying the credit union's authority to offer the requested financial services to the commissary, the Military Exchange Services, or other on-base facilities.

(2) Space granted to a credit union selected to provide in-store banking services should be issued through a no cost license in accordance with the Federal Credit Union Act (12 U.S.C. 1751).

§ 231.8 Procedures—overseas credit unions.

(a) *General policy.* (1) Credit union services to authorized persons and organizations may be provided by domestic on-base credit unions operating under a geographic field of membership (franchise). The Foreign Geographic Field of Membership (Franchise) Assignment listing is included at Appendix D to this part.

(2) The extension of credit union service overseas is encouraged consistent with the principles prescribed for domestic credit unions and with applicable status of forces agreements or other intergovernmental agreements, or host-country law. Where permitted by the applicable status of forces agreement or other intergovernmental agreements, or host-country law, the ultimate decision to provide services overseas rests with the credit union itself.

(3) Where permitted by the status of forces agreements or other intergovernmental agreements, or host-country law, only Federal credit unions or federally insured state chartered credit unions may operate on overseas DoD installations.

(b) *Establishment.* (1) Commanders shall notify the Secretary of the Military Department concerned (or designee), through command channels, when overseas credit union services are needed. Such requests shall include:

(i) Full information about available space and logistical support.

(ii) The name and location of the nearest credit union facility or branch.

(iii) The distance between the installation and the nearest credit union facility or branch.

(iv) The availability of any official or public transportation.

(v) The number of DoD personnel in duty assignments that confine them to the installation or who cannot obtain transportation (such as hospital patients).

(vi) In countries not presently served, a statement concurred in by the Combatant Command that the requirement has been coordinated with the U.S. Chief of Diplomatic Mission or U.S. Embassy. The statement shall include that the host country will permit the operations, with any conditions imposed by the host country identified.

(2) Subsequent to approval of the request from the installation or community commander to establish an overseas credit union facility, the Secretary of the Military Department concerned (or designee) shall solicit proposals for the provision of full credit union services as follows:

(i) Where there is a DoD designated geographic field of membership (franchise) with a specific field of membership, the Secretary of the Military Department (or designee) shall direct the installation or community commander to contact the servicing defense credit union and request that a branch or facility be established. The basic decision concerning such extensions of service rests with the servicing credit union.

(ii) Where there is no DoD designated geographic field of membership (franchise), the Secretary of the Military Department (or designee) shall:

(A) Coordinate requests, through the DFAS, to obtain a geographic field of membership (franchise). A geographic field of membership (franchise) is the authorization granted to a credit union by the Office of the Under Secretary of Defense (Comptroller) to provide financial services in a specific geographic region located outside the United States and its territories.

(B) Solicit proposals from credit unions currently operating on DoD installations.

(C) Review proposals of interested credit unions.

(D) Coordinate with field commands, as needed.

(E) Recommend selection to National Credit Union Administration (NCUA) or appropriate state regulatory agency with a copy to the DFAS and the OUSD(C), requesting that the appropriate field of membership adjustment be made. Such a recommendation shall identify the primary installations on which the credit union would operate and, if applicable, the contiguous geographic boundaries for future facilities and branches.

(3) Where there is an existing field of membership, the Secretary of the Military Department concerned (or designee) shall take the following actions:

(i) If a credit union on an installation terminates operation, afford any other credit union having a geographic field of membership (franchise) within that country an opportunity to assume the franchise being vacated. If all such institutions decline, the geographic field of membership (franchise) shall be offered to the federally insured defense credit union community. If, as a result of a credit union decision to decline service to an installation or a termination action, another credit union is assigned the former geographic field of membership (franchise) or portion thereof, the NCUA or the applicable state regulatory agency shall be notified and requested to make appropriate field of membership adjustments.

(ii) When other credit union(s) having a geographic field of membership (franchise) within a country decline the opportunity, or there is no other credit union having a franchise within that country, the provisions of paragraph (b)(2)(ii) of this section apply.

(4) No commitment may be made to a credit union regarding its proposal until the appropriate regulatory agency has announced a selection.

(c) *Logistical support.* Installation or community commanders will provide logistical credit union support. Such support normally shall include:

(1) Adequate office space, including steel bars; grillwork; security doors; a vault, safes or both; security alarm systems and camera surveillance equipment (where deemed necessary) that meet documented requirements of the contractor's insurance carrier; construction of counters, teller cages, and customer and work areas; necessary modifications and alterations to existing buildings; and construction of a new premises, if necessary. The size and arrangement of space should permit efficient operations. The credit union shall pay for all improvements to the space given. Space assigned may not exceed that prescribed in DoD 4270.1–M.

(2) DoD housing on a rental basis to key credit union personnel unable to find suitable, reasonably priced housing in the vicinity of the DoD installation, if available.

(3) Utilities (i.e., electricity, gas, water and sewage), heating, intrastation telephone service, and custodial and janitorial services to include garbage disposal and outdoor maintenance (such as grass cutting and snow removal).

(4) Defense Switched Network (DSN) voice and data communication to include internet access.

(5) U.S. Military Postal Service support under DoD Directive 4525.6 (reference (q)). Use of free intra-theater delivery system (IDS) is authorized for all routine mail sent and received between Army Post Offices (APOs) and Fleet Post Offices (FPOs) within a theater.

(d) *Travel.* Travel by credit union officials must be at no expense to the U.S. Government. Overseas commanders may issue invitational travel orders for official on-base visits by credit union officials at no cost to the U.S. Government.

(e) *Operations.* (1) An overseas credit union shall confine its field of membership to individuals or organizations eligible by law or regulation to receive services and benefits from the installation. Services shall not be provided to those personnel precluded such services by applicable status of forces agreements, other intergovernmental agreements, or host-country law.

(2) The Department assigns overseas credit unions a prescribed geographic field of membership (franchise). However, any credit union may continue to serve its members stationed overseas by mail or telecommunications.

(3) A credit union proposing any new service not authorized by the operating agreement must coordinate the establishment of the new service through the cognizant Component command to the Combatant Command. The new service can be offered only after the appropriate command's approval and coordination with the U.S. Chief of Diplomatic Mission or U.S. Embassy to ensure that the service does not conflict with the status of forces agreements, other intergovernmental agreements, or host-country law.

(4) Credit unions that operate full service branches shall have U.S. currency and coin available for member transactions. In areas served by currency custody accounts, transactional U. S. currency and coins shall be made available from the servicing MBF with no direct or analysis charge to the credit union, provided settlement is made via the local MBF account or equivalent arrangements are made with the MBF.

(5) In countries served by MBFs operated under contract, credit unions shall purchase foreign currency only from the servicing MBF.

(i) The bulk rate purchase price shall apply to currency used by the credit union to make payments to vendors or to make payroll payments.

(ii) Credit unions that desire and are authorized to provide accommodation exchange services to its members shall acquire foreign currency from the servicing MBF at the MBF accommodation rate and sell it at a rate of exchange no more favorable than that available to customers of the MBF.

(6) The NCUA may review operations of overseas credit union offices either when it examines the main credit union or at other times of its choosing. For federally insured, state chartered credit unions, the applicable state regulatory agency also may examine credit unions operations.

§ 231.9 Definitions.

Automated teller machine (ATM). An electronic machine that dispenses cash, and may perform such other functions as funds transfers among a customer's various accounts and acceptance of deposits. Equipment generally is activated by a plastic card in combination with a personal identification number (PIN). Typically, when the cardholder's account is with a financial institution other than that operating the ATM, its use results in the assessment of a fee from the ATM network (Armed Forces Financial Network (AFFN), Cirrus, PLUS) handling the transaction. Shared access, which is predicated on a formal agreement between financial institutions, refers to ATMs that may be used by cardholders of more than one financial institution without being assessed a network fee.

Banking institution. An entity chartered by a state or the federal government to provide financial services.

Banking office. A branch bank, or independent bank operated by a banking institution on a domestic DoD installation or by a foreign banking institution on an overseas DoD installation.

Branch bank. A separate unit chartered to operate at an on-base location geographically remote from its parent banking institution.

Credit union. A cooperative nonprofit association, incorporated under the Federal Credit Union Act, 12 U.S.C. 1751 *et seq.*, or similar state statute, for the purposes of encouraging thrift among its members and creating a source of credit at a fair and reasonable rate of interest.

Credit union facility. A facility employing a communications system with the parent credit union to conduct business at remote locations where a full-service credit union or credit union branch is impractical. Credit union facilities need not provide cash transaction services but must disburse loans and shares by check or draft and provide competent financial counseling during normal working hours.

Defense credit union. A state or federally insured credit union with a field of membership composed primarily of DoD personnel.

Discrimination. Any differential treatment in provision of services, including loan services, by a financial institution to DoD personnel and their dependents on the basis of race, color, religion, national origin, sex, marital status, age, rank, or grade. However, if uniformly applied, the amount of credit extended may be directly based on an applicant's total income.

DoD Component. For the purposes of this part, DoD Components include the Office of the Secretary of Defense, the Military Departments, the Joint Chiefs of Staff, the Joint Staff and the supporting Joint Agencies, the Combatant Commands, the Inspector General of the Department of Defense, the Uniformed Services University of the Health Sciences, the Defense Agencies, the DoD Field Activities, and all nonappropriated fund instrumentalities including the Military Exchange Services, and Morale, Welfare and Recreation activities.

DoD Personnel. All military personnel; DoD civil service employees; other civilian employees, including special government employees of all offices, Agencies, and Departments performing functions on a DoD installation (including nonappropriated

fund instrumentalities); and their dependents. On domestic DoD installations, retired U.S. military personnel and their dependents are included.

Domestic DoD installation. For the purposes of this part, a military installation located within a state of the United States, the District of Columbia, Guam or the Commonwealth of Puerto Rico.

Fair Market Rental. A reasonable charge for on-base land, buildings, or building space. Rental is determined by a government appraisal based on comparable properties in the local civilian economy. However, the appraiser will consider that on-base property may not always be comparable to similar property in the local commercial geographic area. Examples of circumstances that may affect fair market rental include limitations of usage and access to the financial institution by persons other than those on the installation, proximity to the community center or installation business district, and the government's right to terminate the lease or take title to improvements constructed at the financial institution's expense.

Field of membership. A group of people entitled to credit union membership because of a common bond of occupation, association, employment, or residence within a well-defined neighborhood, community or rural district. A field of membership is defined in the credit union's charter by the appropriate regulatory agency.

Financial institution. This term encompasses any banking institution, credit union, and subordinate office or facility, each as separately defined in this section.

Financial services. Those services commonly associated with financial institutions in the United States, such as electronic banking (e.g., ATMs and personal computing banking), in-store banking, checking, share and savings accounts, funds transfers, sales of official checks, money orders, and travelers checks, loan services, safe deposit boxes, trust services, sale and redemption of U.S. Savings Bonds, and acceptance of utility payments and any other services provided by financial institutions.

Foreign banking institution. A bank located outside the United States chartered by the country in which it is domiciled.

Full service credit union. A credit union that provides full-time counter transaction services, to include cash operations, and is staffed during normal working hours by a loan officer, a person authorized to sign checks, and a qualified financial counselor. In overseas areas, ''full service'' includes cash operations where not prevented by:

(a) Status of forces agreements, other intergovernmental agreements, or host-country law.

(b) Physical security requirements that cannot be resolved by the credit union or local command.

Geographic field of membership (franchise). Authorization granted to a credit union by the Office of the Under Secretary of Defense (Comptroller) to provide financial services in a specific geographic region located outside the United States and its territories.

Independent bank. A bank specifically chartered to operate on a DoD installation or DoD installations whose directors and officers usually come from the local business and professional community. Such operations are thus differentiated from county-wide or state-wide branch systems consisting of a head office and one or more geographically separate branch offices.

In-store banking. An expansion of financial services provided by an on-base financial institution within the premises of the commissary, exchange, and/or other on base retail facility.

Malpractice. Any unreasonable lack of skill or fidelity in fiduciary duties or the intentional violation of an applicable law or regulation or both that governs the operations of the financial institution. A violation shall be considered intentional if the responsible officials know that the applicable action or inaction violated a law or regulation.

Military banking facility (MBF). A banking office located on a DoD installation and operated by a financial institution that the Department of the Treasury has specifically authorized, under its designation as a ''Depository and Financial Agent of the U.S. Government,'' to provide certain banking services at the installation.

National bank. An association approved and chartered by the Comptroller of the Currency to operate a banking business.

On-base. Refers to physical presence on a domestic or overseas DoD installation.

Operating agreement. A mutual agreement between the installation commander and the on-base financial institution to document their relationships.

Overseas DoD installation. A military installation (or community) located outside the states of the United States, the District of Columbia, Guam or the Commonwealth of Puerto Rico.

Part-time MBF. A MBF that operates fewer than 5 days a week exclusive of additional payday service. When only payday service is provided, the MBF may be termed a ''payday service facility.''

Regulatory agency. Includes the Office of the Comptroller of the Currency, Department of the Treasury; the Federal Deposit Insurance Corporation; the Board of Governors of the Federal Reserve System; the respective Federal Reserve District Banks; the National Credit Union Administration; the various state agencies and commissions that oversee financial institutions; and, for military banking facilities (MBFs), the Fiscal Assistant Secretary of the Treasury (or designee).

State bank. An institution organized and chartered under the laws of one of the states of the United States to operate a banking business within that state.

Surcharge. A fee typically assessed on nonaccountholders to access an ATM. In accordance with Federal Reserve Board Regulation E, such a fee must be disclosed at the ATM either through a sign or screen disclosure. For the purposes of this chapter, surcharges are limited to ATMs.

Subpart B—DoD Directive 1000.11

§ 231.10 Financial institutions on DoD installations.

(a) Purpose. This subpart:

(1) Updates policies and responsibilities for financial institutions that serve Department of Defense (DoD) personnel on DoD installations worldwide. Associated procedures are contained in DoD 7000.14–R.

(2) Ensures that arrangements for the provision of services by financial institutions are consistent among the DoD Components, and that financial institutions operating on DoD installations provide, and are provided, support consistent with the policies stated in this subpart.

(b) *Applicability.* This subpart applies to the Office of the Secretary of Defense, the Military Departments, the Joint Chiefs of Staff, the Joint Staff and the supporting Joint Agencies, the Combatant Commands, the Inspector General of the Department of Defense, the Uniformed Services University of the Health Sciences, the Defense Agencies, the DoD Field Activities, and all nonappropriated fund instrumentalities including the Military Exchange Services and morale, welfare and recreation (MWR) activities.

(c) *Definitions.* Terms used in this subpart are set forth in Volume 5 of DoD 7000.14–R.

(d) *Policy.* (1) The following pertains to financial institutions on domestic DoD installations:

(i) Except where they already may exist as of July 1, 1999, no more than one banking institution and one credit union shall be permitted to operate on a DoD installation.

(ii) Upon the request of an installation commander and with the approval of the Secretary of the Military Department concerned (or designee), duly chartered financial institutions may be authorized to provide financial services on DoD installations to enhance the morale and welfare of DoD personnel and facilitate the administration of public and quasi-public monies. Arrangement for the provision of such services shall be in accordance with this subpart and related issuances.

(iii) Financial institutions, or branches thereof, shall be established on DoD installations only after approval by the Secretary of the Military Department concerned (or designee) and the appropriate regulatory agency.

(A) Only banking institutions insured by the Federal Deposit Insurance Corporation (FDIC) and credit unions insured by the National Credit Union Share Insurance Fund (NCUSIF) shall operate on DoD installations. These financial institutions may be either state or federally chartered. Foreign banking institutions operating on overseas DoD installations and chartered to provide financial services in that country are excepted from this requirement.

(B) Military banking facilities (MBFs) shall be established on DoD installations only when a demonstrated and justified need cannot be met through other means. Normally, MBFs shall be authorized only at overseas locations. They may be considered for use at domestic DoD installations only when DoD Components have been unable to obtain, through normal means, financial services from a state or federally chartered financial institution authorized to operate in that state. In times of mobilization, it may become necessary to designate additional MBFs as an emergency measure. The Director, Defense Finance and Accounting Service (DFAS) may recommend the designation of banking facilities to the Department of the Treasury under provisions of 12 U.S.C. 265.

(C) Retail banking operations shall not be performed by any DoD Component. Solicitations for such services shall be issued, or proposals accepted, only in accordance with the policies identified in this subpart. DoD Components shall rely on commercially available sources in accordance with DoD Directive 4100.15.[12]

(D) Retail fees and services for products (to include related minimum balance requirements for noninterest checking, Negotiable Order of Withdrawal (NOW) and savings accounts) offered by financial institutions operating on domestic installations and domestic credit unions operating on DoD installations overseas shall not exceed 110 percent of the industry-wide averages for banks in the ''Annual Report to Congress on Retail Fees and Services of Depository Institutions,'' published by the Board of Governors of the Federal Reserve System.

(iv) Installation commanders shall not seek the provision of financial services from any entity other than the on-base banking office or credit union. The Director, DFAS, with the concurrence of the Under Secretary of Defense Comptroller (USD(C)), may approve exceptions to this policy. Such requests for exception shall be proposed through the Secretary of the Military Department concerned (or designee).

(v) Financial institutions authorized to locate on DoD installations shall be provided logistic support as set forth in Volume 5 of DoD 7000.14–R.

(vi) Military disbursing offices, nonappropriated fund instrumentalities including MWR activities, the Military Exchange Services and other DoD Component activities requiring financial services shall use on-base financial institutions to the maximum extent feasible and consistent with sound management practice.

(vii) The Department encourages the delivery of retail financial services on DoD installations via nationally networked automated teller machines (ATMs). ATMs are considered electronic banking services and, as such, shall be provided only by duly chartered financial institutions.

(A) Notwithstanding the provisions contained in paragraph (d)(1)(iii)(D) of this section, on-base ATM service offered by financial institutions operating on domestic installations and domestic credit unions operating on DoD installations overseas shall be provided without surcharge.

(B) Proposals by the installation commander to install ATMs from other than on-base financial institutions shall comply with the provisions of paragraph (d)(1)(iv) of this section and will be considered only when ATM service is unavailable or existing service is inadequate and the on-base financial institution(s) either declines to provide the service, fails to improve the existing service so that it is adequate or does not formally respond to the request within 30 days of the date of the request.

(viii) Expansion of financial services (to include in-store banking) provided by on-base financial institutions must be approved by the installation commander. Such requests for expansion of services should be coordinated with the installation bank/credit union liaison officer prior to the commander's consideration. Approved expansion of services will be documented as an amendment to the existing operating agreement between the installation commander and the on-base financial institution. The amendment to the operating agreement and any required lease (to include a change to an existing lease) shall be in place prior to the initiation of new financial services or offices.

(ix) The installation commander shall ensure, to the maximum extent feasible, that all financial institutions operating on his or her installation are given the opportunity to participate in pilot programs to demonstrate new financial-related technology (e.g., smart cards) or establish new business lines (e.g., in-store banking) where a determination has been made by the installation commander that the offering of such services is warranted.

(x) Requests for termination of financial services must be approved by the installation commander, substantiated by sufficient evidence and forwarded to the Secretary of the Military Department concerned (or designee). The Secretary of the Military Department (or designee) shall coordinate such requests with the Under Secretary of Defense (Comptroller), through the Director, DFAS, before notification to the appropriate regulatory agency.

(2) The following pertains to financial institutions on overseas DoD installations:

(i) The extension of services by MBFs and credit unions overseas shall be consistent with the policies stated in this subpart and with the pertinent status of forces agreement, other intergovernmental agreement, or host-country law.

(ii) The policies governing the operation of financial institutions on domestic DoD installations identified in paragraph (d)(1) of this section shall apply to financial institutions operating overseas.

(iii) Financial services at overseas DoD installations may be provided by:

(A) Domestic on-base credit unions operating overseas under a geographic franchise and, where applicable, as authorized by the pertinent status of forces agreement, other intergovernmental agreement, or host-country law.

[12] See footnote 1 to § 231.1(a).

(B) MBFs operated under and authorized by the pertinent status of forces agreement, other intergovernmental agreement, or host-country law.

(C) Domestic and foreign banks located on overseas DoD installations that are:

(*1*) Chartered to provide financial services in that country, and

(*2*) A party to a formal operating agreement with the installation commander to provide such services, and

(*3*) Identified, where applicable, in the status of forces agreements, other intergovernmental agreements, or host-country law.

(iv) Financial institutions authorized to locate on DoD installations shall be provided logistical support as set forth in the Volume 5 of DoD 7000.14–R.

(v) In countries served by MBFs operated under contract, nonappropriated fund instrumentalities and on-base credit unions that desire and are authorized to provide accommodation exchange services shall acquire foreign currency from the MBF at the MBF accommodation rate; and shall sell such foreign currency at a rate of exchange that is no more favorable to the customer than that available from the MBF.

(vi) Additional guidance pertaining to financial services overseas is set forth in Volume 5 of DoD 7000.14–R.

(e) *Responsibilities.* (1) The Under Secretary of Defense (Comptroller) (USD(C)) shall develop and monitor policies governing establishment, operation, and termination of financial institutions on DoD installations and take final action on requests for exceptions to this subpart.

(2) The Under Secretary of Defense (Acquisition and Technology) (USD(A&T)) shall develop and monitor policies and procedures governing logistical support furnished to financial institutions on DoD installations, including the use of DoD real property and equipment.

(3) The Under Secretary of Defense (Personnel and Readiness) (USD(P&R)) shall advise the USD(C) on all aspects of on-base financial institution services that affect the morale and welfare of DoD personnel.

(4) DoD Component responsibilities pertaining to this Directive are set forth in Volume 5 of DoD 7000.14–R.

Subpart C—Guidelines for Application of the Privacy Act to Financial Institution Operations

§ 231.11 Guidelines.

(a) The following guidelines govern the application of DoD Directive 5400.11 to those financial institutions that operate under this subpart:

(1) Financial institutions and their branches and facilities operating on DoD military installations do not fall within the purview of 5 U.S.C. 552 *et seq.*

(i) These financial institutions do not fit the definition of ''agency'' to which the Privacy Act applies, that is, any executive department, Military Department, government corporation, government-controlled corporation, or other establishment in the executive branch of the government (including the Executive Office of the President), or an independent regulatory agency (5 U.S.C. 552(e) and 552a(a)(1)).

(ii) These financial institutions are not ''government contractors'' within the meaning of 5 U.S.C. 552a(o), as they do not operate a system of records on behalf of an agency to accomplish an agency function. According to the Office of Management and Budget Privacy Act Guidelines, the provision relating to government contractors applies only to systems of records actually taking the place of a Federal system which, but for the contract, would have been performed by an agency and covered by the Privacy Act. Clearly, the subject institutions do not meet these criteria.

(iii) Since the Act does not apply to them, these financial institutions are not required to comply with 5 U.S.C. 552a(e)(3) in obtaining and making use of personal information in their relationships with personnel authorized to use such institutions. Thus, these institutions are not required to inform individuals from whom information is requested of the authority for its solicitation, the principal purpose for which it is intended to be used, the routine uses that may be made of it, or the effects of not providing the information. There also is no requirement to post information of this nature within on-base banking and credit union offices.

(2) The financial institutions concerned hold the same position and relationship to their account holders, members, and to the government as they did before enactment of OMB Circular A–130. Within their usual business relationships, they still are responsible for safeguarding the information provided by their account holders or members and for obtaining only such information as is reasonable and necessary to conduct business. This includes credit information and proper identification, which may include social security number, as a precondition for the cashing of checks.

(3)(i) Financial institutions may incorporate the following conditions of disclosure of personal identification in all contracts, including loan agreements, account signature cards, certificates of deposit agreements, and any other agreements signed by their account holders or members:

> I hereby authorize the Department of Defense and its various Components to verify my social security number or other identifier and disclose my home address to authorized (name of financial institution) officials so that they may contact me in connection with my business with (name of financial institution). All information furnished will be used solely in connection with my financial relationship with (name of financial institution).

(ii) When the financial institution presents such signed authorizations, the receiving military command or installation shall provide the appropriate information.

(4) Even though an agreement described in paragraph (a)(3) of this section has not been obtained, the Department of Defense may provide these financial institutions with salary information and, when pertinent, the length or type of civilian or military appointment, consistent with DoD Directives 5400.11 and 5400.7. Some examples of personal information pertaining to DoD personnel that normally can be released without creating an unwarranted invasion of personal privacy are name, rank, date of rank, salary, present and past duty assignments, future assignments that have been finalized, office phone number, source of commission, and promotion sequence number.

(5) When DoD personnel with financial obligations are reassigned and fail to inform the financial institution of their whereabouts, they should be located by contacting the individual's last known commander or supervisor at the official position or duty station within that particular DoD Component. That commander or supervisor either shall furnish the individual's new official duty location address to the financial institution, or shall forward, through official channels, any correspondence received pertaining thereto to the individual's new commander or supervisor for appropriate assistance and response. Correspondence addressed to the individual concerned at his or her last official place of business or duty station shall be forwarded as provided by postal regulations to the new location. However, once an individual's affiliation with the Department of Defense is terminated through separation or retirement, the Department's ability to render locator assistance (i.e., disclose a home address) is severely curtailed unless the public

interest dictates disclosure of the last known home address. The Department may, at its discretion, forward correspondence to the individual's last known home address. The Department may not act as an intermediary for private matters concerning former DoD personnel who are no longer affiliated with the Department.

(b) Questions concerning this guidance should be forwarded through channels to the Deputy Chief Financial Officer, Office of the Under Secretary of Defense (Comptroller), The Pentagon, Washington, DC 20301–1100.

Appendix A to Part 231—Sample Operating Agreement

Operating Agreement Between Military Installations and Banks/Credit Unions

Note: The following operating agreement template identifies general arrangement and content. Content of the actual operating agreement may vary according to the circumstances of each installation.

Operating Agreement Between (Name of Installation), (State or Country Installation Located) and (Name of Bank/Credit Union).

This Agreement is made and entered into this day by and between the installation commander of (Name of Installation) in his or her official capacity as installation commander, hereinafter referred to as the ''Commander'' and the (Name of Bank/Credit Union), having its principal office at (Location of Home Office) hereinafter referred to as the ''Bank/Credit Union,'' together hereinafter referred to as ''the parties.'' Whereas the Commander and the Bank/Credit Union enter into this Operating Agreement upon the mutual consideration of the promises, covenants, and agreements hereinafter contained:

1. The parties understand and agree that this Agreement shall in no way modify, change, or alter the terms and conditions of Lease Number (number of lease) covering the use of real property described therein, and this Agreement shall continue, subject to the termination provisions herein-after set forth, during the terms of said lease and any extensions thereof. In the case of a bank operating a military banking facility (MBF) overseas, this agreement will not change the conditions of the contract between the bank and the Department of Defense.

2. The Bank/Credit Union agrees to operate a (State Bank, National Bank, Independent Bank, Branch Bank, Military Banking Facility or Credit Union) on-base in accordance with the policies and procedures set forth in Volume 5, Chapter 34 of the *DoD Financial Management Regulation* or, for the Overseas Military Banking Program (OMBP), the policies and procedures set forth in Volume 5, Chapter 34 of the *DoD Financial Management Regulation* and the applicable DoD contract. The hours of operations shall be between (Hour Office Opens) and (Hour Office Closes), and on the following days (Week Days Office Open), except on government holidays when the Bank/Credit Union may be closed. The Program Office for the OMBP shall notify the commander of any changes to the DoD contract.

3. The Bank/Credit Union shall provide the following services:

a. *Services for Individuals*

(1) Demand (checking) account services.

(2) Cashing personal checks and government checks for accountholders.

(3) Maintaining savings accounts and (any other interest-bearing accounts).

(4) Selling official checks, money orders, and traveler's checks.

(5) Selling and redeeming United States savings bonds.

(6) Providing direct deposit service.

(7) Electronic banking (Automated Teller Machines).

b. *Services for Disbursing Officers*

(1) Furnishing cash (if the financial institution's terms for doing so is consistent with sound management practices).

(2) Accepting deposits for credit to the Treasury General Account (where the financial institution has entered into an agreement with the Department of the Treasury).

c. *Services for Nonappropriated Fund Instrumentalities and Private Organizations*

(1) Demand (checking) account services, including wire transfers.

(2) Savings accounts and nonnegotiable certificates of deposit or other interest-bearing accounts offered by the bank.

(3) Currency and coin for change.

4. Service charges shall be as follows:

a. *Service for Individuals.*

(1) No fees shall be charged to individuals for the services listed in subpara graph 3.a.(2), 3.a.(5) and 3.a.(7), above, except that checks drawn on other financial institutions may be treated in accordance with the financial institution's established policy. Any charge to cash a government check shall not exceed that typically charged by financial institutions in the vicinity of the installation.

(2) Checking and savings accounts. Fees for individual checking and savings accounts shall be the customary service charges of the bank/credit union or those negotiated for base personnel per the attached schedule.

(3) Sale of official checks, money orders, traveler's checks and other types of financial paper. Charges for these services shall be the customary charges of the financial institution operating the on-base banking/credit union office.

b. *Service for Disbursing Officers.* No charge shall be made for the services listed in subparagraph 3.b.(2), above. Compensation to the financial institution shall be per its separate agreement with the Department of the Treasury. Charges, if any, for the services stated in subparagraph 3.b.(1) shall be as locally negotiated with the financial institution.

c. *Nonappropriated Fund Instrumentalities and Private Organizations.* State the charges or refer to a schedule of charges for funds and organizations that do not participate in a central banking program. For those activities participating in a central banking program, determine the compensation to the financial institution by account analysis.

5. It is agreed that the Bank/Credit Union shall:

a. Notify the Commander of any proposed changes to the attached schedule of fees and services at least 30 days prior to implementation.

b. Follow the requirements in Volume 5, Chapter 34 of the *DoD Financial Management Regulation* and any changes thereto.

c. Comply with Department of the Treasury requirements for establishment and operation of a Treasury General Account where the bank/credit union agrees to act as a depository for government funds.

d. Absolve the (Military Service) and its representatives of responsibility or liability for the financial operation of the bank/credit union; and for any loss (including losses due to criminal activity), expenses, or claims for damages arising from bank/credit union operations.

e. Indemnify, and hold harmless the United States from (and against) any loss, expense, claim, or demand, including attorney fees, court costs, and costs of litigation, to which the government may be subjected as a result of death, loss, destruction, or damage in connection with the use and occupancy of (Military Service) premises occasioned in whole or in part by officers, agents or employees of the institution operating a bank/credit union office.

f. Favorably respond, whenever feasible, to reasonable local command requests for lectures and printed materials to support consumer credit education programs, financial management program and newcomer's briefings.

g. Prominently post in the lobby of the bank/credit union the name, duty telephone number and photograph of the Bank/Credit Union Liaison Officer.

h. Allow, with reasonable notification, authorized auditors or installation comptroller representatives to verify financial operational data provided by the institution at the request of the installation commander.

i. Accept the government travel card in all on-base ATMs operated by the bank/credit union.

j. Abide by the installation fire protection program, including immediate correction of fire hazards noted by the installation fire inspector during periodic fire prevention inspections.

6. The Commander shall provide the following space and support:

a. Space requirements for bank/credit union operations will be administered in accordance with the existing lease. (Show Number of Lease).

b. Utilities (i.e., electricity, gas, water and sewage), heating, intrastation telephone service, and custodial and janitorial services to include garbage disposal and outdoor maintenance (such as grass cutting and snow removal) on a reimbursable basis.

c. Assistance in locating military personnel and civilian employees who tender uncollectable checks, overdraw their accounts, default on loans, or otherwise owe money to (or are owed money by) the Bank/Credit Union.

d. Making recovery of funds in such cases as allowed by regulation.

7. Termination of this Agreement shall be consistent with the termination provision of

the real property lease and Volume 5, Chapter 34, of the *DoD Financial Management Regulation.* The Secretary of the (Military Department) shall have the right to terminate this Agreement at any time. Any termination of the right of the Bank/Credit Union to operate on the installation shall render this Agreement terminated without any applicable action by the Commander.

8. Any provision of this Agreement that is contrary to or violates any laws, rules, or regulations of the United States, its agencies, or the state of (State Bank/Credit Union Located) that apply on federal installations shall be void and have no force or effect; however, both parties to this Agreement agree to notify the other party promptly of any known or suspected continuing violation of such laws, rules, or regulations.

9. So long as this Agreement remains in effect, it shall be reviewed jointly by the Commander and the Bank/Credit Union at least once every 5 years to ensure compatibility with current DoD issuances and to determine if any changes are required to the Agreement.

In witness whereof, the Commander, and the Bank/Credit Union, by their duly authorized office, have hereunto set their hands this day of (Day, Month, Year).

_____

Bank/Credit Union Official

_____

Installation Commander

Appendix B to Part 231—In-Store Banking

A. *Selection Process.* The purpose of this guidance is to assure an impartial and thorough process to select the best on-base financial institution to provide in-store banking services when such services are desired and approved by the installation commander.

1. Consistent with DoD Component delegation, the final decision to solicit for an in-store banking office rests with the installation commander.

2. The DoD Component seeking in-store banking (e.g., Defense Commissary Agency, Military Exchange Services and MWR activities) shall draft the solicitation letter.

3. The solicitation letter shall be reviewed by the installation legal counsel prior to its release.

4. Close coordination among all cognizant DoD elements is essential throughout the selection process.

5. The Bank/Credit Union Liaison Officer(s) shall be the focal point(s) of the selection process.

6. During the selection process, all communication between requesting DoD Component and the financial institutions shall be channeled through the Bank/Credit Union Liaison Officer(s).

B. Specific Procedures:

1. The need for in-store banking service may be identified from either:

a. An unsolicited proposal from an on-base financial institution,

b. A DoD Component's request, or

c. An installation commander's request.

2. The cognizant installation commander is responsible for assessing the environment and authorizing the Bank/Credit Union Liaison Officer(s) to pursue the acquisition of in-store banking services. If no authorization is given, no further action is required.

3. The cognizant installation commander shall determine whether a solicitation is required. (A solicitation shall be required whenever there is two or more financial institutions on a DoD installation). If no solicitation is required, then the Bank/Credit Union Liaison Officer shall work directly with the on base financial institution to obtain the requested services. Where there is neither a banking office nor an on-base credit union, the solicitation process outlined in paragraph 340502, as supplemented by the provisions outlined in paragraph A, above, apply.

4. The requesting DoD Component shall prepare a solicitation letter and present the letter, through the Bank/Credit Union Liaison Officer, to the installation commander for signature. The solicitation letter shall identify the financial services being requested and classify these services as either mandatory or optional. In addition, the solicitation letter shall highlight any services that will be weighed as more important than others during the evaluation of the proposals. Any space consideration and terms of the proposed agreement also shall be identified in the letter.

5. In order to maintain the integrity of the solicitation process, all communications among the requesting agency, the installation commander, and the interested financial institutions shall be directed through the Bank/Credit Union Liaison Officer(s). The Bank/Credit Union Liaison Officer(s) shall forward the solicitation letter to both on-base financial institutions. All proposals shall be referred to the requesting DoD Component for evaluation and subsequent selection. Credit union proposals must contain certification from the NCUA or appropriate state regulatory agency that the provision of the requested services complies fully with regulatory guidelines and statute. The requesting DoD Component shall submit a written recommendation, and supporting rationale, to the installation commander for final approval. The installation commander shall approve or disapprove the requesting DoD Component's recommendation and notify the requesting agency of that decision.

6. The Bank/Credit Union Liaison Officer(s) shall notify in writing the selected financial institution and request that institution to coordinate with the proper activity to begin any construction, modifications or renovations necessary to open the in-store banking office. The cognizant facility management personnel shall begin the process of obtaining the necessary outgrant instruments. Concurrently, the requesting DoD Component representative and the financial institution representative shall draft the appropriate amendment to the operating agreement. The amendment shall contain provisions regarding: (a) the roles and responsibilities of all parties involved, (b) the financial services to be provided, and (c) the logistical support arrangements to include custodial services and security provisions. The amendment shall be coordinated with the Bank/Credit Union Liaison Officer(s) prior to forwarding that document to the installation commander for signature. The amendment shall be signed by the installation commander and the appropriate representatives from the financial institution and the requesting DoD Component.

Appendix C to Part 231—Sample Certificate of Compliance for Credit Unions

Certificate of Compliance

I, (name), general manager of the (credit union), located at (place), certify that this credit union complies with the requirements of the Federal Credit Union Act, section 124 (12 U.S.C. 1770), for the allotment of space in Federal buildings without charge for rent or services. At least 95 percent of the (credit union and branch) current membership is composed of persons who are now, or were when they joined this credit union, military personnel or Federal employees, or members of their families.

Date _____

Name _____

(President of the board of directors or general manager)

(Note: The Certificate of Compliance is posted on credit union letterhead)

Appendix D to Part 231—Foreign Geographic Field of Membership (Franchise) Assignment Listing

Credit Union services to authorized persons and organizations on DoD installations overseas are provided by domestic defense credit unions operating under a geographic field of membership (franchise). The DoD geographic fields of membership (franchises) are as follows:

Bahrain

Navy Federal Credit Union

Belgium

Andrews Federal Credit Union

Canada

Navy Federal Credit Union

Cuba

Navy Federal Credit Union

Diego Garcia

Navy Federal Credit Union

Federal Republic of Germany

Andrews Federal Credit Union:
- State of Hessen
- State of Nordrhein Westfalen
- Hamlen Pymont—Sub District of Hannover County/District State of Niedersachsen
- Mainz—Sub District of County/District Rheinhessen State of Rheinlandpfalz
- Bad Kreuznach—Sub District of Koblenz County/District State of Rheinlandpfalz
- County/District of Unterfranken—State of Bayern

Finance Center Federal Credit Union:
- State of Bayern excluding County/District of Unterfranken

Pentagon Federal Credit Union:
- State of Hamburg
- State of Schleswig Holstein

State of Bremen
State of Niedersachsen excluding Hamlen Pymont Sub District Hannover County/District
Service Federal Credit Union:
State of Berlin
State of Baden-Wurttemburg
State of Saarland
State of Rheinlandpfalz excluding:
Bad Krueznach—Sub District of Koblenz
Mainz—Sub District of Rheinhessen

Greece/Crete

Army and Air Force Mather Federal Credit Union
Navy and Marine Corps—Navy Federal Credit Union

Hong Kong

Navy Federal Credit Union

Iceland

Navy Federal Credit Union

Italy

Army and Air Force—Global Credit Union
Navy and Marine Corps Navy—Federal Credit Union

Japan

Army and Air Force—United Services of America Federal Credit Union
Navy and Marine Corps—Navy Federal Credit Union

Korea

United Services of America Federal Credit Union

The Netherlands

Andrews Federal Credit Union

Okinawa (Prefecture of Japan)

Army and Air Force—Pentagon Federal Credit Union
Navy and Marine Corps—Navy Federal Credit Union

The Philippines

Army and Air Force—Alaska USA Federal Credit Union
Navy/Marine Corps—Navy Federal Credit Union

Portugal

Pentagon Federal Credit Union

Spain

Army and Air Force—Pentagon Federal Credit Union
Navy and Marine Corps—Navy Federal Credit Union

Turkey

Pentagon Federal Credit Union

United Kingdom

Army and Air Force—Keesler Federal Credit Union
Navy/Marine Corps—Navy Federal Credit Union

World-Wide

Tower Federal Credit Union (representative offices only)
Security Service Federal Credit Union (representative offices only)

Note: Questions concerning this guidance should be forwarded through channels to the Deputy Chief Financial Officer, Office of the Under Secretary of Defense (Comptroller), The Pentagon, Washington, DC 20301–1100.

Dated: August 5, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–20509 Filed 8–10–99; 8:45 am]

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federal register

Wednesday
August 11, 1999

Part V

Department of Justice

Bureau of Prisons

28 CFR Part 505

Cost of Incarceration Fee; Final Rule; Annual Determination of Average Cost of Incarceration; Notice

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 505

[BOP–1079–F]

RIN 1120–AA75

Cost of Incarceration Fee

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: The Bureau of Prisons is revising its regulations on the cost of incarceration fee in order to remove obsolete references and to eliminate redundant provisions.

EFFECTIVE DATE: August 11, 1999.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is revising its regulations on the cost of incarceration fee (28 CFR part 505). A final rule on this subject was published in the **Federal Register** on December 15, 1994 (59 FR 64781).

The regulations are being revised in order to remove redundant provisions and to make organizational or editorial changes. The Director of the Bureau has been delegated the authority given to the Attorney General to assess and collect a fee from eligible inmates to cover the cost of incarceration. Procedures pertaining to the cost of incarceration fee which have been issued under authority retained by the Attorney General are contained in 28 CFR 0.96c.

Section 505.1 has been revised to make clear the connection with the provisions issued by the Attorney General in § 0.96c. Consequently, redundant references to the procedures in § 0.96c have been removed from this and other sections of the Bureau's regulations. The title of the Bureau's regulation and other provisions have been revised to conform to the phrasing used in § 0.96c (namely, ''cost of incarceration'' rather than ''costs of incarceration''). Further specific changes are discussed below.

Revised § 505.1 notes the statutory constraints on imposing the cost of incarceration fee in instances where the court imposes or waives a fine pursuant to the Sentencing Guidelines 5E1.2(i). Section 505.2 has been revised to remove obsolete reference to the 1995 cost of incarceration fee and redundant provisions already contained in § 0.96c. The provisions in §§ 505.3 and 505.4 have been redesignated for organizational reasons. Section 505.3 now contains the provisions pertinent to exemption from fee assessment which were previously contained in former § 505.4. A reference in this section to the United States Sentencing Guidelines has been updated in conformance to a revision of the sentencing guidelines. Section 505.4 restates the provisions on calculation of assessment previously contained in former § 505.3. Revised § 505.4 clarifies that only one assessment for each separate period of incarceration is made for the inmate and includes provisions for prorating the assessment which had been contained in former § 505.5. Section 505.6 pertaining to fee waiver has been redesignated as new § 505.5 and has been revised to make consistent use of the word ''inmate''. Section 505.7 pertaining to procedures for payment has been redesignated as new § 505.6 and has been revised to clarify application of the inmate financial responsibility program.

Former § 505.8 pertaining to procedures for appeal has been removed. The procedures in that section are contained in the Bureau's Administrative Remedy Program (28 CFR part 542) and need not be restated separately. Finally, former § 505.9 pertaining to procedures for final disposition has been redesignated as new § 505.7.

Because these changes are either organizational or editorial in nature and have no adverse impact upon inmates, the Bureau finds good cause for exempting the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no response in the **Federal Register**.

Executive Order 12866

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB.

Executive Order 12612

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

Regulatory Flexibility Act

The Director of the Bureau of Prisons, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

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

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Roy Nanovic, Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First St., Washington, DC 20534; telephone (202) 514–6655.

List of Subjects in 28 CFR Part 505

Prisoners.

Kathleen Hawk Sawyer,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p) and 0.96c, part 505 in subchapter A of 28 CFR, chapter V is revised as set forth below.

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

PART 505—COST OF INCARCERATION FEE

Sec.

505.1 Purpose and scope.
505.2 Annual determination of average cost of incarceration.
505.3 Inmates exempted from fee assessment.
505.4 Calculation of assessment by unit staff.
505.5 Waiver of fee by Warden.
505.6 Procedures for payment.
505.7 Procedures for final disposition.

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 31 U.S.C. 3717; Pub. L. 102–395, 106 Stat. 1842 (18 U.S.C. 4001 note); 28 CFR 0.95–0.99.

§ 505.1 Purpose and scope.

This part establishes procedures for the assessment and collection of a fee to cover the cost of incarceration. The Director of the Bureau of Prisons has been delegated the authority of the Attorney General (see 28 CFR 0.96c) to assess and collect a fee imposed by the Bureau in the event the court neither imposes nor waives a fine pursuant to the Sentencing Guidelines 5E1.2(d). For purposes of this part, revocation of parole or supervised release is to be treated as a separate period of incarceration for which a fee may be imposed.

§ 505.2 Annual determination of average cost of incarceration.

Pursuant to 28 CFR 0.96c, the Bureau of Prisons staff is responsible for calculating the annual average cost of incarceration. This calculation is reviewed annually and the revised figure is published as a notice in the **Federal Register**.

§ 505.3 Inmates exempted from fee assessment.

Inmates who began service of sentence before January 1, 1995, or who have had a fine either imposed or expressly waived by the United States District Court, pursuant to Section 5E1.2 (e) of the United States Sentencing Guidelines, or any successor provisions, are exempt from fee assessment otherwise required by this part.

§ 505.4 Calculation of assessment by unit staff.

Bureau of Prisons Unit Team staff are responsible for computing the amount of the fee to be paid by each inmate who has not been exempted from fee assessment. The inmate will only be assessed an amount once for the cost of incarceration for each separate period of incarceration.

(a) Unit Team staff are to rely exclusively on the information contained in the Presentence Investigation Report and findings and orders of the sentencing court in order to determine the extent of an inmate's assets, liabilities and dependents.

(b) The fee is assessed in accordance with the following formula: If an inmate's assets are equal to or less than the poverty level, as established by the United States Department of Health and Human Services and published annually in the **Federal Register**, no fee is to be imposed. If an inmate's assets are above the poverty level, Unit Team staff are to impose a fee equal to the inmate's assets above the poverty level up to the average cost to the Bureau of Prisons of confining an inmate for one year.

(c) If the amount of time that the inmate is in custody is less than 334 days (including pretrial custody time), the maximum fee to be imposed is to be computed by prorating the fee on a monthly basis.

§ 505.5 Waiver of fee by Warden.

The Warden may reduce or waive the fee if the inmate establishes that:

(a) He or she is not able and, even with the use of a reasonable installment schedule, is not likely to become able to pay all or part of the fee, or

(b) Imposition of a fee would unduly burden the inmate's dependents.

§ 505.6 Procedures for payment.

Fees imposed pursuant to this part are due and payable after notice of the Unit Team actions. When the inmate participates in the inmate financial responsibility program (see 28 CFR part 545, subpart B), fees are to be included under the category ''other federal government obligations'' and are to be paid before other financial obligations included in that same category. Fees may be subject to interest charges.

§ 505.7 Procedures for final disposition.

Before the inmate completes his or her sentence, Unit Team staff must review the status of the inmate's fee. Any unpaid amount will be referred for collection in accordance with Federal Claims Collection Standards (4 CFR Chapter II).

[FR Doc. 99–20650 Filed 8–10–99; 8:45 am]

BILLING CODE 4410–05–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

Annual Determination of Average Cost of Incarceration

AGENCY: Bureau of Prisons, Justice.

ACTION: Notice.

SUMMARY: The fee to cover the average cost of incarceration for Federal inmates is $21,926.

EFFECTIVE DATE: August 11, 1999.

ADDRESSES: Office of General Counsel, HOLC 754, Federal Bureau of Prisons, 320 First St., NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: Provisions in 28 CFR part 505 allow for the assessment and collection of a fee to cover the average cost of incarceration for Federal inmates. This fee is calculated by dividing the number representing the obligation encountered in Bureau facilities (excluding activation costs) by the number of inmate-days incurred for preceding fiscal year, and then by multiplying the quotient by 365.

The initial publication of the fee based upon fiscal year 1994 data was $21,352. Subsequent determinations of the fee were: $23,542 (based upon fiscal year 1995 data), $23,542 (based upon fiscal year 1996 data), $21,838 (based upon fiscal year 1997 data).

Pursuant to § 505.2(b), the Director of the Bureau of Prisons has reviewed the amount of the fee and has determined that, based upon fiscal year 1998 data, the fee to cover the average cost of incarceration for Federal inmates is $21,926.

Kathleen Hawk Sawyer,

Director, Bureau of Prisons.

[FR Doc. 99–20651 Filed 8–10–99; 8:45 am]

BILLING CODE 4410–05–P

federal register

Wednesday
August 11, 1999

Part VI

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Advisory Committee and Office of Recombinant DNA Activities; Notice of Meeting and Proposed Actions Under the NIH Guidelines; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Advisory Committee; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee on September 2–3, 1999. The meeting will be held at the National Institutes of Health, Building 31C, 6th Floor, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20892, starting on September 2, 1999, at approximately 9:00 a.m., and will recess at approximately 5:00 p.m. The meeting will reconvene on September 3, 1999, at approximately 8:30 a.m. and will adjourn at approximately 5:00 p.m. The meeting will be held to discuss Proposed Actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules (59 FR 34496) and other matters to be considered by the Committee. The Proposed Actions will follow this notice of meeting. The meeting will be open to the public. Attendance by the public will be limited to space available.

Debra W. Knorr, Deputy Director, Office of Recombinant DNA Activities, National Institutes of Health, MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, Phone (301) 496–9838, FAX (301) 496–9839, will provide a summary of the meeting and a roster of committee members upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Knorr in advance of the meeting. The Office of Recombinant DNA Activities (ORDA) web site is located at *http://www.nih.gov/od/orda* for further information about the office.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: July 27, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99–20645 Filed 8–10–99; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of Recombinant DNA Activities; Recombinant DNA Research: Proposed Actions Under the NIH Guidelines

AGENCY: National Institutes of Health (NIH), PHS, DHHS.

ACTION: Notice of Proposed Actions Under the *NIH Guidelines for Research Involving Recombinant DNA Molecules (NIH Guidelines).*

SUMMARY: This notice sets forth proposed actions to the *NIH Guidelines for Research Involving Recombinant DNA Molecules (NIH Guidelines)* (59 FR 34496, amended 59 FR 40170, 60 FR 20726, 61 FR 1482, 61 FR 10004, 62 FR 4782, 62 FR 53335, 62 FR 56196, 62 FR 59032, 63 FR 8052, 63 FR 26018, 64 FR 25361). These proposed actions will be considered by the Recombinant DNA Advisory Committee (RAC) during its September 2–3, 1999, meeting. Public comments and any recommendations made by the RAC on these proposed actions will be considered by the NIH Director. Decisions regarding these proposed actions will be issued in accordance with the *NIH Guidelines*, as deemed appropriate by the NIH Director.

DATES: Interested parties are invited to submit comments concerning the proposed actions. Comments received by August 25, 1999, will be reproduced and distributed to the RAC for consideration at its September 2–3, 1999, meeting. After consideration of this proposal and comments by the RAC, the NIH Director will issue decisions in accordance with the *NIH Guidelines*.

PUBLIC COMMENTS: Interested parties are invited to comment on these proposed actions. Written comments should be submitted to: Debra Knorr, RAC Executive Secretary, Office of Recombinant DNA Activities, National Institutes of Health, MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, or by FAX to (301)–496–9839. Written comments received by August 25, 1999, will be reproduced and distributed to the committee members for their consideration during the September 2–3, 1999, RAC meeting. All comments received in response to this notice will be considered by the RAC and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5:00 p.m.

CONTACT INFORMATION: For further information regarding these proposed actions please contact: The Office of Recombinant DNA Activities (ORDA), National Institutes of Health, MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, Phone: 301–496–9838, Facsimile: 301–496–9839. Additional information is also available at ORDA's web site: *http://www.nih.gov/od/orda*.

SUPPLEMENTARY INFORMATION: The NIH has continually refined its oversight of human gene transfer research as the field has developed. In December 1996, the RAC review process was modified to consist of a rapid initial analysis of each human gene transfer experiment to determine which protocols present significant novel scientific, safety, ethical, legal and/or social issues and therefore warrant further RAC review and public discussion. In October 1997, the *NIH Guidelines* were amended to eliminate the requirement for approval by the RAC of individual protocols. The objectives of both of these actions were to streamline the review process and ensure that the roles and responsibilities of the NIH complement, rather than duplicate, those of other Federal agencies while preserving public confidence in the field.

At present, human gene transfer protocols must be approved by the local Institutional Biosafety Committee (IBC) and the local Institutional Review Board (IRB) prior to submission to the NIH Office of Recombinant DNA Activities (ORDA) for RAC review. Within 15 days of receipt of the complete submission to ORDA, investigators are informed of the RAC's decision as to whether a given protocol is novel and therefore warrants further review and public discussion. To provide adequate time for additional analysis of the protocol and public notice of the upcoming RAC review and discussion, a protocol must be received by ORDA at least eight weeks prior to

a RAC meeting. Over the past two years, approximately 10% of protocols were determined by the RAC to warrant further analysis and public discussion because they presented novel safety and/or ethical issues. Examples of novel characteristics included new disease indications, vulnerable patient populations, and new classes of viral vectors.

In an effort to optimize further and streamline this process, the NIH is proposing to modify further the requirements for protocol submission for RAC review. Specifically, clinical trial proposals may be submitted for RAC review before having been approved by the local IBC and IRB; however, clinical trial investigations may not be initiated until the RAC review process has been completed, IBC and IRB approvals have been obtained, and applicable regulatory authorization(s) have been obtained.

The above changes will allow investigators to receive RAC input at an earlier stage of protocol development and allow multiple levels of protocol review to occur simultaneously. This proposed action is intended to reduce the delays in initiating clinical trials that may result from the multiple, sequential reviews currently conducted by the local institutional review bodies and federal government agencies. The NIH is interested in exploring strategies to expedite further the process of public discussion by the RAC of novel protocols.

Other changes to the *NIH Guidelines* are presented in these Proposed Actions in order to clarify the process and requirements for protocol submission, review, and reporting. These Proposed Actions will preserve RAC's critical role in the review and public discussion of novel human gene transfer experiments in advance of clinical application.

I. Proposed Actions

I–A. Proposed Amendments to Section I, *Scope of the NIH Guidelines*; Section III, *Experiments Covered by the NIH Guidelines*; Section IV, *Roles and Responsibilities*; Appendix M, *Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into One or More Human Subjects (Points to Consider)*; of the *NIH Guidelines* Regarding Human Gene Transfer Experiments.

Section I–A–1–a, *Scope of the NIH Guidelines*, currently reads:

''Experiments involving the deliberate transfer of recombinant DNA or DNA or RNA derived from recombinant DNA into human subjects (human gene transfer) cannot be initiated without simultaneous submission to both NIH/ORDA and FDA of such information on the proposed experiment as is prescribed by those agencies. Submission of human gene transfer protocols to NIH shall be in the format described in Appendix M–I, *Submission Requirements—Human Gene Transfer Experiments*, of the *NIH Guidelines*. Submission to NIH shall be for registration purposes and will ensure continued public access to relevant human gene transfer information conducted in compliance with the *NIH Guidelines*. Investigational New Drug (IND) applications shall be submitted to FDA in the format described in 21 CFR, Chapter I, Subchapter D, Part 312, Subpart B, Section 23, *IND Content and Format*.

''If a determination is made that an experiment will undergo full RAC discussion, NIH/ORDA will immediately notify the Principal Investigator. RAC members may forward requests for additional information relevant to a specific protocol through NIH/ORDA to the Principal Investigator. In making a determination whether an experiment is novel and deserving of full RAC discussion, reviewers will examine the scientific rational, scientific content (relative to other proposals reviewed by RAC), whether the preliminary *in vitro* and *in vivo* safety data were obtained in appropriate models and are sufficient, and whether questions related to relevant social and ethical issues have been resolved. RAC's recommendation(s) on a specific human gene transfer experiment will be forwarded to the NIH Director, the Principal Investigator, the sponsoring institution, and other DHHS components, as appropriate.''

Section I–A–1–a is proposed to be amended to read:

''Experiments involving the deliberate transfer of recombinant DNA or DNA or RNA derived from recombinant DNA into human subjects (human gene transfer) cannot be initiated without submission to NIH/ORDA and completion of the RAC review process. The RAC review process shall include an initial determination as to whether the submission has novel characteristics warranting full RAC review and public discussion. During the initial determination, RAC members shall notify NIH/ORDA of their recommendations regarding the necessity for full RAC review and public discussion. At any time during the review process, individual RAC members may contact NIH/ORDA to request additional information deemed important to the decision-making process. NIH/ORDA will immediately notify the Principal Investigator(s) of RAC requests for additional information. The initial RAC review shall be completed and NIH/ORDA will notify the Principal Investigator of the results of this review within 15 working days of receipt of a complete submission. RAC review at a public meeting of an individual human gene transfer experiment can be: (1) initiated by the NIH Director, or (2) recommended to NIH/ORDA by: (a) three or more RAC members, or (b) other Federal agencies. An individual human gene transfer experiment that is recommended for full RAC review should have novel characteristics deserving of public discussion. Following that review and discussion, RAC recommendations on a specific human gene transfer experiment shall be forwarded to the NIH Director, the Principal Investigator, the sponsoring institution, and/or other DHHS components, as appropriate. Submission of human gene transfer protocols to NIH shall be in the format described in Appendix M–I, Submission Requirements—Human Gene Transfer Experiments, of the *NIH Guidelines*.'' Investigational New Drug (IND) applications shall be submitted to FDA in the format described in 21 CFR, Chapter I, Subchapter D, Part 312, Subpart B, Section 23, *IND Content and Format*.

Section III, *Experiments Covered by the NIH Guidelines*, preamble, first paragraph, currently reads:

''This section describes six categories of experiments involving recombinant DNA: (i) those that require Institutional Biosafety Committee (IBC) approval, RAC review, and NIH Director approval before initiation (see Section III–A), (ii) those that require NIH/ORDA and Institutional Biosafety Committee approval before initiation (see Section III–B), (iii) those that require Institutional Biosafety Committee and Institutional Review Board approvals and NIH/ORDA registration before initiation (see Section III–C), (iv) those that require Institutional Biosafety Committee approval before initiation (see Section III–D), (v) those that require Institutional Biosafety Committee notification simultaneous with initiation (see Section III–E), and (vi) those that are exempt from the *NIH Guidelines* (see Section III–F).''

Section III, *Experiments Covered by the NIH Guidelines*, preamble, first paragraph, is proposed to be amended to read:

''This section describes six categories of experiments involving recombinant DNA: (i) those that require Institutional Biosafety Committee (IBC) approval,

RAC review, and NIH Director approval before initiation (see Section III–A), (ii) those that require NIH/ORDA and Institutional Biosafety Committee approval before initiation (see Section III–B), (iii) those that require Institutional Biosafety Committee and Institutional Review Board approvals and completion of the RAC review process before initiation (see Section III–C), (iv) those that require Institutional Biosafety Committee approval before initiation (see Section III–D), (v) those that require Institutional Biosafety Committee notification simultaneous with initiation (see Section III–E), and (vi) those that are exempt from the *NIH Guidelines* (see Section III–F).''

Section III–C, *Experiments that Require Institutional Biosafety Committee and Institutional Review Board Approvals and NIH/ORDA Registration Before Initiation*, currently reads:

''Section III–C, *Experiments that Require Institutional Biosafety Committee and Institutional Review Board Approvals and NIH/ORDA Registration Before Initiation.*

''Section III–C–1, *Experiments Involving the Deliberate Transfer of Recombinant DNA or DNA or RNA Derived from Recombinant DNA into One or More Human Subjects.*

''Research proposals involving the deliberate transfer of recombinant DNA, or DNA or RNA derived from recombinant DNA, into human subjects (human gene transfer) will be considered through a review process involving both NIH/ORDA and RAC. Investigators shall submit relevant information on the proposed human gene transfer experiments to NIH/ORDA. Submission of human gene transfer protocols to NIH will be in the format described in Appendix M–I, *Submission Requirements—Human Gene Transfer Experiments.* Submission to NIH/ORDA shall be for registration purposes and will ensure continued public access to relevant human gene transfer information in compliance with the *NIH Guidelines.* Investigational New Drug (IND) applications should be submitted to FDA in the format described in 21 CFR, Chapter I, Subchapter D, Part 312, Subpart B, Section 23, IND Content and Format.

''Institutional Biosafety Committee approval must be obtained from each institution at which recombinant DNA material will be administered to human subjects (as opposed to each institution involved in the production of vectors for human application and each institution at which there is *ex vivo* transduction of recombinant DNA material into target cells for human application).

''RAC prefers that submission to NIH/ORDA in accordance with Appendix M–I, Submission Requirements—Human Gene Transfer Experiments, contain no proprietary data or trade secrets, enabling all aspects of the review to be open to the public. Following receipt by NIH/ORDA, relevant information shall be entered into the NIH human gene transfer database for registration purposes. Summary information pertaining to the human gene transfer protocol will be forwarded to RAC members. NIH/ORDA summary information shall include comparisons to previously registered protocols. Specific items of similarity to previous experiments include (but are not limited to): (i) Gene delivery vehicle, (ii) functional gene, (iii) marker gene, (iv) packaging cell (if applicable), (v) disease application, (vi) route of administration, and (vii) patient selection criteria.

''RAC members shall notify NIH/ORDA within 15 working days if the protocol has been determined to represent novel characteristics requiring further public discussion.

''Full RAC review of an individual human gene transfer experiment can be initiated by the NIH Director or recommended to the NIH Director by: (i) Three or more RAC members, or (ii) other Federal agencies. An individual human gene transfer experiment that is recommended for full RAC review should represent novel characteristics deserving of public discussion. RAC recommendations on a specific human gene transfer experiment shall be forwarded to the NIH Director, the Principal Investigator, the sponsoring institution, and other DHHS components, as appropriate.

''**Note:** For specific directives concerning the use of retroviral vectors for gene delivery, consult Appendix B–V–1, Murine Retroviral Vectors.''

Section III–C–1 is proposed to be amended to read:

''Section III–C, *Experiments that Require Institutional Biosafety Committee and Institutional Review Board Approvals and RAC Review Before Initiation.*

''Section III–C–1. *Experiments Involving the Deliberate Transfer of Recombinant DNA or DNA or RNA Derived from Recombinant DNA into One or More Human Subjects.*

''Investigators shall not initiate any human gene transfer experiments until the RAC review process has been completed as described in the *NIH Guidelines* (see Appendix M, *Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into One or More Human Subjects (Points to Consider));* Institutional Biosafety Committee approvals have been obtained from each institution at which recombinant DNA material will be administered to human subjects (rather than from each site involved in manufacturing gene transfer products); Institutional Review Board approval(s) have been obtained; and applicable regulatory authorization(s) have been obtained.

''Submission to NIH/ORDA shall be in accordance with Appendix M–I, *Submission, Review, and Reporting Requirements—Human Gene Transfer Experiments,* and should contain no proprietary data or trade secrets, enabling all aspects of the review to be open to the public. Following receipt by NIH/ORDA, relevant information shall be entered into the NIH human gene transfer database. Summary information pertaining to the human gene transfer protocol will be forwarded to RAC members. NIH/ORDA summary information shall include comparisons to previously registered protocols. Specific items of similarity to previous experiments include (but are not limited to): (i) Gene delivery vehicle, (ii) functional gene, (iii) marker gene, (iv) packaging cell (if applicable), (v) disease application, (vi) route of administration, and (vii) patient selection criteria.

''The RAC review process shall include an initial determination as to whether the submission has novel characteristics warranting full RAC review and public discussion. During the initial determination, RAC members shall notify NIH/ORDA of their recommendations regarding the necessity for full RAC review and public discussion. At any time during the review process, individual RAC members may contact NIH/ORDA to request additional information deemed important to the decision-making process. NIH/ORDA will immediately notify the Principal Investigator(s) of RAC requests for additional information. The initial RAC review shall be completed and NIH/ORDA will notify the Principal Investigator of the results of this review within 15 working days of receipt of a complete submission. RAC review at a public meeting of an individual human gene transfer experiment can be: (1) Initiated by the NIH Director, or (2) recommended to NIH/ORDA by: (a) Three or more RAC members, or (b) other Federal agencies. An individual human gene transfer experiment that is recommended for full RAC review should have novel characteristics

deserving of public discussion. Following that review and discussion, RAC recommendations on a specific human gene transfer experiment shall be forwarded to the NIH Director, the Principal Investigator, the sponsoring institution, and/or other DHHS components, as appropriate.

''Investigational New Drug (IND) applications should be submitted to FDA in the format described in 21 CFR, Chapter I, Subchapter D, Part 312, Subpart B, Section 23, IND Content and Format.

''**Note:** For specific directives concerning the use of retroviral vectors for gene delivery, consult Appendix B–V–1, Murine Retroviral Vectors.''

''Section IV–B–1–f, under *Roles and Responsibilities,* of the Institution currently reads in part:

''* * * and (ii) all aspects of Appendix M, *Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into One or More Human Subjects (Points to Consider),* have been appropriately addressed by the Principal Investigator *prior to submission to NIH/ORDA.* Institutional Biosafety Committee approval must be obtained from each institution at which recombinant DNA material will be administered to human subjects (as opposed to each institution involved in the production of vectors for human application and each institution at which there is ex vivo transduction of recombinant DNA material into target cells for human application).''

''Section IV–B–1–f is proposed to be amended to read in part:

''* * * and (ii) all aspects of Appendix M, *Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into One or More Human Subjects (Points to Consider),* have been appropriately addressed by the Principal Investigator prior to the initiation of any human gene transfer experiments. Institutional Biosafety Committee approval must be obtained from each institution at which recombinant DNA material will be administered to human subjects (rather than from each site involved in manufacturing gene transfer products).''

''Section IV–B–2–a–(1) under Roles and Responsibilities, Institutional Biosafety Committee (IBC), Membership and Procedures, currently reads in part:

''* * * and (ii) all aspects of Appendix M, *Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into One or More Human Subjects (Points to Consider),* have been appropriately addressed by the Principal Investigator prior to submission to NIH/ORDA. Institutional Biosafety Committee approval must be obtained from each institution at which recombinant DNA material will be administered to human subjects (as opposed to each institution involved in the production of vectors for human application and each institution at which there is ex vivo transduction of recombinant DNA material into target cells for human application).''

''Section IV–B–2–a–(1) is proposed to be amended to read:

''* * * and (ii) all aspects of Appendix M, *Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into One or More Human Subjects (Points to Consider),* have been appropriately addressed by the Principal Investigator prior to the initiation of any human gene transfer experiments. Institutional Biosafety Committee approval must be obtained from each institution at which recombinant DNA material will be administered to human subjects (rather than from each site involved in manufacturing gene transfer products).''

''Section IV–B–6 under Roles and Responsibilities, Institutional Biosafety Committee (IBC), Human Gene Therapy Expertise, currently reads in part:

''* * * and (ii) all aspects of Appendix M, *Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into One or More Human Subjects (Points to Consider),* have been appropriately addressed by the Principal Investigator prior to submission to NIH/ORDA.''

''Section IV–B–6 is proposed to be amended to read:

''* * * and (ii) all aspects of Appendix M, *Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into One or More Human Subjects (Points to Consider),* have been appropriately addressed by the Principal Investigator prior to the initiation of human gene transfer experiments.''

''Section IV–B–7–b–(6) under Roles and Responsibilities, Principal Investigator, currently reads:

''Ensure that all aspects of Appendix M, *Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into One or More Human Subjects (Points to Consider),* have been appropriately addressed prior to submission of human gene therapy experiments to NIH/ORDA.''

''Section IV–B–7–b–(6) is proposed to be amended to read:

''Ensure that all aspects of Appendix M, *Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into One or More Human Subjects (Points to Consider),* have been appropriately addressed prior to submission of human gene transfer experiments to NIH/ORDA, and provide a letter signed by the Principal Investigator(s) (PI) on institutional letterhead acknowledging that the documentation being submitted to NIH/ORDA complies with the requirements set forth in Appendix M, Points to Consider; that an exact duplicate of this submission has been sent to the Institutional Biosafety Committee; and that the proposed study will not be initiated until: (1) The RAC review process has been completed, (2) final approval(s) have been obtained from the IBC(s) at each clinical trial site(s), (3) final approval(s) have been obtained from the IRB(s), and (4) applicable regulatory authorization(s) have been obtained.''

''Appendix M, *Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into One or More Human Subjects (Points to Consider),* preamble, paragraphs 4 through 7 are proposed to be deleted from the preamble and incorporated with modification into a reorganized Appendix M–I, *Submission, Review, and Reporting Requirements—Human Gene Transfer Experiments.*

''Research proposals involving the deliberate transfer of recombinant DNA, or DNA or RNA derived from recombinant DNA, into human subjects (human gene transfer) will be considered through a review process involving both NIH/ORDA and the RAC. Investigators shall submit their relevant information on the proposed human gene transfer experiments to NIH/ORDA. Submission of human gene transfer protocols to NIH will be in the format described in Appendix M–I, Submission Requirements—Human Gene Transfer Experiments. Submission to NIH shall be for registration purposes and will ensure continued public access to relevant human gene transfer information conducted in compliance with the *NIH Guidelines.* Investigational New Drug (IND) applications should be submitted to FDA in the format described in 21 CFR, Chapter I, Subchapter D, Part 312, Subpart B, Section 23, IND Content and Format.

''Institutional Biosafety Committee approval must be obtained from each institution at which recombinant DNA material will be administered to human subjects (as opposed to each institution

involved in the production of vectors for human application and each institution at which there is *ex vivo* transduction of recombinant DNA material into target cells for human application).

''Factors that may contribute to public discussion of a human gene transfer experiment by RAC include: (i) New vectors/new gene delivery systems, (ii) new diseases, (iii) unique applications of gene transfer, and (iv) other issues considered to require further public discussion. Among the experiments that may be considered exempt from RAC discussion are those determined not to represent possible risk to human health or the environment. Full RAC review of an individual human gene transfer experiment can be initiated by the NIH Director or recommended to the NIH Director by: (i) Three or more RAC members, or (ii) other Federal agencies. An individual human gene transfer experiment that is recommended for full RAC review should represent novel characteristics deserving of public discussion. If the Director, NIH, determines that an experiment will undergo full RAC discussion, NIH/ORDA will immediately notify the Principal Investigator. RAC members may forward individual requests for additional information relevant to a specific protocol through NIH/ORDA to the Principal Investigator. In making a determination whether an experiment is novel, and thus deserving of full RAC discussion, reviewers will examine the scientific rationale, scientific context (relative to other proposals reviewed by RAC), whether the preliminary *in vitro* and *in vivo* safety data were obtained in appropriate models and are sufficient, and whether questions related to relevant social and ethical issues have been resolved. RAC recommendations on a specific human gene transfer experiment shall be forwarded to the NIH Director, the Principal Investigator, the sponsoring institution, and other DHHS components, as appropriate. Relevant documentation will be included in the material for the RAC meeting at which the experiment is scheduled to be discussed. RAC meetings will be open to the public except where trade secrets and proprietary information are reviewed (see Section IV–D–5, *Protection of Proprietary Data*). RAC prefers that information provided in response to Appendix M contain no proprietary data or trade secrets, enabling all aspects of the review to be open to the public.

''Note: Any application submitted to NIH/ORDA shall not be designated as 'confidential' in its entirety. In the event that a sponsor determines that specific responses to one or more of the items described in Appendix M should be considered as proprietary or trade secret, each item should be clearly identified as such. The cover letter (attached to the submitted material) shall: (1) Clearly indicate that select portions of the application contain information considered as proprietary or trade secret, (2) a brief explanation as to the reason that each of these items is determined proprietary or trade secret.''

Appendix M, *Points to Consider,* Preamble, paragraphs 8 and 9, currently reads:

''Public discussion of human gene transfer experiments (and access to relevant information) shall serve to inform the public about the technical aspects of the proposals, meaning and significance of the research, and significant safety, social, and ethical implications of the research. RAC discussion is intended to ensure the safe and ethical conduct of gene therapy experiments and facilitate public understanding of this novel area of biomedical research.''

''In its evaluation of human gene transfer proposals, RAC will consider whether the design of such experiments offers adequate assurance that their consequences will not go beyond their purpose, which is the same as the traditional purpose of clinical investigation, namely, to protect the health and well being of human subjects being treated while at the same time gathering generalizable knowledge. Two possible undesirable consequences of the transfer of recombinant DNA would be unintentional: (i) Vertical transmission of genetic changes from an individual to his/her offspring, or (ii) horizontal transmission of viral infection to other persons with whom the individual comes in contact. Accordingly, Appendices M–I through M–V request information that will enable RAC and NIH/ORDA to assess the possibility that the proposed experiment(s) will inadvertently affect reproductive cells or lead to infection of other people (e.g., medical personnel or relatives).''

Appendix M, *Points to Consider,* Preamble, paragraphs 8 and 9, are proposed to be amended to read:

''Research proposals involving the deliberate transfer of recombinant DNA, or DNA or RNA derived from recombinant DNA, into human subjects (human gene transfer) will be considered through a review process involving NIH/ORDA and the RAC (described below in Appendix M–I). In its evaluation of human gene transfer proposals, RAC will consider whether the design of such experiments offers adequate assurance that their consequences will not go beyond their purpose, which is the same as the traditional purpose of clinical investigation, namely, to protect the health and well being of human subjects being treated while at the same time gathering generalizable knowledge. Two possible undesirable consequences of the transfer of recombinant DNA would be unintentional: (i) Vertical transmission of genetic changes from an individual to his/her offspring, or (ii) horizontal transmission of viral infection to other persons with whom the individual comes in contact. Accordingly, Appendices M–I through M–V request information that will enable RAC and NIH to assess the possibility that the proposed experiment(s) will inadvertently affect reproductive cells or lead to infection of other people (e.g., medical personnel or relatives).

''In its evaluation of human gene transfer proposals, RAC will also consider whether a proposed human gene transfer experiment presents novel characteristics warranting further review by the full RAC and public discussion (as discussed in Appendix M–I below). Public discussion of human gene transfer experiments (and access to relevant information) shall serve to inform the public about the technical aspects of the proposals, meaning and significance of the research, and significant safety, social, and ethical implications of the research. The process of RAC review and public discussion is intended to foster the safe and ethical conduct of human gene transfer experiments and facilitate public understanding of this novel area of biomedical research.''

Appendix M–I, currently entitled *Submission Requirements—Human Gene Transfer Experiments,* currently reads:

''Appendix M–I, Submission Requirements—Human Gene Transfer Experiments.

''Investigators must submit the following material (see exemption in Appendix M–VIII–A, *Footnotes of Appendix M*) to the Office of Recombinant DNA Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, Phone 301–496–9838, FAX 301–496–9839. Investigators may submit this material electronically and can obtain specific instructions from the ORDA home page (http://www.nih.gov/od/orda) regarding electronic submission requirements. For all submissions, whether printed or electronic, ORDA will confirm receipt within three working days after receiving the submission. Investigators

should contact ORDA if they do not receive this confirmation.

''Proposals in printed form and/or in an electronic version shall be submitted to NIH/ORDA in the following order: (1) Scientific abstract; (2) non-technical abstract; (3) Responses to Appendix M–II through M–V, *Description of the Proposal, Informed Consent, Privacy and Confidentiality, and Special Issues* (the pertinent responses can be provided in the protocol or as an appendix to the protocol); (4) clinical protocol as approved by the local Institutional Biosafety Committee and Institutional Review Board; (5) Informed Consent document as approved by the Institutional Review Board (see Appendix M–III, *Informed Consent*); (6) appendices (including tables, figures, and manuscripts); (7) curricula vitae—no more than two pages for each key professional person in biographical sketch format; and (8) all submissions must include Institutional Biosafety Committee (IBC) and Institutional Review Board (IRB) approvals and their deliberations pertaining to your protocol. IBC approval must be obtained from each institution at which recombinant DNA material will be administered to human subjects (as opposed to each institution involved in the production of vectors for human application and each institution at which there is *ex vivo* transduction of recombinant DNA material into target cells for human application). Because these written IBC and IRB approvals require appropriate signatures, investigators cannot submit them electronically. Investigators should submit these signed approvals either by mail or by facsimile transmission.

''Investigational New Drug (IND) applications shall be submitted to the FDA in the format described in 21 CFR, Chapter I, Subchapter D, Part 312, Subpart B, Section 23, *IND Content and Format.* Submissions to the FDA should be sent to the Division of Congressional and Public Affairs, Document Control Center, HFM–99, Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, Maryland 20852–1448.

''**Note:** NIH/ORDA will accept submission material at any time. However, if a protocol is submitted less than eight weeks before a scheduled RAC meeting and subsequently is recommended for public discussion by the full RAC, the public discussion of that protocol will be deferred until the next scheduled RAC meeting. This eight-week period is needed to ensure adequate time for review by the committee members.''

Appendix M–VI, *RAC Review—Human Gene Transfer Experiments,* currently reads (and is proposed to be incorporated in Appendix M–I):

''Appendix M–VI, *RAC Review—Human Gene Transfer Experiments.*

''In order to maintain public access to information regarding human gene transfer protocols, NIH/ORDA will maintain the documentation described in Appendices M–I through M–V (including protocols that are not reviewed by RAC). RAC prefers that information provided in response to Appendix M, *Points to Consider,* contain no proprietary data or trade secrets, enabling all aspects of the discussion to be open to the public.

''Appendix M–VI–A, *RAC Members' Written Comments.*

''Following receipt by NIH/ORDA, summary information on each human gene transfer protocol will be forwarded to RAC members. Each RAC member shall notify NIH/ORDA within 15 working days regarding the necessity for full RAC discussion. Full RAC review of an individual human gene transfer experiment can be initiated by the NIH Director or recommended to the NIH Director by: (i) Three or more RAC members, or (ii) other Federal agencies. An individual human gene transfer experiment that is recommended for full RAC review should represent novel characteristics deserving of public discussion. If the Director, NIH, determines that an experiment will undergo full RAC discussion, NIH/ORDA will immediately notify the Principal Investigator. RAC members may forward individual requests for additional information relevant to a specific protocol through NIH/ORDA to the Principal Investigator. In making a determination whether an experiment is novel, and thus deserving of full RAC discussion, reviewers shall examine the scientific rationale, scientific context (relative to other proposals reviewed by RAC), whether the preliminary *in vitro* and *in vivo* safety data were obtained in appropriate models and are sufficient, and whether questions related to relevant social and ethical issues have been resolved. RAC recommendations on a specific human gene transfer experiment shall be forwarded to the NIH Director, the Principal Investigator, the sponsoring institution, and other DHHS components, as appropriate.''

Appendix M–VII, Reporting Requirements—Human Gene Transfer Protocols currently reads (and is proposed to be incorporated in Appendix M–I):

''Appendix M–VII, Reporting Requirements—Human Gene Transfer Protocols.

''Appendix M–VII–A, *Investigational New Drug Application Reporting.*

''Upon receipt of notification of permission to proceed with an Investigational New Drug application for a human gene transfer protocol, the Principal Investigator(s) shall submit a written report that includes the following information: (1) How the investigator(s) responded to RAC's recommendations on the protocol (if applicable), and (2) any modifications to the protocol as required by FDA.

''Appendix M–VII–B, *Annual Data Reporting and Gene Therapy Database.*

''Investigators shall comply with annual data reporting requirements. Annual Data Report forms will be forwarded by NIH/ORDA to investigators. Data submitted in these reports will be evaluated by RAC and NIH/ORDA, and reviewed at a future RAC meeting. Information obtained through annual data reporting will be included in a human gene transfer database that will be administered by NIH/ORDA. The purpose of this human gene transfer database is to: (1) Maintain an institutional memory, (2) provide administrative details of protocol registration, (3) provide annual status reports of protocols, (4) facilitate risk assessment of individual applications of human gene transfer, and (5) enhance public awareness of relevant scientific, safety, social, and ethical issues.

''Appendix M–VII–C, *Adverse Event Reporting.*

''Investigators who have received approval from FDA to initiate a human gene transfer protocol must report any serious adverse event immediately to the local Institutional Review Board, Institutional Biosafety Committee, Office for Protection from Research Risks (if applicable), NIH/ORDA, and FDA, followed by the submission of a written report filed with each group. Reports submitted to NIH/ORDA shall be sent to the Office of Recombinant DNA Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, (301) 496–9838.''

Appendix M–VIII, *Footnotes of Appendix M,* is proposed to be renumbered to Appendix M–VII.

Appendix M–I is proposed to be amended to read:

''Appendix M–I. Submission, Review, and Reporting Requirements—Human Gene Transfer Experiments.

''Appendix M–I–A. Submission Requirements.

''Investigators must submit the following material (see exemption in Appendix M–VI–A, *Footnotes of Appendix M*) to the Office of

Recombinant DNA Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, Phone 301–496–9838, FAX 301–496–9839. Investigators may submit this material electronically. ORDA will confirm receipt within three working days after receiving the submission. Investigators should contact ORDA if they do not receive this confirmation. Additional information regarding RAC activities is located on the ORDA home page (*http://www.nih.gov/od/orda*).

''Proposals in printed form and/or in an electronic version shall be submitted to NIH/ORDA in the following order: (1) Cover letter on institutional letterhead that has been signed by the Principal Investigator(s) at the proposed clinical trial site(s). The cover letter must acknowledge that the documentation submitted to NIH/ORDA complies with the requirements set forth in Appendix M–I of the *NIH Guidelines* and that an exact duplicate of this documentation has been submitted to the IBC at the proposed clinical trial site(s). The cover letter must acknowledge that the proposed study will not be initiated until: (a) The RAC review process has been completed; (b) final approval(s) have been obtained from the IBC(s) at each clinical trial site(s); (c) final approval(s) have been obtained from the IRB(s); and (d) all applicable regulatory authorization(s) have been obtained. (2) Scientific abstract. (3) Non-technical abstract. (4) The proposed clinical protocol, including tables, figures, and relevant manuscripts. (5) Responses to Appendix M–II through M–V, *Description of the Proposal, Informed Consent, Privacy and Confidentiality, and Special Issues.* Responses to Appendices M–II through M–V may be provided either as an appendix to the clinical protocol or within the clinical protocol. If responses to Appendices M–II through M–V are included within the clinical protocol, each response must be accompanied by its corresponding reference to Appendix M–II through M–V. (6) Proposed Informed Consent document (see Appendix M–III, *Informed Consent*). (7) Curricula vitae of the principal investigator(s) at the proposed clinical trial site(s) (no more than two pages for each key professional person in biographical sketch format).

''**Note:** NIH/ORDA will accept submission material at any time. However, if a protocol is submitted less than eight weeks before a scheduled RAC meeting and subsequently is recommended for public discussion by the full RAC, the public discussion of that protocol will be deferred until the next scheduled RAC meeting. This eight-week period is needed to ensure adequate time for review by the committee members as well as public notice and comment.

''Investigational New Drug (IND) applications shall be submitted to the FDA in the format described in 21 CFR, Chapter I, Subchapter D, Part 312, Subpart B, Section 23, *IND Content and Format.* Submissions to the FDA should be sent to the Division of Congressional and Public Affairs, Document Control Center, HFM–99, Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, Maryland 20852–1448.

''Appendix M–I–B. RAC Review Requirements.

''Appendix M–I–B–1. Initial RAC Review

''Human gene transfer experiments submitted to NIH/ORDA must meet the requirements set forth in Appendix M–I, *Submission, Review, and Reporting Requirements—Human Gene Transfer Experiments,* and should not contain proprietary data or trade secrets, enabling all aspects of the review to be open to the public. Investigators shall not initiate the proposed study prior to completion of the RAC review process.

''The RAC review process shall include an initial determination as to whether the submission has novel characteristics warranting full RAC review and public discussion. During the initial determination, RAC members shall notify NIH/ORDA of their recommendations regarding the necessity for full RAC review and public discussion. At any time during the review process, individual RAC members may contact NIH/ORDA to request additional information deemed important to the decision-making process. NIH/ORDA will immediately notify the Principal Investigator(s) of RAC requests for additional information. The initial RAC review shall be completed and NIH/ORDA will notify the Principal Investigator of the results of this review within 15 working days of receipt of a complete submission. RAC review at a public meeting of an individual human gene transfer experiment can be: (1) Initiated by the NIH Director, or (2) recommended to NIH/ORDA by: (a) Three or more RAC members, or (b) other Federal agencies. An individual human gene transfer experiment that is recommended for full RAC review should have novel characteristics deserving of public discussion. Following that review and discussion, RAC recommendations on a specific human gene transfer experiment shall be forwarded to the NIH Director, the Principal Investigator, the sponsoring institution, and/or other DHHS components, as appropriate.

''An individual human gene transfer experiment that is recommended for full RAC review should represent novel characteristics deserving of public discussion. In making a determination whether an experiment is novel, reviewers shall examine the scientific rationale, scientific context (relative to other proposals reviewed by RAC). Factors that may warrant public discussion of a human gene transfer experiment by the RAC include: (i) new vectors/new gene delivery systems, (ii) new diseases, (iii) unique applications of gene transfer, and (iv) other issues considered to require further public discussion.

''Appendix M–I–B–2. Full RAC Review and Public Discussion

''RAC meetings will be open to the public except where trade secrets and proprietary information are reviewed. Relevant documentation will be included in the material for the RAC meeting at which the experiment is scheduled to be discussed. Following RAC review and public discussion, RAC recommendations on a specific human gene transfer experiment shall be forwarded to the NIH Director, the Principal Investigator, the sponsoring institution, and/or other DHHS components, as appropriate.

''**Note:** To enable all aspects of the review process to be open to the public, information provided in response to Appendix M should not contain proprietary data or trade secrets and any application submitted to NIH/ORDA shall not be designated as 'confidential' in its entirety. In the event that an investigator determines that specific responses to one or more of the items described in Appendix M should be considered as proprietary or trade secret, each item should be clearly identified as such. The cover letter (attached to the submitted material) shall: (1) Clearly indicate the information that is considered as proprietary or trade secret, (2) an explanation as to the reason that each of these items is determined proprietary or trade secret.

''Appendix M–I–C. Reporting Requirements.

''Appendix M–I–C–1. Initiation of the Clinical Investigation.

''The Principal Investigator(s) shall submit the following to NIH/ORDA within 15 working days of initiation of a human gene transfer experiment: (1) A copy of the Informed Consent document approved by the IRB, (2) a copy of the protocol approved by the IBC and IRB, and (3) a copy of the final IBC

approval(s) at the clinical trial site(s); (4) a copy of the final IRB approval(s); (5) a brief written report that includes the following information: (a) how the investigator(s) responded to RAC's recommendations on the protocol (if applicable), and (b) any modifications to the protocol as required by FDA.

''Appendix M–I–C–2. Annual Reporting.

''Investigators shall comply with annual data reporting requirements. Annual data report forms will be forwarded by NIH/ORDA to investigators. Information submitted in these annual reports will be evaluated by NIH/ORDA and the RAC, and possibly considered at a future RAC meeting. Information obtained through the annual data reporting process will be included in the NIH/ORDA clinical trials database to: (1) Provide clinical trial information; (2) provide administrative details of protocol registration; (3) provide annual status reports of protocols; (4) facilitate risk assessment of individual applications of human gene transfer; and (5) enhance public awareness of relevant scientific, safety, social, and ethical issues.

''Appendix M–I–C–3. Serious Adverse Event Reporting.

''Investigators who have received authorization from FDA to initiate a human gene transfer protocol must report any serious adverse event immediately to the local Institutional Review Board, Institutional Biosafety Committee, Office for Protection from Research Risks (if applicable), NIH/ORDA, and FDA, followed by the submission of a written report filed with each group. Reports submitted to NIH/ORDA shall be sent to the Office of Recombinant DNA Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, (301) 496–9838.''

Appendix M–III–B currently reads in part:

''Investigators submitting human gene transfer proposals must include the Informed Consent document as approved by the local Institutional Review Board. A separate. * * *''

Appendix M–III–B is proposed to read:

''Investigators submitting human gene transfer proposals must include a copy of the proposed Informed Consent document. A separate * * *''

II. Proposed Amendments to Appendix M, Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into One or More Human Subjects (Points to Consider), of the NIH Guidelines, Regarding Prenatal Gene Transfer Research

II–A. Background Information.

On July 31, 1998, Dr. W. French Anderson, University of Southern California, Los Angeles, California, and Dr. Esmail Zanjani, Veterans Hospital, Reno, Nevada, submitted the following two ''pre-protocols'' for *in utero* gene transfer entitled: (1) *In Utero* Gene Transfer for the Treatment of ADA-Deficient SCID and (2) *In Utero* Gene Transfer for the Treatment of a-Thalassemia. These two ''pre-protocols'' provided the catalyst for the RAC recommendation to the NIH Director made at its September 1998 meeting that a Gene Therapy Policy Conference (GTPC) should be held on the topic of prenatal gene transfer. On January 7–8, 1999, NIH convened the GTPC entitled: Prenatal Gene Transfer: Scientific, Medical, and Ethical Issues. This meeting provided a public forum for the presentation and discussion of relevant scientific data and policy issues by members of the scientific, biomedical, ethical, and legal communities and the public. The anticipated outcome of the GTPC is two-fold: (1) Development of a policy paper that will highlight the conclusions of the working groups and conference participants, and (2) a comprehensive list of issues that should be further deliberated by the RAC at subsequent meetings. To achieve this goal, RAC members and ad hoc experts were assigned to one or more of the following working groups based on their individual areas of expertise: Working Group I—Preclinical Research Issues; Working Group II—Clinical Research Issues; and Working Group III—Ethical, Legal, and Societal Issues.

At the March 11–12, 1999, RAC meeting, the RAC discussed three working group reports and issued a consensus statement that reads:

The RAC continues to explore the issues raised by the potential of *in utero* gene transfer research. However, at present, the members unanimously agree that it is premature to undertake any human *in utero* gene transfer experiment.

Rationale: Significant additional preclinical and clinical studies addressing vector transduction efficacy, biodistribution, and toxicity are required before a human *in utero* gene transfer protocol should proceed. In addition, a more thorough understanding of the ontogeny of human organ systems, such as the immune and nervous systems, is needed to better define the potential efficacy and risks of human *in utero* gene transfer. Prerequisites for considering any specific human *in utero* gene transfer procedure include an understanding of the pathophysiology of the candidate disease and a demonstrable advantage to the *in utero* approach. Once the above criteria are met, the committee would be willing to consider well rationalized *in utero* gene transfer protocols.''

Appendix M, *Points to Consider*, Preamble, to include a new paragraph after paragraph 3, is proposed to read:

The RAC continues to explore the issues raised by the potential of *in utero* gene transfer research. However, at present, the RAC concludes that it is premature to undertake any human *in utero* gene transfer experiment. Significant additional preclinical and clinical studies addressing vector transduction efficacy, biodistribution, and toxicity are required before a human *in utero* gene transfer protocol should proceed. In addition, a more thorough understanding of the ontogeny of human organ systems, such as the immune and nervous systems, is needed to better define the potential efficacy and risks of human *in utero* gene transfer. Prerequisites for considering any specific human *in utero* gene transfer procedure include an understanding of the pathophysiology of the candidate disease and a demonstrable advantage to the *in utero* approach. Once the above criteria are met, the RAC would be willing to consider well rationalized *in utero* gene transfer protocols.''

III. Discussion of Three Novel Human Gene Transfer Protocols

During the September 2–3, 1999, RAC meeting, three novel human gene transfer protocols will be discussed: (1) Limb girdle muscular dystrophy using adeno-associated viral vector delivery of sarcoglycan genes, (2) hemophilia A using systemic retroviral vector delivery of a gene encoding factor VIII, and (3) gyrate atrophy using retroviral vector delivery of a gene encoding ornithine aminotransferase.

IV. Discussion on Expediting RAC Public Review Process of Human Gene Transfer Experiments

The NIH is interested in exploring strategies to expedite further the process of public discussion by the RAC of novel protocols.

OMB's ''Mandatory Information Requirements for Federal Assistance

Program Announcements'' (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the *NIH Guidelines.* In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: August 5, 1999.

Lana R. Skirboll,

Associate Director for Science Policy, National Institutes of Health.

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federal register

Wednesday
August 11, 1999

Part VII

The President

Executive Order 13133—Working Group on Unlawful Conduct on the Internet

Federal Register
Vol. 64, No. 154
Wednesday, August 11, 1999

Presidential Documents

Title 3—

The President

Executive Order 13133 of August 5, 1999

Working Group on Unlawful Conduct on the Internet

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to address unlawful conduct that involves the use of the Internet, it is hereby ordered as follows:

Section 1. *Establishment and Purpose.* (a) There is hereby established a working group to address unlawful conduct that involves the use of the Internet (''Working Group''). The purpose of the Working Group shall be to prepare a report and recommendations concerning:

(1) The extent to which existing Federal laws provide a sufficient basis for effective investigation and prosecution of unlawful conduct that involves the use of the Internet, such as the illegal sale of guns, explosives, controlled substances, and prescription drugs, as well as fraud and child pornography.
(2) The extent to which new technology tools, capabilities, or legal authorities may be required for effective investigation and prosecution of unlawful conduct that involves the use of the Internet; and
(3) The potential for new or existing tools and capabilities to educate and empower parents, teachers, and others to prevent or to minimize the risks from unlawful conduct that involves the use of the Internet.

(b) The Working Group shall undertake this review in the context of current Administration Internet policy, which includes support for industry self-regulation where possible, technology-neutral laws and regulations, and an appreciation of the Internet as an important medium both domestically and internationally for commerce and free speech.

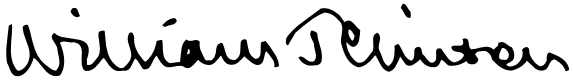
Sec. 2. *Schedule.* The Working Group shall complete its work to the greatest extent possible and present its report and recommendations to the President and Vice President within 120 days of the date of this order. Prior to such presentation, the report and recommendations shall be circulated through the Office of Management and Budget for review and comment by all appropriate Federal agencies.

Sec. 3. *Membership.*

(a) The Working Group shall be composed of the following members:

(1) The Attorney General (who shall serve as Chair of the Working Group).
(2) The Director of the Office of Management and Budget.
(3) The Secretary of the Treasury.
(4) The Secretary of Commerce.
(5) The Secretary of Education.
(6) The Director of the Federal Bureau of Investigation.
(7) The Director of the Bureau of Alcohol, Tobacco and Firearms.
(8) The Administrator of the Drug Enforcement Administration.
(9) The Chair of the Federal Trade Commission.
(10) The Commissioner of the Food and Drug Administration; and
(11) Other Federal officials deemed appropriate by the Chair of the Working Group.

(b) The co-chairs of the Interagency Working Group on Electronic Commerce shall serve as liaison to and attend meetings of the Working Group. Members of the Working Group may serve on the Working Group through designees.



THE WHITE HOUSE,
August 5, 1999.

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